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**From:** "Johnston, Carl " <CJohnston@osmre.gov>  
**To:** <betsy\_herrmann@fws.gov>, "Harber, Dale" <dharber@fs.fed.us>, "Romin, La...  
**Date:** 4/13/2009 7:14 AM  
**Subject:** Mining Plan Determination - Horse Canyon  
**Attachments:** Horse.ge2.doc

Attached is OSM's final decision regarding the need for a Mining Plan Modification for the above subject. A signed copy will be sent to you in today's mail.

In accordance with the Federal regulations under 30 CFR 740.13(d), other Federal agencies that may have an interest in, or jurisdiction over, the above subject operation have also been notified of OSM's decision electronically.

No responses to this transmittal are necessary.

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UT-0020

April 13, 2009

Utah Division of Oil, Gas, & Mining  
Coal Regulatory Program  
1594 West North Temple, Suite 1210  
P.O. Box 145801  
Salt Lake City, Utah 84114-5801

RE: UtahAmerican Energy, Inc. "Horse Canyon" Mine - Application for a Permit Revision,  
Working Through Winter Closure Period, Task ID No. 3223

Dear Sir or Madam:

This is in response to the Utah Division of Oil, Gas & Mining's (UT-DOGM) March 12, 2009, request for a decision, under 30 CFR 944.30, whether the above subject permit revision constitutes a mining plan modification.

Mining plan approvals by the Secretary of the Interior are required under the Mineral Leasing Act of 1920, 30 U.S.C. 181, *et seq.* before coal mining can occur on Federal lands. This letter serves to document OSM's determination whether or not a mining plan approval from the Secretary is required for the above permitting action.

OSM's review of the Application for a Permit Revision, Working Through Winter Closure Period, has determined that it proposes additional monitoring procedures for continued construction operations during the exclusionary periods established for the protection of Golden Eagles at the Horse Canyon / Lila Canyon mine, Utah State permit C/007/0013.

Based on a review of the activities associated with the permit revision, OSM has determined that the proposal does not meet the requirements of 30 CFR PART 740 and PART 746. Therefore, the proposed permit revision does not constitute a mining plan action requiring Secretarial approval.

OSM's decision was based solely upon the Federal regulations under 30 CFR PART 746 and not the technical aspects of the revision application itself. Consequently, OSM's decision does not relieve UT-DOGM from coordinating the review and approval of the Application for a Permit Revision, Working Through Winter Closure Period, with other Federal agencies for compliance with other Federal regulations.

OSM also electronically transmitted the March 12, 2009, request to the Bureau of Land Management and the USDA Forest Service for their review and comment.

In an electronic submittal dated March 16, 2009, the USDA Forest Service stated it had no comments or concerns with the permit revision.

The Bureau of Land Management did not provide any comments in the thirty day time frame established by the Federal regulations under 30 CFR 944.30, Article VI. D.

Please notify the applicant of our decision on this matter.

Should you have any questions regarding this letter or approval, please contact Carl R. Johnston, Utah Federal Lands coordinator, at (303) 293-5038.

Sincerely,

Robert Postle  
Chief, Field Operations Branch

cc: BLM - Utah State Office  
BLM - Price Field Office  
USFS - Manti-La Sal NF  
Denver Field Division