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 <p>UTAH DNR OIL, GAS & MINING</p>	<p>Citation for Non-Compliance Utah Coal Regulatory Program 1594 West North Temple, Salt Lake City, UT 84114 Phone: (801) 538-5340 Fax: (801) 359-3940</p>	<p>Citation #: 10045</p>
		<p>Permit Number: C0070013</p>
		<p>Date Issued:</p>
<p><input checked="" type="checkbox"/> NOTICE OF VIOLATION</p>	<p><input type="checkbox"/> CESSATION ORDER (CO)</p>	<p><input type="checkbox"/> FAILURE TO ABATE CO</p>
<p>Permittee Name: UtahAmerican Energy Inc.</p>		<p>Inspector Number and ID: 37 PBURTON</p>
<p>Mine Name: Horse Canyon Mine</p>		<p>Date and Time of Inspection: 09/09/2009</p>
<p>Certified Return Receipt Number: 7008 0150 0002 0896 5137</p>		<p>Date and Time of Service: 09/23/2009 2:30 pm</p>
<p>Nature of condition, practice, or violation: Failure to place underground development waste in excavated pits as described in Appendix 5-7 of the MRP. Failure to salvage and store subsoil for use in final reclamation as described in Sec. 232.500, 241, 242.100 and shown on Plate 2-4. Failure to protect undisturbed areas as described in Sections 231.100 and 234.220 of the MRP. Failure to treat and contain sediment from the underground development waste.</p>		
<p>Provisions of Act, regulations, or permit violated: R645-301-142 and R645-300-143, Operate according to plan and comply with performance standards. R645-301-742.110 and R645-301-742.124, Trap sediment. R645-301-232.500, Subsoil segregation. R645-301-232.600, Timing of soil removal. R645-301-512.230 and R645-301-536.110 Coal mine waste design certification and stability.</p>		
<p><input type="checkbox"/> This order requires Cessation of ALL mining activities. (Check box if appropriate.)</p>		
<p><input type="checkbox"/> Condition, practice, or violation is creating an imminent danger to health or safety of the public.</p>	<p><input type="checkbox"/> Permittee is/has been conducting mining activities without a Permit.</p>	
<p><input type="checkbox"/> Condition, practice, or violation is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources.</p>	<p><input type="checkbox"/> Permittee has failed to abate Violation(s) included in <input type="checkbox"/> Notice of Violation or <input type="checkbox"/> Cessation Order within time for abatement originally fixed or subsequently extended.</p>	
<p><input type="checkbox"/> This order requires Cessation of PORTION(S) of mining activities.</p>		
<p>Mining activities to be ceased immediately: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>		<p>Abatement Times (if applicable).</p>
<p>Action(s) required: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>By October 23, 2009: Place sediment control at base of warehouse bench outslope. Salvage topsoil from area between warehouse bench and coal stockpile bench. Mark remaining undisturbed islands with signs (per MRP Sec. 231.100) and protect by a 20 ft buffer zone (Sec. 234.220). Amend MRP to identify remaining subsoil salvage locations on a map and to specify a stockpile location of subsoil for use as final cover over the underground development waste (allow for 4 ft. cover over the waste). Amend App. 5-5 safety factor analysis to represent new waste disposal area design, using geotech sampling and analysis of underground development waste and using slope profile and cross-section from new design. Amend App. 5-7 Fig. 1 and 2 for new design.</p>		
<p>JAY MARSHALL</p> <p>(Print) Permittee Representative</p>		<p>PRISCILLA BURTON</p> <p>(Print) DOGM Representative</p>
<p><i>mailed 9/23/09 and faxed.</i></p> <p>Permittee Representative's Signature - Date</p>		<p><i>Priscilla Burton 9/23/09</i></p> <p>DOGM Representative's Signature - Date</p>
<p><u>SEE REVERSE SIDE Of This Form For Instructions And Additional Information</u></p>		

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Sent To R. Jay Marshall / Utah American Energy
Street, Apt. No.; or PO Box No. P.O. Box 910
City, State, ZIP+4 East Carbon UT 84520

PS Form 3800, August 2006

See Reverse for Instructions

IMPORTANT – READ CAREFULLY

Pursuant to the Utah Coal Mined Land Reclamation Act, Utah Code Ann. § 40-10-1 et. seq. (Act), the undersigned authorized representative of the Division of Oil, Gas, and Mining (DOGM) has conducted an inspection and found that a Notice of Violation or Cessation Order must be issued.

This order shall remain in effect until it is modified, terminated or vacated by written notice of an authorized representative of DOGM.

