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From: Mary Ann Wright [mailto:maryannwright@utah.gov]  
 Sent: Wednesday, January 18, 2006 5:11 PM  
 To: Dragoo, Denise; Steve Alder  
 Cc: cborrell@coalsource.com; jaymarshall@emerytelcom.net  
 Subject: RE: Request to Expedite Consultation - Lila CanyonMineExtension

>>> "Dragoo, Denise" <ddragoo@swlaw.com> 1/17/2006 3:19 PM >>>  
 Steve and Mary Ann: Following up on my voice mail messages to you both, Steve has asked that I provide this e-mail explanation of our request on behalf of UtahAmerican Energy, Inc ("UEI") to have the Division expedite the tribal consultation process pursuant to 36 CFR Section 800.3(g). Under this rule a consultation by the Division with the SHPO/THPO and other consulting parties may address multiple steps in one request. Identification of historic properties (800.4), assessment of adverse effects (800.5) and resolution of adverse effects (800.6) can be consolidated into one consultation request to expedite the Section 106 process. Consolidation of these steps is particularly appropriate in this case where the BLM has already prepared cultural resource inventories on the entire permit area, has entered into a programmatic agreement with the Utah SHPO and has required UEI to enter into a "data recovery plan" as a condition to approving UEI's rights of way on public lands associated with the Lila Canyon Mine Extension. Consistent with the National Environmental Policy Act, possible adverse effects on a Fremont Rock Shelter were documented by BLM in an Environmental Assessment (BLM Sept. 2000). See Environmental Assessment at pages 48, 60. The mitigation of these effects were considered in BLM's October 27, 2000 Decision and Finding of No Significant Impact. See Decision at pages 3, 8. Further BLM's decision to grant UEI's right of way was upheld by the Interior Board of Land Appeals in Southern Utah Wilderness Alliance, 163 IBLA 192 (Sept 22, 2004). Therefore, we encourage the Division to utilize the procedures specifically set forth in the Advisory Council's rules at Section 800.3(g) to consolidate the consultation process and expedite this procedure by some 30 days or more. Thanks for your consideration! Please call me if you have further questions. Denise

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Denise: I signed 36 consultation letters to tribes last week. So, they are out. I am not planning on going back and re-doing them. We spent a great amount of time making sure that we were doing it correctly and did not want to consolidate the process because sites of religious concern were not identified by any Native Americans in any part of the process. It may be possible later on to consolidate the process once (if) any sites are identified. To try and short-hand the process at this stage seems useless in my estimation. Sorry, I am denying your request.

Mary Ann: I received your tribal consultation letter today with the addresses of the 36 tribes. We definitely do not want to have you resend the letter to that extended mailing list. Hopefully there will be an opportunity to move the Section 106 process along by consolidating some steps later in the tribal consultation process. Thanks, Dee

Dee - Thanks, we will take that consolidation of additional steps into consideration. I look forward to speaking with Clyde. I understand he was taken aback by my request for justification of expedience. I will give him a call tomorrow. Best regards, Mary Ann

>>> "Dragoo, Denise" <[ddragoo@swlaw.com](mailto:ddragoo@swlaw.com)> 1/17/2006 4:56 PM >>>  
Mary Ann: Thanks for the update. Since the request for consultation has already been sent out, we agree that re-writing and re-issuing the letter at this point is not appropriate. However, the Division may want to consider consolidation of the process pursuant to 36 CFR Section 800.3(g) to expedite any additional steps in the Section 106 process. Also, I can assure you that UtahAmerican Energy, Inc is seeking permit approval for the Lila Canyon Extension as quickly as possible. We appreciate your consideration in this matter and hope the State will utilize the Advisory Council's rules for expediting consultation at some point in the Section 106 process. Thanks, Denise