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DIV. OF OIL, GAS & MINING

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March 8, 2007

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

Re: Comments on Draft Programmatic Agreements Regarding Proposed Lila Canyon Extension of the Horse Canyon Mine

Dear Mary Ann:

This letter responds to your February 6<sup>th</sup> letter soliciting comments on the draft Programmatic Agreement and more generally the determinations about effects and site eligibility. SUWA appreciates the opportunity to review these draft documents and provide DOGM with the following comments:<sup>1</sup>

1. Overall, we are disappointed that DOGM did not offer to include SUWA and the Hopi Tribe as co-signatories to the draft programmatic agreements and encourage DOGM to do so. We have been closely involved throughout the Section 106 process and including SUWA and the Tribe as co-signatories is consistent with the National Historic Preservation Act's implementing regulations, 36 C.F.R. § 800.14(b).
2. SUWA disagrees with the assertion in the PA that "reasonable and good faith efforts" have been undertaken within APE I and II to identify cultural and historic resources. As SUWA has consistently maintained, UtahAmerican Energy, Inc. should be required to conduct a comprehensive Class III survey throughout APE II.
3. In addition, SUWA also disagrees that the effects on cultural and historic resources from the proposed mining operations "cannot be fully determined."

<sup>1</sup> SUWA consulted with Jerry Spangler regarding DOGM's draft programmatic agreement. 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.

To the contrary, these effects could be fully determined if DOGM requires UEI to undertake the appropriate Class III survey.

4. Regarding proposed stipulation 3 for the draft PA, SUWA encourages DOGM to require that UEI conduct quarterly on-the-ground monitoring for subsidence, in addition to annual fly-over monitoring.
5. Regarding proposed stipulations 3(a) and 3(b) for the draft PA, it remains possible that subsidence-related or upsidence-related surface impacts will expose buried cultural deposits not currently evident on the site surface. These could include new sites not previously identified or visible on the ground surface, or the exposure of subsurface deposits associated with sites deemed not eligible for the National Register that could prompt a reconsideration of the site eligibility. SUWA encourages DOGM to require UEI's consulting archaeologist to re-examine those areas where the ground surface has been altered or disturbed in such a manner that previously unknown cultural resources could have been exposed and/or damaged. Ongoing monitoring, regardless of whether there are known sites or not, is routinely required with other ground-disturbing undertakings elsewhere on federal lands.

Feel free to contact me with any questions regarding the above: 486-3161 x. 3981.

Sincerely,

 /s/ Stephen Bloch

Stephen Bloch  
Staff Attorney

cc: State Historic Preservation Office  
Hopi Cultural Preservation Office