1. PENALTIES.

Proposed assessment. DOGM assesses fines based upon a proposed recommendation by an assessment officer. If there is additional information you wish DOGM to consider regarding the cessation order and proposed fine, please submit that to DOGM within *15 days of the date this notice or order is served on you or your agent*. Such information will be used by the assessment officer in determining facts surrounding the violation(s) and amount of penalty. Once DOGM has determined the proper penalty, it will serve the proposed assessment on you or your agent, no later than 30 days of the issuance of this notice or order. See Utah Admin. Code R645-401-600 et. seq.

The penalty will be final unless you or your agent file, within 15 days of receipt of the proposed assessment, a written request for an informal hearing before the assessment officer.

Assessment. For each violation included in this notice, a penalty of up to \$5,000 may be assessed for each separate day the violation continues.

If you fail to abate any violation within the time set for abatement or for meeting any interim step, you will be assessed an additional minimum penalty of \$750 for each day of continuing violation beyond the time set for abatement. You will be issued a Cessation Order requiring cessation of surface coal mining operations or the portion of the operations relevant to the violation.

2. INFORMAL PUBLIC HEARING.

On the reverse side of this page, an authorized representative has made a finding as to whether or not this notice requires cessation of mining. If this order or notice requires cessation of mining, expressly or in practical effect, you may request that an informal public hearing be held at or near the mine site. If you wish an informal public hearing be held, please contact an authorized representative from DOGM. See Utah Admin. Code R645-400-350 et seq. Once an informal public hearing is scheduled, you will be notified of the date, time, and location of the hearing.

If this notice requires cessation of mining, it will expire within 30 days from the date you are notified unless an informal public hearing is held or waived, or the condition, practice, or violation is abated within the 30-day period.

3. FORMAL REVIEW AND TEMPORARY RELIEF.

You may appeal this notice or order to the Board of Oil, Gas, and Mining by submitting an application for hearing within 30 days of receipt of this notice or order. See Utah Admin. Code R645-300-164.300. Please submit the application for hearing to:

Secretary
Board of Oil, Gas, and Mining
1594 West North Temple, Suite 1210
PO Box 145801
Salt Lake City, Utah 84114-5801

If applying for a formal board hearing, you may submit with your petition for review a request for “*temporary relief*” from this notice. Procedures for obtaining a formal board hearing are contained in the Board’s Rules of Practice and Procedure and in Utah Admin. Code R645-401-800 et. seq.

4. EFFECT ON PERMIT.

The permit may be suspended or revoked if it is determined that a pattern of violations of the Act, regulations or permit conditions exists, and that the violations were caused by an unwarranted or willful failure to comply.

For further information, consult Utah Code Ann. § 40-10-20 through 40-10-23 and Utah Admin. Code R645-400-300 et. seq. and R645-401 et. seq., or contact the Division of Oil, Gas, and Mining at (801) 538-5340.



State of Utah

Department of Natural Resources

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas & Mining

JOHN R. BAZA
Division Director

JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

Table with 2 columns: Representative Name, Title. Row 1: Priscilla Burton, Environmental Scientist III

Inspection Report

Table with 2 columns: Field Name, Value. Fields include Permit Number, Inspection Type, Inspection Date, Start Date/Time, End Date/Time, Last Inspection.

Inspector: Priscilla Burton, Environmental Scientist III

Weather: sun 65

InspectionID Report Number: 2130

Accepted by: jhelfric
9/14/2009

Permittee: UTAHAMERICAN ENERGY INC
Operator: UTAHAMERICAN ENERGY INC
Site: HORSE CANYON MINE
Address: PO BOX 986, PRICE UT 84501
County: CARBON
Permit Type: PERMANENT COAL PROGRAM
Permit Status: ACTIVE

Current Acreages

Table with 2 columns: Acreage, Category. Rows include Total Permitted, Total Disturbed, Phase I, Phase II, Phase III.

Mineral Ownership

- Checked boxes for Federal, State, County, Fee. Unchecked for Other.

Types of Operations

- Checked for Underground. Unchecked for Surface, Loadout, Processing, Reprocessing.

Report summary and status for pending enforcement actions, permit conditions, Division Orders, and amendments:

Field check existing facilities and undisturbed areas compared with proposed construction and undisturbed areas shown Plate 5-2, dated July 15, 2009 (provided to the Division with the design change application, review Task 3351). Many photographs were taken from a location above the mine site. After the site visit, I met with Jay Marshall at the Price Field Office to discuss Plate 2-3, Plate 2-4, Plate 5-2 and the analysis of the rock slope/waste rock.

