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Final
OK Incoming
C/007/0013

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

SOUTHERN UTAH WILDERNESS
 ALLIANCE,

Petitioner,

v.

DIVISION OF OIL, GAS AND MINING,

Respondent,

and

UTAHAMERICAN ENERGY INC.,

Intervenor-Respondent.

**JOINT MOTION TO APPROVE
 STIPULATION
 AND
 TO DISMISS
 REQUEST FOR AGENCY ACTION**

Cause No. C/007/0013-LCE07

Docket No. 2007-015

The Division of Oil, Gas and Mining ("Division"), the Southern Utah Wilderness Alliance ("SUWA"), and UtahAmerican Energy, Inc. ("UEI") (collectively the Parties), hereby jointly move the Board of Oil, Gas and Mining ("Board") to approve the Stipulation to Dismiss the Request for Agency Action ("Petition") filed by SUWA, and to Order Dismissal of the Request for Agency Action with Prejudice.

This Motion is based on the Stipulation entered into by the Parties that is filed herewith and the list of requirements attached as Exhibit A to the Stipulation. These requirements are to

be incorporated as conditions to the Lila Canyon Extension of the Horse Canyon Mine Permit No. ACT/007/0013 upon approval of the Stipulation by the Board. The additional conditions are proposed in order to provide additional data and may allow for a more complete monitoring plan for the coal mining operations. These additional conditions may produce additional data which will be incorporated into the Probable Hydrologic Consequences ("PHC") for the Permit and into the Division's Cumulative Hydrologic Impact Analysis ("CHIA").

The additional requirements are intended to eliminate the issues raised by SUWA's Petition as to the adequacy of the Permit application and to resolve uncertainties regarding the potential impact of mining on the Permit area.

The Parties believe that the additional conditions will promote the purposes of the regulatory program of providing for a healthy mining industry while minimizing damage to the environment and will allow the Division to more efficiently and effectively use its limited resources.

The Parties jointly request approval of the Stipulation by the Board and Dismissal of SUWA's Request for Agency Action with Prejudice.

**SOUTHERN UTAH WILDERNESS
ALLIANCE**



Stephen Bloch
SOUTHERN UTAH WILDERNESS
ALLIANCE

and

Kathy C. Weinberg, *pro hac vice*
JENNER & BLOCK, LLP

Dated this 10 day of December, 2007.

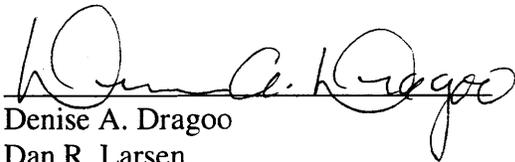
DIVISION OF OIL, GAS, AND MINING



James P. Allen
Steven F. Alder
Assistant Utah Attorneys General

Dated this _____ day of December, 2007.

UTAHAMERICAN ENERGY, INC.



Denise A. Dragoo
Dan R. Larsen
Keli J. Beard
SNELL & WILMER, L.L.P.

and

John E. Jevicky, *pro hac vice*
DINSMORE & SHOHL LLP

Dated this 10th day of December, 2007.

Steven F. Alder (#0033)
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Attorneys for Utah Division of Oil, Gas & Mining

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

<p>SOUTHERN UTAH WILDERNESS ALLIANCE, Petitioner, v. DIVISION OF OIL, GAS AND MINING, Respondent, and UTAHAMERICAN ENERGY INC., Intervenor-Respondent.</p>	<p>STIPULATION TO DISMISS REQUEST FOR AGENCY ACTION</p> <p>Cause No. C/007/0013-LCE07 Docket No. 2007-015</p>
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The Division of Oil, Gas and Mining ("Division"), the Southern Utah Wilderness Alliance ("SUWA"), and UtahAmerican Energy, Inc. ("UEI") (collectively the Parties), hereby enter into this Stipulation to Dismiss the Request for Agency Action ("Petition") filed by SUWA on the following terms and conditions.

1. This Stipulation is entered into by the Parties solely for the purpose of resolving all matters alleged in and issues related to SUWA's Request for Agency Action challenging the

Division's May 18, 2007 decision to issue to UEI the Lila Canyon Extension of the Horse Canyon Mine Permit No. C/007/0013 ("Permit").

2. By entering into this Stipulation no Party admits nor concedes any of the contested facts or law as asserted in the Request for Agency Action or in the Responses thereto.

3. By entering into this Stipulation the Division neither amends nor indicates that it intends to seek amendment of the rules and requirements of the Utah Coal Regulatory Program as administered by it.

4. Upon execution of this Agreement, the Parties will immediately file with the Board of Oil, Gas and Mining ("Board") a Joint Motion for Approval of the Stipulation and for Entry of an Order of Dismissal of SUWA's Request for Agency Action with Prejudice in the form attached hereto as Exhibit B.

