

# TECHNICAL MEMORANDUM

## Utah Coal Regulatory Program

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March 19, 2008

*OR*

TO: Internal File

THRU: Daron R. Haddock, Permit Supervisor *DRH*  
Wayne H. Western, Team Lead *WHW*

FROM: Priscilla Burton, CPSSc, Environmental Scientist III *PWB by an*

RE: Phase III Bond Release UtahAmerican Energy, Inc., Horse Canyon Mine, C/007/0013, Task ID #2905

### SUMMARY:

This application for bond release does not meet the administrative requirements, because contrary to the information in the MRP (Figure II-1, p. II-14A) and the notarized statement certifying that all reclamation activities were accomplished in accordance with the Act and the approved reclamation plan (App. III-1-8), the Lila Canyon Portals were not gated in 2007 and remain open for 70 ft., inby.

UtahAmerican Energy, Inc. (UEI) applied for Phase III bond release on January 23, 2008, for 91.97 acres. The bond release application package is Appendix III-1 in Volume 1 of the MRP. The Phase III bond release area is illustrated on Plates III-2A through III-2G found in Appendix III-1-4. The acreage includes 16.18 acres donated to CEU, 51.56 acres included in Phase I and Phase II bond release (including the Lila Canyon portals), 0.01 acre bridge abutement within the Emery County Road ROW, and 24.21 acres included in the Horse Canyon County Road (as indicated in the public notice). The Horse Canyon refuse pile drainage channel (0.49 acres) is not included in this bond release application.

UEI has applied for Phase Phase III bond release on three previous occasions. These applications were reviewed as tasks 2409, 2573, and 2728. This memo describes current administrative and soils information for the reclaimed Horse Canyon Mine.

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TECHNICAL ANALYSIS:

**RECLAMATION PLAN**

**ADMINISTRATIVE DETAILS**

Regulatory Reference: 30 CFR Sec. 800.40 (a) (2) and (b); R645-301-880.120.

**Analysis:**

Phase III bond release is not recommended until the Lila portals receive the treatment described in Figure II-1, p. II-14A of the MRP and the public notice is re-written. The application for bond release DOES NOT meet the following administrative requirements:

1. It includes a notarized C1C2 form attesting to the fact that all information in the application is accurate, and includes a notarized statement certifying that all reclamation activities were accomplished in accordance with the Act and the approved reclamation plan (App. III-1-8). However, the Lila Canyon portals were not closed in 2007 as described in Figure II-1, p. II-14A of the MRP.
2. It includes a copy of the public notice in Ex. III-1-3 to be published in both the Emery County Progress and the Sun Advocate, the public notice states that the bond release is for "all lands currently in Permit C/007/013." This statement is false, since the 007/013 permit includes Part B Lila Canyon and also since the Lila Canyon portals have not been listed as an item remaining in Part A of the Horse Canyon permit, not under Phase III bond release. (The closure of the Lila Canyon portals is the subject of discussion in document 0064, 2006 Outgoing folder.)

The public notice states 91.97 acres are included and stipulates that 0.49 acres associated with a small channel will not receive bond release. Appendix III-1, page 1, states that the application includes all the area of Phase II bond release (51.56 acres), plus 16.18 acres mine facilities that were deeded to the College of Eastern Utah in September 2005, and 6.5 acres of the borrow area that were never disturbed, as well as 0.01 acres for the bridge abutments and the acreage associated with the County Road (pages 5 & 6). Page 9 of the application states that 74.26 acres are included in the bond release and by difference, one assumes the County road is approximately 18.21 acres, as follows.

51.56 acres Phase II bond release  
+16.18 acres donated to CEU

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+ 6.5 acres undisturbed borrow area  
+ 0.01 acre bridge abutment  
74.25 acres SUBTOTAL  
- 0.49 acres refuse channel  
73.76 acres SUBTOTAL  
**+ 18.21 acres County Road**  
91.97 acres TOTAL in public notice

The public notice states the county road is 24.21 acres.