Inspector's Signature:

Handwritten signature of Priscilla Burton

Priscilla Burton, Environmental Scientist III

Inspector ID Number: 37

Date Thursday, September 10, 2009

Note: This inspection report does not constitute an affidavit of compliance with the regulatory program of the Division of Oil, Gas and Mining.

REVIEW OF PERMIT, PERFORMANCE STANDARDS PERMIT CONDITION REQUIREMENTS

1. Substantiate the elements on this inspection by checking the appropriate performance standard.
 - a. For COMPLETE inspections provide narrative justification for any elements not fully inspected unless element is not appropriate to the site, in which case check Not Applicable.
 - b. For PARTIAL inspections check only the elements evaluated.
2. Document any noncompliance situation by reference the NOV issued at the appropriate performance standard listed below.
3. Reference any narratives written in conjunction with this inspection at the appropriate performance standard listed below.
4. Provide a brief status report for all pending enforcement actions, permit conditions, Divison Orders, and amendments.

	Evaluated	Not Applicable	Comment	Enforcement
1. Permits, Change, Transfer, Renewal, Sale	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Signs and Markers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Topsoil	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.a Hydrologic Balance: Diversions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.b Hydrologic Balance: Sediment Ponds and Impoundments	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.c Hydrologic Balance: Other Sediment Control Measures	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.d Hydrologic Balance: Water Monitoring	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.e Hydrologic Balance: Effluent Limitations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Explosives	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Disposal of Excess Spoil, Fills, Benches	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Coal Mine Waste, Refuse Piles, Impoundments	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Noncoal Waste	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Protection of Fish, Wildlife and Related Environmental Issues	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Slides and Other Damage	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Contemporaneous Reclamation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. Backfilling And Grading	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. Revegetation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. Subsidence Control	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15. Cessation of Operations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16.a Roads: Construction, Maintenance, Surfacing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16.b Roads: Drainage Controls	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. Other Transportation Facilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18. Support Facilities, Utility Installations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19. AVS Check	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20. Air Quality Permit	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21. Bonding and Insurance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22. Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

1. Permits, Change, Transfer, Renewal, Sale

The construction is occurring in stages and will continue on through 2010. Plate 5-2 Surface Area, Official Disturbed Boundary Map, shows the proposed layout, but does not reflect existing, interim site conditions. For instance, the land in the proposed locations of the substation, the truck loadout, the drain field, and the slopes between the ROM coal stockpile and storage yard have not yet been stripped of topsoil. The coal pad, materials pad and topsoil stockpile are each approximately 1/3 their final size.

3. Topsoil

Topsoil pile occupies approximately 1/3 of the final site. The north face of the topsoil pile is in its final configuration. Cryptogams salvaged in December 2007 have been stored in open buckets in a cool, dark location, for use on the topsoil stockpiles. These cryptogams should be dispersed on the finished (north) side of the topsoil pile during the fall 2009 as described in the MRP Section 234.230. This operation must be completed before freezing temperatures limit the use of hydrospray. The effect of long term storage on the viability of the cryptogams is unknown, so additional buckets should be collected from currently undisturbed areas prior to future soil salvage for the remainder of the topsoil stockpile as described in the MRP Section 232.100. At present, there are many acres of land that remain that will require topsoil salvage prior to disturbance. For the purpose of monitoring topsoil salvage, the number of acres that have been disturbed and the number remaining to be disturbed should be tallied.

After this site visit, Mr. Marshall was again reminded of the commitments in the plan pertaining to site construction. In particular that the location of subsoil with suitable reclamation characteristics would be mapped for ease of recovery and replacement during reclamation (Section 232.500, Section 241, Section 242.100). Mr. Marshall indicated that an as-built report for the first phase of topsoil recovery would be forthcoming.

4.b Hydrologic Balance: Sediment Ponds and Impoundments

Crew was working on the sediment pond outlet.

7. Coal Mine Waste, Refuse Piles, Impoundments

Fill on the warehouse/materials storage pad is being removed from underground development tunnels and therefore meets the definition of coal mine waste. Mr. Marshall stated that the material is mudstone. The material was sampled and analyzed. The analysis was received during the 8/20/3009 inspection. This material has an extreme SAR value of 25 and unsuitable selenium values. This material is not being buried in pits as described in the approved Appendix 5-7, but is being layered in 24 inch lifts on the warehouse/materials storage pad. See photos.

9. Protection of Fish, Wildlife and Related Environmental Issues

Two samples have been analyzed by the BYU laboratory. The first sample of sandstone was analyzed in May 2009. The second sample was analyzed in July 2009. Both samples indicate that the material must be buried under four feet of cover during final reclamation and that the material must be kept out of contact with surface drainage. The mudstone has a high SAR value. Both mudstone and sandstone have unsuitable selenium levels.