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Governor

GARY R. HERBERT  
Lieutenant Governor

State of Utah 0001  
DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER  
Executive Director

Division of Oil Gas and Mining

JOHN R. BAZA  
Division Director

January 2, 2008

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

Subject: Updated Conditions to Mining Permit, UtahAmerican Energy, Inc., Horse Canyon Mine, C/007/0013, Outgoing File

Dear Mr. Marshall:

The Board Chair signed the Order Dismissing the Request for Agency Action with Prejudice Pursuant to Stipulation of the Parties on December 21, 2007. Item #2 of the Board Order stated that "The Lila Canyon Extension of the Horse Canyon Mine Permit No. ACT/007/0013 and the Division's Decision dated May 18, 2007 approved UEI's Lila Canyon permit application are modified in accordance with the terms of the Stipulation and its Exhibit A and Maps Nos. 1 and 2".

Attached please find the updated Conditions of the Permit, which include previous ongoing conditions and conditions referred to in Item #2 of the December 21, 2007 Board Order.

The Technical Analysis for the Lila Canyon Extension of the Horse Canyon Mine is being updated and will be sent to you once it has been finalized.

If you have any questions, please call me at (801) 538-5268.

Thank you.

Sincerely,



Pamela Grubaugh-Littig  
Permit Supervisor

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Attachments – Permit Conditions updated through December 21, 2007

cc: Billie Clark, OSM, WRCC  
Price Field Office  
Steve Bloch, SUWA  
Steve Alder, Assistant Attorney General  
Denise Dragoo

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## Attachment A

### SPECIAL CONDITIONS

(December 21, 2007)

1. UtahAmerican Energy, Inc (UEI) will submit water quality data for the Horse Canyon Mine, in an electronic format through the Electronic Data Input web site, <http://hlunix.hl.state.ut.us/cgi-bin/appx-ogm.cgi>. **(This condition is ongoing.)**
2. UEI will follow the Programmatic Agreement if cultural resource sites are discovered within the permit or adjacent areas. **(This condition is ongoing.)**
3. UEI will: 1) provide for conducting yearly fly-over raptor surveys; 2) immediately contact UDOGM, USFWS, UDWR and BLM if raptors are tending nests or are nesting in areas near the area to be mined (mining in the subsidence zone and below the cliffs next to the subsidence zone) in the current nesting season or in the coming nesting season (the following year); 3) implement the Best Technology Available (BTA) to provide for the protection of the raptors and their nests. This BTA will be determined by the agencies and then implemented by UEI. Implementation of BTA measures may include fencing of the nests, or avoidance of the area and/or may also include the need to apply for a 'take' permit from USFWS; and 4) provide a complete report of the yearly surveys to UDOGM. **(This condition is ongoing.)**
4. UEI must report actual annual water depletions to OSM – Western Regional Coordinating Center by September 30 of each year. **(This condition is ongoing.)**
5. (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.
6. (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 5 (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.

7. 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 years. These wells shall be incorporated into a monitoring program in conjunction with the currently proposed monitoring program based on the evaluation in paragraph 8 below.
8. UEI will revise the PHC and Operational Plan, and the Division will revise the CHIA based on the additional data obtained from paragraphs 5, 6, and 7 above. The data obtained will be used in further characterizing the surface flows, the 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.
9. 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/vertrpt.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.