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State of Utah

Department of Natural Resources

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0057

April 11, 2007

Jay Marshall, Resident Agent
UtahAmerican Energy, Inc.
P.O. Box 986
Price, Utah 84501

Subject: Wildlife Requirements and Exclusionary Periods for the Closure Plan for the Remote Lila Canyon Portals, Task ID #2742, UtahAmerican Energy, Inc., Horse Canyon Mine, C/007/0013

Dear Mr. Marshall:

This letter is to clarify the exclusionary periods and requirements for wildlife as they pertain to the projected operations associated with the closure of the remote Lila Canyon portals. These operations include the staging area (which most likely will be at the proposed facilities site for the Lila Canyon extension) as well as the access routes and the remote Lila Canyon portal area itself.

The Division has discussed these items previously with UEI. As a reminder, UEI must comply with the requirements below and provide a timeline as to how long the project may take.

Protection and Enhancement Plan

The wildlife exclusionary periods include: raptors (Feb 1 - July 1), deer/elk winter range (Dec 1 – April 15), deer/elk calving (May 15 – July 5), bighorn sheep rutting (Dec 1 – April 15), bighorn sheep lambing (May 1 - June 15), and pronghorn (May15 – June 20). UEI must comply with the exclusionary periods for raptors and sheep. Excluding operations during these periods would also protect chukars from disturbance.

Ungulates

There is habitat within or adjacent to the permit area for Rocky Mountain bighorn sheep, elk, mule deer, and pronghorn. For the current amendment that includes the staging area, transportation routes, and remote portals area, the sheep are the primary concern. UEI must adhere to the exclusionary period for bighorn sheep when initiating any type of construction or other mine-related activity for this portal.

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Migratory Birds, Game Birds, and Raptors

The Division assumes that there are at least five raptor nests within 0.5 mile of the proposed project area. UEI must clearly illustrate the number of all raptor nests (not just golden eagle) within the project area.

The Division considers that construction of the proposed project would indirectly affect raptors that may be tending nests or nesting within 0.5 mile of the mine-related activity. It is assumed birds would abandon a nest if construction begins during the breeding season, therefore the mine must prohibit initiation of construction activity within 0.5 miles of occupied nest sites from February 1 to July 15 to avoid this impact. UEI must provide a provision in the closure plan that includes this avoidance recommendation.

The plan must also include a provision that states that, in the event of unforeseen events that force UEI to initiate construction during the exclusionary period, UEI will immediately contact the Division, the Bureau of Land Management (BLM), the Division of Wildlife Resources (DWR), and the U.S. Fish and Wildlife Service (USFWS). The agencies will immediately coordinate to determine appropriate measures that may include: 1) conducting ground surveys, in coordination with DWR, to confirm if birds are tending nests or nesting and possibly determine the life stage of the offspring; 2) developing a mitigation plan, in coordination with the agencies, for possible impacts to nests or birds; or 3) ceasing operations until the end of breeding season to avoid 'take'.

If the agencies recommend mitigation, UEI must submit all mitigation plans to the Division. The plan must include the name of the lead agency, proposed date of implementation, a reporting mechanism, as well as the mitigation proposal. The plan must include a provision that states UEI will apply for a nest 'take' permit, through the USFWS, if the mitigation plan includes preventing raptors from accessing nests. UEI must apply for 'take' permits (at least) 6-12 months prior to potentially subsiding nests. UEI must submit all mitigation plans and final reports to the Division.

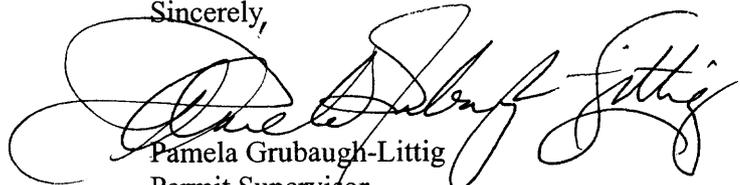
The Division considers that, if UEI is granted the approval to conduct operations during the exclusionary period and there are raptors tending or nesting, there would be an adverse affect to the raptors if there were a collision between the helicopter and raptors. UEI must be aware that there is not an incidental 'take' permit for golden eagles. If UEI is allowed to initiate construction during the exclusionary period, the agencies must consider this fact and include a protection plan to accompany the mitigation plan. UEI must coordinate with the Division, DWR, USFWS, and BLM to develop the protection

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plan. The plan must include the name of the lead agency, proposed date of implementation, a reporting mechanism, as well as the protection proposal.

If you have any questions please call me at (801) 538-5268,
Jerriann Ernstsens at (801) 538-5263 or Wayne Western (801) 538-5263.

Sincerely,



Pamela Grubaugh-Littig
Permit Supervisor

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cc: Jim Kohler, BLM
Steve Rigby, BLM – Price Field Office
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