5. Upon the Board's approval of the Joint Motion for Approval of the Stipulation and for Entry of an Order of Dismissal of SUWA's Request for Agency Action with Prejudice, the additional requirements for UEI's Lila Canyon Mine Permit as set forth in Exhibit A as attached to the Stipulation shall be added to the Permit as binding conditions pursuant to R645-300-143 Utah Administrative Code (2007).

6. This Stipulation pertains only to the matters pending before the Board, and the Parties expressly reserve any and all claims or defenses pertaining to disputes pending in United States District Court, before any federal agencies, or in any other forum with regard to the Permit or to the Lila Canyon Mine Project.

This Stipulation is entered into on the date shown by counsel having the authority to bind the Parties hereto.

**SOUTHERN UTAH WILDERNESS
ALLIANCE**



Stephen Bloch
SOUTHERN UTAH WILDERNESS
ALLIANCE
and
Kathy C. Weinberg, *pro hac vice*
JENNER & BLOCK, LLP

DIVISION OF OIL, GAS, AND MINING

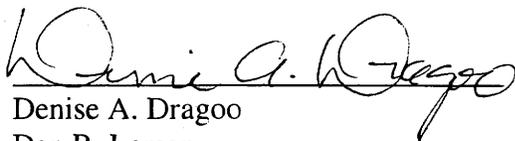


James P. Allen
Steven F. Alder
Assistant Utah Attorneys General

Dated this 10th day of December, 2007.

Dated this 10th day of December, 2007.

UTAHAMERICAN ENERGY, INC.



Denise A. Dragoo
Dan R. Larsen
Keli J. Beard
SNELL & WILMER, L.L.P.

and
John E. Jevicky, *pro hac vice*
DINSMORE & SHOHL LLP

Dated this 10th day of December, 2007.

12/10/07
MJA 12/10/07
BFA 12/10/07

EXHIBIT A
to
STIPULATION FOR DISMISSAL

The Following are the additional requirements to be incorporated as conditions of the permit for the Lila Canyon Extension of the Horse Canyon Mine permit.

1. (a) UEI shall, within 30 days (weather permitting and pickup accessibility permitting) of the approval by the Board of the Stipulation for Dismissal, locate and make operable two rain gauges within the permit area, including one in the upper elevation area, and one in the surface facilities area. Data will be collected no less than monthly during the period from May 1 through October 30 and otherwise monthly unless access is not feasible. Data will be downloaded quarterly and included in the annual report.

(b) UEI will by March 31, 2008 (weather and pickup accessibility permitting) place and make operable crest stage gauges and siphon samplers at the sampling locations shown on the attached map #1. UEI will collect two years of additional quarterly surface water quantity and quality baseline information from the gauges. The gauges will be installed, maintained, and inspected as required by normal USGS protocol and on a frequency established by the Division. The Division will accompany UEI on the initial placement of the siphon and crest stage gauges.

(c) At the conclusion of the first year, the data will be analyzed, and additional monitoring locations may be required.

2. (a) By March 31, 2008, UEI will commence a comprehensive, on-the-ground survey for discharges in seeps or springs within the area from the top of the Sunnyside coal seam of the Book Cliffs escarpment in a southwesterly direction to the Emery County Road (old tram road at 5,750 foot elevation) and from Lila Canyon near the proposed mine facilities area to the Williams Draw Fault line near the southern limits of the permit area.

(b) The seeps and springs identified by prior surveys in the permit area and adjacent area (within the areas identified on the attached map #2) shall be located by a GPS survey, along with any newly identified seeps and springs identified by UEI within the permit and adjacent areas as provided for in subpart 2(a) above.

(c) Representative seeps and springs may be selected by UEI, subject to approval by the Division, for monitoring for two years of quarterly water quality and quantity measurements. This monitoring shall be in addition to the monitoring required by the operational plan for those seeps and springs previously identified.

3. If UEI proposes future drilling from the surface into the coal seams for coal evaluation or other purposes, UEI will establish monitoring wells in at least two of those locations and monitor the water level and the water quality for two

HTG 12/10/07
K. Jacopo 12/10/07
M. J. W. 12/10/07
B. J. G. 12/10/07

years. These wells shall be incorporated into a monitoring program in conjunction with the currently proposed monitoring program based on the evaluation in paragraph 4 below.

4. UEI will revise the PHC and Operational Plan, and the Division will revise the CHIA based on the additional data obtained from paragraphs 1, 2, and 3 above. The data obtained will be used in further characterizing the surface flows, and ground water systems and the monitoring locations will be incorporated into the surface-water monitoring program for the permit as appropriate to monitor the impact of mining on the surface flows and ground water systems in the area identified in the CHIA.

