

0165

Incoming
C0070013
task 2421

From: Steve Bloch <steve@suwa.org>
To: <maryannwright@utah.gov>, <pamgrubaughlittig@utah.gov>
Date: 8/24/2006 1:02:42 PM
Subject: SUWA Comments -- Proposed Supplemental Survey Requirements

Mary Ann/Pam -

Find attached SUWA's comments on DOGM's proposed Supplemental Survey Requirements, Task No. 2421, UtahAmerican Energy, Inc. (UEI), Lila Canyon Extension, Horse Canyon Mine, C007013. Please contact me if you have any questions or if you have trouble opening the file.

Steve

Stephen Bloch
Staff Attorney
Southern Utah Wilderness Alliance
425 East 100 South
Salt Lake City, Utah 84111
801 486 3161 x.3981
Fax: 801 486 4233

IMPORTANT: The information in this e-mail is attorney communication and privileged. It is intended only for the use of the addressee. If you receive this communication and are not the intended recipient, you are hereby notified that the copying or distribution of this communication is prohibited. If you have received this communication in error, please notify us by telephone and return the message to us at the above address.



southern
utah
wilderness
alliance

VIA ELECTRONIC MAIL

August 24, 2006

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

Re: Proposed DOGM Supplemental Survey Requirements, Request for Comments,
Task No. 2421, Utah American Energy, Inc. (UEI), Lila Canyon Extension, Horse
Canyon Mine, C007013

Dear Mary Ann and Pam:

This letter responds to Mary Ann's August 16th letter soliciting comments on DOGM's proposed supplemental cultural survey requirements. SUWA appreciates the opportunity to review these proposed supplemental survey requirements and provides the following comments:¹

1. DOGM's proposed supplemental requirements correctly target and highlight the weaknesses of UEI's Class II sampling survey. As SUWA noted in its May 25, 2006 letter to DOGM, UEI's consultant's approach of a "modified simple random sample" fails to adequately weigh areas (e.g., landforms) with likely greater site density against areas with a likelihood of low density. A more accurate reflection would be a stratified sample that gives greater weight to areas with a potential for sites, but with a large enough sample size to accommodate all areas (negative data is just as important). The sample size does not appear to have been large enough to accommodate a stratified random sample. DOGM's proposed Requirement 1 and Requirement 2 attempt to address this weakness by directing additional survey to those areas with a greater likelihood to contain sites. This is appropriate, but the requirements must be stronger in order to fully identify and thus protect important historic properties. (see infra).

¹ SUWA consulted with Jerry Spangler regarding DOGM's proposed supplemental survey requirements. Mr. Spangler is a registered professional archaeologist with the state of Utah and an expert with more than 15 years research and field experience in the Tavaputs Plateau/Range Creek/Nine Mile Canyon area of eastern Utah, which includes the proposed Lila Canyon mine area. Mr. Spangler prepared the document entitled "A Class I Analysis of Previous Archaeological Research, Lila Canyon Area, Emery County, Utah" (Nov. 2005) which SUWA has provided to DOGM.

*Southern Utah Wilderness Alliance – Proposed DOGM Supplemental Survey Requirements
Horse Canyon Mine, Lila Canyon Extension C/007/013
August 24, 2006*

2. DOGM's proposed supplemental requirement that additional survey be conducted on the benches on each side of Little Park Wash is a good start, but SUWA recommends that that transects be expanded to at least 100 feet (preferably 50 meters) to allow for greater inclusion of potential occupation areas.
3. DOGM's proposal that UEI survey four additional 20-acre plots strategically located in areas of higher cultural resource potential is problematic. Because 20 acres is such a small area and the selection of plots is subject to bias, SUWA recommends that SHPO – not UEI –select the plots. Having SHPO locate the plots after close scrutiny of local topography would ensure that areas of highest potential are examined. SUWA further recommends that the samples be expanded to eight 20-acre plots, or four 40-acre plots; again, carefully selected on the basis of potential.
4. Regarding all future surveys, SUWA requests that the survey transects in these selected parcels be reduced to 3 meters to allow for greater resolution (this greater resolution will dramatically improve survey accuracy). It is unclear whether UEI's contractor conducted survey transects 3 or 10 meters apart – this substantial difference could result in widely disparate survey results and survey quality.
5. As SUWA explained in its May 25, 2006 letter to DOGM (point 3), surveys conducted prior to 1995 are generally considered inadequate. UEI's contractor, however, persisted in excluding areas surveyed by the University of Utah from 1979 to 1981. DOGM's supplemental survey requirements should require UEI's sample survey area to include previously sampled areas (areas surveyed prior to 1995).
6. Has UEI's contractor conducted research into the people and events relevant to the survey area? Without such research and subsequent findings, UEI's contractor cannot support a conclusion that historic sites located within the survey area are insignificant. DOGM should require UEI to undertake additional research and study to put into proper perspective the historic properties located within the survey area.
7. As SUWA explained in its May 25, 2006 letter, even if UEI completes DOGM's proposed survey requirements and includes the additional suggested 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. 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). It is reasonable, given the manageable size of the zone of subsidence, for DOGM to require that UEI comprehensively examine the survey area to ensure that all rockshelters and rock surfaces in the subsidence area are identified, and to direct additional cultural surveys to those areas. Given the potential for rockshelters to collapse as a direct result of subsidence, the identification of rockshelters should be

*Southern Utah Wilderness Alliance – Proposed DOGM Supplemental Survey Requirements
Horse Canyon Mine, Lila Canyon Extension C/007/013
August 24, 2006*

given the highest priority. See SUWA Petition Before the U.S. Department of the Interior, Office of Surface Mining to Designate Certain Lands in Utah as Unsuited for Coal Mining Operations (July 21, 2006).

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. We also look forward to working with DOGM as a consulting party in DOGM's development of a programmatic agreement. See 36 C.F.R. §§ 800.2(c) and 800.14(b). Feel free to contact me with any questions regarding the above: 486-3161 x. 3981.

Sincerely,

/s/

Stephen Bloch
Staff Attorney

cc: State Historic Preservation Office
Hopi Cultural Preservation Office