

**Appendix 4-1**

**to the**

**CONFIDENTIAL FILE**

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**MAY 18 2007**

**Div. of Oil, Gas & Mining**



**State of Utah**

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Lieutenant Governor

**Department of Community and Culture**

PALMER DePAULIS  
Executive Director

**State History**

PHILIP F. NOTARIANNI  
Division Director

February 5, 2007

Mary Ann Wright  
Associate Director  
Division of Oil, Gas, and Mining  
1594 West North Temple, Suite 1210  
P.O. Box 145801  
Salt Lake City, UT 84114-5801

RE: Lila Canyon Extension, Horse Canyon Mine, C/007/0013, Task ID #2741

In reply, please refer to Case No. 05-0305

Dear Ms. Wright:

The Utah State Historic Preservation Office received your request for comment on the above referenced project on February 2, 2006. We understand that you are acting on behalf of a federal agency, the Office of Surface Mining (OSM).

We concur with your determinations of eligibility for this project. We concur with your determination of Adverse Effect. We agree that the proposed Programmatic Agreement and Memorandum of Agreement are appropriate measures to address known or unknown effects to known or unknown cultural and historic resources on this project. We look forward to finalizing those documents.

This letter serves as our comment on the determinations you have made on behalf of OSM, within the consultation process specified in §36CFR800.4. Additionally, Utah Code 9-8-404(1)(a) denotes that your agency is responsible for all final decisions regarding cultural resources for this undertaking. Our comments here are provided as specified in U.C.A. 9-8-404(3)(a)(i). If you have questions, please contact me at (801) 533-3555 or [mseddon@utah.gov](mailto:mseddon@utah.gov).

Sincerely,

Matthew T. Seddon, Ph.D., RPA  
Deputy State Historic Preservation Officer - Archaeology

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**Department of  
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*Division Director*

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*Lieutenant Governor*

February 5, 2007

John Eddins  
Advisory Council on Historic Preservation  
1100 Pennsylvania Avenue NW, Suite 803  
Washington, D.C. 20004

Subject: Requesting Review And Participation As A Signatory Of A Programmatic Agreement With Attached Memorandum of Agreement For Lila Canyon Extension, UtahAmerican Energy, Inc. (UEI), Horse Canyon Mine, C/007/0013, Task #2741, Outgoing File

Dear Mr. Eddins:

In accordance with 36 CFR Part 800.2 (a), Pete Rutledge, Chief, Program Support Division at the Western Regional Coordinating Center, Office of Surface Mining (OSM), delegated the legal authority to the Utah Division of Oil, Gas & Mining (the Division) to act on behalf of OSM and conduct Section 106 regarding federal undertakings. The Division assumes the role of agency official with the continued assistance from OSM. Accordingly, we are requesting your review and participation as a signatory of the attached Programmatic Agreement (PA) with an Attached Memorandum of Agreement on the proposed Lila Canyon Extension as per Section 106 of the National Historic Preservation Act, as amended, and its implementing regulation at 36 CFR Part 800.

The enclosed map (Attachment 1) illustrates that the proposed Lila Canyon Extension of the Horse Canyon Mine is located in Emery County, Utah (7.5 Minute USGS Quadrangle map is Lila Point). The legal description for the proposed extension is: T16S R14E Sections 10, 11, 12, 15, 14, 13, 22, 23, 24, 26, and 25, and in T16S R15E Sections 19 and 30 (SLBM). The proposed extension area is about 4,660 acres, which includes approximately 42 acres of surface disturbance for the facility site. The Bureau of Land Management (BLM), School and Institutional Trust Lands Administration, and Josiah Eardley are surface landowners and BLM is the subsurface owner.

The Division reviewed reports of archaeological inventories previously conducted of the proposed surface facility site (Montgomery 1998; Attachment 2) and transportation and utility corridors (Montgomery 1998, Attachment 3). The Division then began consultation and advisement communications with Emery and Carbon counties, OSM, BLM, Public Lands Policy Coordination Office, numerous tribes, Southern Utah Wilderness Alliance (SUWA), Dr. Everett Bassett (Transcon Environmental – the Division's archaeology consultant), and Utah State Historic Preservation Officer (SHPO).

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As part of the consultation efforts, the Division identified the *area of potential effect* (APE I and II; Attachment 4), the course of additional identification efforts, and measures that would avoid, minimize, or mitigate possible adverse effects. The Division determined that it was prudent to conduct an additional surface archaeological inventory of the area of potential subsidence (APE II). Montgomery Archaeological Consultants conducted a Class II inventory during the summer of 2006 (Attachment 5).

In summary, there are three prehistoric sites that were previously determined as eligible for inclusion in the National Register of Historic Places within or adjacent to the proposed extension area. One prehistoric site (42EM2517) may be susceptible to impacts caused by vandalism (Montgomery 1998). The BLM would implement the mitigation plan for 42EM2517 as directed in the Memorandum of Agreement (MOA, 2007) prior to construction of the facility site. The other two eligible sites (42EM2255 and 42EM2256) are subject to potential subsidence (Jendresen et al. 2006; Miller 1991 [Attachment 6]). The Programmatic Agreement (PA, 2007) addresses related protection measures for archaeological resources such as these two sites.

There are four recorded sites within or adjacent to the extension area that were previously determined as not eligible. These sites include one prehistoric site (42Em1121) and three historic sites (42Em1335, 42Em1337, and 42Em1339). There are also five isolated finds that exist within or adjacent to the extension area that were previously recommended as not eligible. The Division concurs with the previously mentioned determinations.

There are three newly recorded sites (42Em3623, 42Em3622, and 42Em3659), which are historic in nature and considered common. These three sites are not eligible because they do not meet any of the National Register Criteria. The Division has not identified other sites within the boundaries of APE I or II.

The Division, BLM, OSM, and SHPO prepared the DRAFT PA (2007; Attachment 7) and DRAFT MOA (2007; Attachment 8) as measures to protect, avoid, or mitigate for known and unknown archaeological resources. The Division has sent these DRAFTS, as well as SHPO's response to our findings, to the consulting parties.

The Division considers that the proposed Lila Canyon Extension would have an "*adverse effect*" on cultural resources. We also consider that subsidence may have effects on resources not identified or unexpected effects on resources identified during identification efforts. Furthermore, that the PA and MOA would provide prudent protection measures to address known or unknown effects to cultural and historic resources. Respectfully, we are requesting your review and participation

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