

KEY

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D12

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Mining dispute

Lawsuit over permit delayed

A company accepts the state's reasons for slow progress on an approval and won't sue to push the process, yet

BY MIKE GORRELL
The Salt Lake Tribune

Utah American Energy Inc. has agreed to delay for 45 days threatened legal action against the state, which the mining company claims has been too slow in approving its application for a controversial coal mine in the Book Cliffs.

A permit for the proposed Lila Canyon Mine south of Price originally was approved by the Utah Division of Oil, Gas and Mining in May 2001. But that decision was overturned seven months later by the division's board after a challenge by the Southern Utah Wilderness Alliance, or SUWA.

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The company was allowed to refile its application, but the process has moved slowly. By last November, Utah American Energy grew tired of waiting and gave the state until Jan. 22 to wrap up its review. If the state did not comply, the company said it would seek a court order to force the division to finish the work.

The division did not meet that deadline, citing a number of deficiencies in

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Proposed mine

A permit was approved but then overturned for the Lila Canyon Mine.



RHONDA H. MAYLETY/The Salt Lake Tribune

Company will delay suing state

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the company's application. But in a Jan. 19 letter, division director John Baza informed Utah American Energy that "I do not believe any of the remaining requirements will be difficult or time-consuming."

A separate letter from John Harja, assistant director of planning in the Governor's Public Lands Policy Coordination Office, added that the permitting process probably could be wrapped up by March 5.

"They were telling the state certain things had to be done and threatening a lawsuit. I tried to say, 'Calm down, the division is proceeding,'" Harja said. "We're not sure exactly when, with all the issues that are out there, but to the best of our ability, we'll try to get it done in 45 days."

Those assurances were satisfactory, said Mike McKown, general counsel for Utah American Energy's parent company, Murray Energy Corp.

The letter Baza sent last week to Utah American Energy said more information

was needed about a number of issues, including hydrology, bonding, ownership rights, biological impacts on raptors and cultural and historic resources.

Compliance with the last item, a requirement of the National Historic Preservation Act, requires consultation with three American Indian tribes. Their ancestors possibly inhabited areas of the Book Cliffs that could be impacted by the mine. That has taken time, Baza said, "but we're really days away from getting that tribal consultation done."

SUWA, for one, is watching the process closely.

Staff attorney Steve Bloch praised the division for resisting Utah American Energy's "pressure to approve the permit when there's a lot of unresolved questions." But he also said the application has bigger problems than Baza is acknowledging.

"For several years we have maintained there are fatal flaws to the hydrology section of the permit, as well as to the National Historic Preservation Act [portion]." Bloch also questioned whether a legal proceeding initiated by Pennsylvania's coal regulatory agency against another Murray Energy Corp. subsidiary might preclude Utah from issuing a permit to Utah American Energy.

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