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Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

Outgoing
C0070013
#3259
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May 13, 2009

Jay Marshall, Resident Agent
UtahAmerican Energy, Inc.
P.O. Box 910
East Carbon, Utah 84520-0910

Subject: Horse Canyon, C/007/0013, Mining Activities During Exclusionary Periods, Task ID #3259, Outgoing File

Dear Mr. Marshall:

The Division has reviewed your response to NOV #10036, Mining Activities During Exclusionary Periods.

The Division has determined that there are some deficiencies that must be addressed before a determination can be made that the requirements of the R645 Coal Mining Rules have been met, and an approval can be granted. Those deficiencies are attached.

The plans as submitted are denied. Please resubmit the entire application on or before May 27, 2009.

If you have any questions, please call myself at (801)538-5262 or Joe C. Helfrich at (801)538-5290.

Sincerely,

James D. Smith
Permit Supervisor

JDS/sqs
Attachment
cc: Price Field Office
O:\007013.HOR\FINAL\WG3259\DEFICIENCIES.DOC

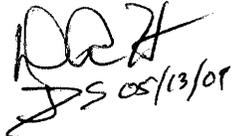


TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

April 16, 2009

TO: Internal File

THRU: Daron R. Haddock, James D. Smith, Permit Supervisors 

FROM:  Joe C. Helfrich, Biologist, Lead

RE: Mining activities during exclusionary periods, UtahAmerican Energy Inc., Lila Canyon Mine, C/007/0013, Task # 3259

SUMMARY:

On April 6, 2009 the Division received an NOV abatement plan for NOV # 10036. The abatement plan includes the procedures and protocol for conducting mining activities during the Golden Eagle exclusionary period.

This document includes a review of the information submitted by the Utah American Energy on April 6, 2009.

The following deficiencies were noted in the review of this application:

DEFICIENCIES

R645-301-320, 330, 333, -301-342, -301-358; Consultation, (as required by the R645 coal rules), with Nathan Darnall, FWS, Leroy Mead, Tony Wright and Jim Parish, DWR) indicate that in order to meet the requirements of R645-301-322 et sec, the commitment on page 19, item # 7 of the MRP needs to be revised to indicate that closure periods will be adhered to during the construction and reclamation phases of mining activities unless otherwise approved by the Division in consultation with State and Federal Wildlife agencies.

The text on Page 20 paragraph 2 of the MRP has not been revised as noted in the previous analysis of this application. The first sentence needs to be revised to allow for monitoring required by additional mitigation plans.

TECHNICAL ANALYSIS:

TECHNICAL MEMO

GENERAL CONTENTS

PERMIT APPLICATION FORMAT AND CONTENTS

Regulatory Reference: 30 CFR 777.11; R645-301-120.

Analysis:

The information in the application has been formatted in accordance with the R645 rules and presented as commitments for insertion in the approved MRP. Page 20 of chapter three has been revised to note that the 2009 mitigation and monitoring plan is included in appendix 3-5.

Findings:

The information in the application is adequate to meet the requirements of this section of the regulations.

REPORTING OF TECHNICAL DATA

Regulatory Reference: 30 CFR 777.13; R645-301-130.

Analysis:

The data from the surveys conducted on list dates includes information about the status of the nests in the territory, (947), that were ground surveyed in lieu of the helicopter survey. The DWR had requested that the nests within the territory be monitored.

Findings:

The information in the application is adequate to meet the requirements of this section of the regulations.

PROTECTION OF FISH, WILDLIFE, AND RELATED ENVIRONMENTAL VALUES

Regulatory Reference: 30 CFR Sec. 817.97; R645-301-333, -301-342, -301-358.

Analysis:

Consultation, (as required by the R645 coal rules), with Nathan Darnall, FWS, Leroy Mead, Tony Wright and Jim Parish, DWR) indicate that in order to meet the requirements of R645-301-322 et sec, the commitment on page 19, item # 7 of the MRP needs to be revised to indicate that closure periods will be adhered to during the construction and reclamation phases of mining activities unless otherwise approved by the Division in consultation with State and Federal Wildlife agencies.

The text on Page 20 paragraph 2 of the MRP has not been revised as noted in the previous analysis of this application. The first sentence needs to be revised to allow for monitoring that may be required by additional mitigation plans.

The raptor ground surveys conducted during the Golden Eagle Exclusionary period include the status of Bighorn sheep.

The survey information includes the status of ravens within the monitoring territory.

Findings:

The information in the application is not adequate to meet the requirements of this section of the regulations;

R645-301-322, 332 333, 342 and 358; Consultation, (as required by the R645 coal rules), with Nathan Darnall, FWS, Leroy Mead, Tony Wright and Jim Parish, DWR) indicate that in order to meet the requirements of R645-301-322 et sec, the commitment on page 19, item # 7 of the MRP needs to be revised to indicate that closure periods will be adhered to during the construction and reclamation phases of mining activities.

The text on Page 20 paragraph 2 of the MRP has not been revised as noted in the previous analysis of this application. The first sentence needs to be revised to allow for monitoring required by additional mitigation plans.

RECOMMENDATIONS:

The application is not recommended for approval at this time.