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southern  
utah  
wilderness  
alliance

VIA FIRST CLASS MAIL

May 25, 2006

Mary Ann Wright  
Pamela Grubaugh-Littig  
Utah Division of Oil, Gas and Mining  
1594 West North Temple  
P.O. Box 145801  
Salt Lake City, Utah 84114

*Incoming  
C/007/0013*

Re: UEI Proposal and Sampling Design for Class II Inventory  
Horse Canyon Mine, Lila Canyon Extension C/007/013

Dear Mary Ann and Pam:

This letter responds to the two electronic mail messages (sent May 17<sup>th</sup> and May 18<sup>th</sup>) that I received last week from Pam regarding UEI's "Proposal and Sampling Design for a Class II Inventory of the Area of Potential Subsidence, Lila Canyon Extension, Emery County." In her second e-mail, Pam clarified the Division's request for comment on UEI's proposal for a Class II inventory and confirmed that UEI's decision to immediately proceed with surveying - without comment from SUWA, SHPO, and native American tribes - was at the company's own risk:

We are seeking comments from consulting parties and we will consider your comments in making a final determination of the scope of the identification effort.

Although UEI's consultant, Montgomery Archaeological Consultants, is commencing work next week, that was a decision of UEI to proceed. The scope of work may change based on additional comments and our consideration.

We are requesting your input pursuant to 36 CFR 800.4(a)(3). Please send us your comments soon.

Electronic mail from Pamela Grubaugh-Littig to Stephen Bloch and others (May 18, 2006) (attached hereto).

RECEIVED

*MAN*  
MAY 26 2006  
*5/26*

DIV. OF OIL, GAS & MINING

425 East 100 South  
Salt Lake City, Utah 84111  
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Fax: 801-486-4233  
Website: www.suwa.org

SUWA appreciates the opportunity to review UEI's proposal and sampling design and provides the following comments:

1. SUWA disagrees with UEI's consultant's premise that "subsidence has little impact on buried resources," and thus we question the decision by UEI to focus exclusively on what the proposal terms "rock shelters" (a term that UEI defines to include prehistoric rock structures, granaries, cabins, and other standing structures). Unlike the impacts from geophysical exploration projects – which UEI's proposal analogizes subsidence impacts to – subsidence has been shown at other coal mines in Utah to cause deep fissures and cracks several hundred feet long and up to three feet wide. In addition, in other parts of the country, subsidence has resulted in deep "sink holes." DOGM should require UEI's consultant to provide scientific documentation to support the assertion that subsidence "has little impact on buried resources" and allow SUWA, SHPO, and native American tribes an opportunity to review and comment on these sources.

2. SUWA disagrees with UEI's proposed sampling design for several reasons. First, UEI's sampling design presupposes that subsidence will only threaten surface resources, when in fact SUWA believes that subsidence may adversely both surface and subsurface resources. See *supra*. Second, UEI's proposed sampling design is a stratified sample in that they focus it on areas likely to contain topographic features likely to contain cultural resources (i.e., rock shelters and cliff faces). SUWA agrees that those features, if identified, are likely to contain sites with a high likelihood of eligibility to the National Register. These are most likely not, however, the only locales where such sites will be identified. For example, there could be surface camps, rock art on small boulders, etc. in areas outside those selected within the stratified sample. UEI should conduct surveys in all locations of the project area to test the hypothesis that significant sites will only be located in or around "rock shelters." In other words, UEI needs a control sample if it intends to use a stratified sample.

3. SUWA disagrees that previously inventoried areas within the zone of subsidence (i.e., areas surveyed by Rauch in the 1980s) should be excluded from UEI's proposal. Recent studies by the Colorado State Historic Preservation Office have demonstrated that Class III surveys conducted generally before 1990 did not identify all sites eligible for the National Register. Subsequent resurveys have located approximately 10-20% more sites. Utah BLM has raised similar concerns about the reliability of pre-1990 Class III surveys.

In sum, SUWA has a number of concerns regarding UEI's proposal and sampling design which could have been addressed before UEI's contractor began work, had UEI decided to share this proposal with the Division and the other necessary parties (SUWA, SHPO, native American tribes). As DOGM has plainly stated, UEI's decision to proceed – without first receiving input from these parties was a calculated business risk and does not relieve the Division or UEI of their obligations under the National Historic Preservation Act. Even if UEI addresses the concerns raised above by SUWA, a Class II survey (along with the Class I report prepared by SUWA's contractor) is only the first step to complying with Section 106. As SUWA has explained in

*Southern Utah Wilderness Alliance - UEI Class II Proposal Letter  
Horse Canyon Mine, Lila Canyon Extension C/007/013  
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earlier correspondence with DOGM – to fully comply with Section 106, DOGM must require UEI to conduct a comprehensive Class III inventory of the undertaking's area of potential effect (i.e., at a minimum the zone of subsidence).

Per 36 C.F.R. §§ 800.5 and 800.6, SUWA looks forward to reviewing DOGM's findings regarding the effects of the proposed undertaking on historic properties. Feel free to contact me with any questions regarding the above: 486-3161 x. 3981.

Sincerely,



Stephen Bloch  
Staff Attorney

cc: . Advisory Council on Historic Preservation  
State Historic Preservation Office  
Hopi Cultural Preservation Office

To: <Blaine\_Miller@blm.gov>,"james kohler" <James\_Kohler@blm.gov>,  
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Subject: Re: Clarification: Class II Inventory - UtahAmerican Energy,  
Inc, Lila Canyon Extension, C/007/0013

#### Clarification Regarding Request for Comments:

We are seeking comments from consulting parties and we will consider your comments in making a final determination of the scope of the identification effort.

Although UEI's consultant, Montgomery Archaeological Consultants, is commencing work next week, that was a decision of UEI to proceed. The scope of work may change based on additional comments and our consideration.

We are requesting your input pursuant to 36 CFR 800.4(a)(3). Please send us your comments soon.

Thank you.

Pam

>>> Pam Grubaugh-Littig 5/17/2006 4:19 PM >>>

Attached is the UEI proposal and sampling design for a Class II inventory of potential subsidence for the Lila Canyon Extension of the Horse Canyon Mine.

You are being notified for your comments and/or suggestions as a consulting party. Montgomery Archaeological Consultants will begin work next week which will extend for about two weeks.

Please notify me and Wayne Hedberg (waynehedberg@utah.gov) by next week if you have any questions and comments.

Thank you.

Pam