Structures remaining after reclamation to support the recreational/residential post mining land use are listed in Exhibit E of the Asset Assignment Agreement included as App. III-I-1 of this application. The bridge abutments were constructed to facilitate mining expansion and were to be removed at final reclamation (letter from IPA, received 9/18/96). The application states that Emery County has indicated a need to expand the Horse Canyon Road (page 4). In fact, the bridge abutments are no longer structurally sound and as requested by Emery County (App.III-1-9), the east bridge abutment was removed and the west abutment was left to stabilize the road embankment. The second paragraph on page 4 should be re-worded, accordingly.

The application does include copies of the notification letters sent to local government officials and surface owners (Ex. III-1-2).

A pre-bond release inspection should verify whether the fan portal collar and fencing have been removed from the site. [The fencing does not promote the wildlife post-mining land use. (April 20, 2006 Inspection Report).] A site visit should confirm whether that the fencing along the County road was removed to facilitate maintenance of the road ditches, as requested by Emery County.

An Applicant Violator System check of Murray Energy Corporation (the parent corporation to UtahAmerican Energy, Inc.) revealed no violations.

**Findings:**

**R645-301-880.120**, The application for bond release does not meet the administrative requirements, because contrary to the information in the MRP (Figure II-1, p. II-14A) and the notarized statement certifying that all reclamation activities were accomplished in accordance with the Act and the approved reclamation plan (App. III-1-8), the Lila Canyon Portals were not gated in 2007 and remain open for 70 ft., inby. The Permittee should either note this as an extended responsibility in parts II.A.6 and II.A.9 of the application or assign the closure obligation to Part B of the Horse Canyon Mine, including it in the disturbed and bonded area for Part B. In either case, the narrative should reference the BLM's

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conditions of approval for the steel closure that are stated in their October 9, 2007 letter to UEI • Ex. III-1-3, the public notice, states that the bond release is for “all lands currently in Permit C/007/013.” This statement is false, since the 007/013 permit includes Part B Lila Canyon and also since the Lila Canyon portals have not been listed as an item remaining in Part A of the Horse Canyon permit, not under Phase III bond release. (The closure of the Lila Canyon portals is the subject of discussion in document 0064, 2006 Outgoing folder.) This public notice must be re-issued.

**R645-301-121.200**, The bridge abutments were constructed to facilitate mining expansion and were to be removed at final reclamation (letter from IPA, received 9/18/96). The application states that Emery County has indicated a need to expand the Horse Canyon Road (page 4). In fact, the bridge abutments are no longer structurally sound and as requested by Emery County (App.III-1-9), the east bridge abutment was removed and the west abutment was left to stabilize the road embankment. The second paragraph on page 4 should be re-worded, accordingly.

## **TOPSOIL AND SUBSOIL**

Regulatory Reference: 30 CFR Sec. 817.22; R645-301-240.

### **Analysis:**

Intermountain Power Agency completed Grading of 51.56 acres at the Horse Canyon site in 1991. As Built information is found in Chap. 2 and 3 of Vol. 1. and Plates III-2A through G. Phase I bond release for the 51.56 acres was granted February 5, 1997 and Phase II bond release was granted on April 11, 2002.

A borrow area provided the substitute topsoil, but reclamation did not disturb the entire borrow area, leaving a 6.5 acre area undisturbed. The correspondence file for 1991 provides a history of the activity at the borrow area site. Neither Phase I, nor Phase II bond release was granted for the 6.5 acres in the borrow area or the 0.01 acre bridge abutments. Letters in the Division’s files indicate that the bridge abutments were to be removed after mining (letter from IPA, received 9/18/96). Recent correspondence to the Division from Emery County (dated August 31, 2006) requested that only one bridge abutment be removed and the other be left to stabilize the road embankment. This work was completed in 2007.

**RECOMMENDATIONS:**

The application is not recommended for approval.

A pre-bond release inspection should verify whether the fan portal collar and fencing have been removed from the site.