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DIV OF OIL, GAS & MINING
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C/007/0013

**BEFORE THE DIVISION OF OIL, GAS AND MINING, DEPARTMENT
OF NATURAL RESOURCES, STATE OF UTAH**

IN THE MATTER OF THE LILA
CANYON EXTENSION TO THE HORSE
CANYON MINE, CARBON AND EMERY
COUNTIES, UTAH

**MOTION TO STRIKE CERTAIN
MATERIALS SUBMITTED BY
SOUTHERN UTAH WILDERNESS
ALLIANCE**

Cause No. C/007/013

Applicant UtahAmerican Energy, Inc. (“UEI”), through counsel, respectfully requests that the Division strike any and all materials submitted to the Division regarding UEI’s pending permit application (“**Application**”) by Southern Utah Wilderness Alliance (“**SUWA**”) subsequent to the closing of the informal conference on November 18, 2005.

Public comment and objections to a pending application are limited to those submitted in the context of an informal conference pursuant to the Utah Coal Mining and Reclamation Act §§ 40-10-11(1)(a)(i), 13 and 14 and Utah Administrative Code R645-300-120. SUWA submitted written objections to UEI’s Application in the above-captioned cause on November 8, 2005. According to Utah Code Ann. § 40-10-13 and the Division’s order dated December 2, 2005, the informal conference in this matter closed on November 18, 2005. Consistent with Utah Code Ann. § 40-10-14, the Division then had 60 days following closure of the informal conference to issue written findings on the Application. Due to the need for closure to the

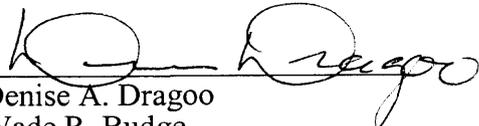
informal conference and to allow time for the Division's administrative deliberations on the Application, additional objections cannot be considered after the informal conference closes. Following issuance of a final decision on the permit, persons adversely affected by the Division's decision may request a further hearing before the Board of Oil, Gas & Mining pursuant to Utah Code Ann. § 40-10-14(3).

Therefore, in this matter, any and all materials submitted by SUWA after November 8, 2005 are untimely and should not be considered by the Division in issuing its final decision on the Application. Although the December 2, 2005 Division order was amended by stipulation of the parties, the Division's order closing the informal conference has not been revised or amended. *See* Amendment to Order dated January 19, 2006. Accordingly, under Utah Code Ann. § 40-10-13(2) and 40-10-14(1), the informal conference on this Application closed on November 18, 2005 and any and all materials submitted by SUWA after that date should be stricken by the Division and not included in the administrative record.

For these reasons, UEI respectfully requests that the Division enter an order striking those materials submitted by SUWA after the informal conference closed.

DATED this 18th day of January, 2007.

SNELL & WILMER L.L.P.


Denise A. Dragoo
Wade R. Budge
Attorneys for Utah American Energy, Inc.

CERTIFICATE OF SERVICE

This will certify that on the 18th day of January, 2007, a true and correct copy of the foregoing was served upon the following parties by depositing a copy of the same in the United States mail, first class postage prepaid, addressed as follows:

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