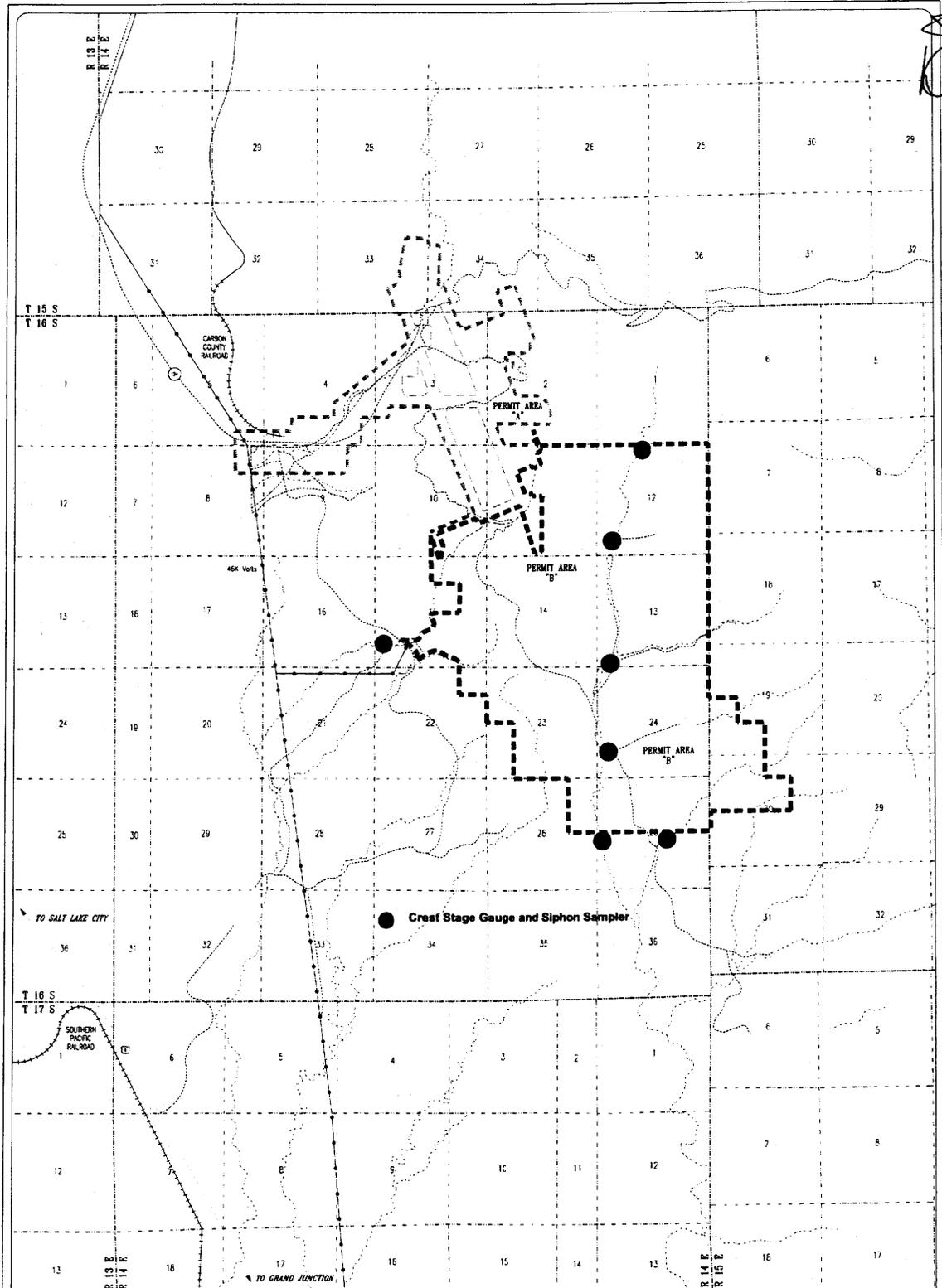
5. UEI will engage a knowledgeable biologist to conduct a survey of the literature (reports) cited below to determine if potential habitat exists for the Sensitive Species, Western (Boreal) Toad (*Bufo boreas*), at any of the springs or seeps within the permit area. For those seeps and springs that meet the criteria for potential habitat, UEI will engage a knowledgeable biologist to conduct field surveys for *Bufo boreas* at breeding season, or at tadpole stage. The two reports are found at: <http://dwrcdc.nr.utah.gov/ucdc/ViewReports/vert rpt.htm> and are cited as follows.

Vertebrate Information Compiled by the Utah Natural Heritage Program:
A Progress Report (2003), pp. 71 & 72

Inventory of Sensitive Vertebrate and Invertebrate Species: A Progress
Report (1997). pp. 167-169.

Map # 1

Steve 12/10/07
MDW 12/10/07
EA 12/10/07



NOTE: Plate 1-1 is the official permit boundary map and it will be used to clarify any questions about the permit boundaries.

LEGEND:

- PERMIT AREA "A" (SUA CANYON SINKHOLE REVISION TO THE HORSE CANYON PERMIT) [Symbol]
- PERMIT AREA "B" (HORSE CANYON PERMIT) [Symbol]

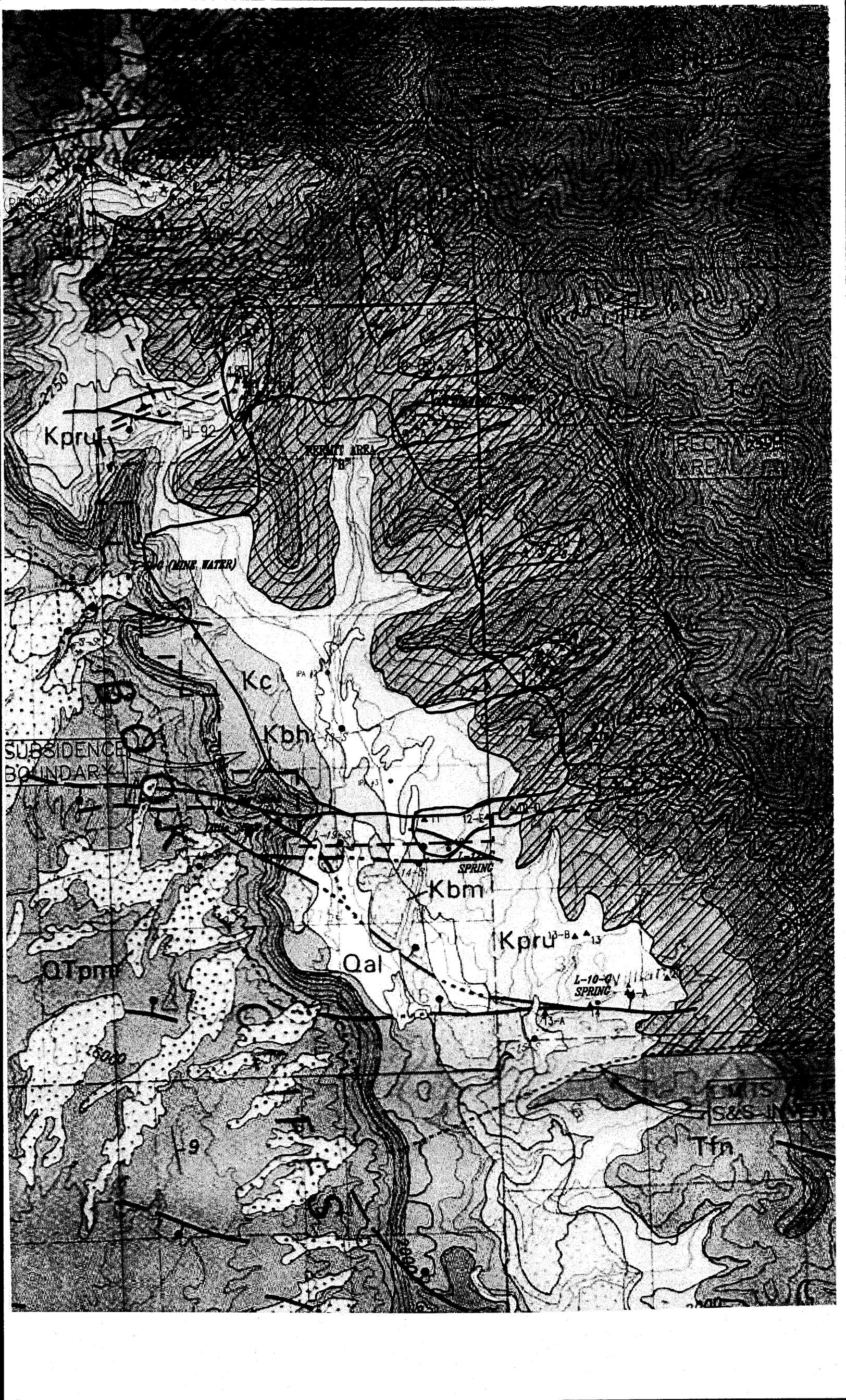
REVISIONS	
12/13/2000	BJ
10/02/2002	RJM



SCALE: 1" = 1000'



LILA CANYON MINE
 PERMIT AREA MAP
 September 2000
 AS SHOWN PLATE 1-1



Kpru

H-92

RECENT AREA

RECENT AREA

MINE WATER

Kc

Kbh

SUBSIDENCE BOUNDARY

Kbm

Kpru

Qtpm

Qal

L-10-QY SPRING

S&S IN VENT

Tfn

6500

9

1000

2000

Map # 1

DDA 12/10/07
 J. Stal 11/10/07
 W. Zapp 12/10/04
 M. W. 12/10/07

