

C/007/OB Incoming



# United States Department of the Interior



## BUREAU OF LAND MANAGEMENT

Utah State Office  
P.O. Box 45155  
Salt Lake City, UT 84145-0155  
<http://www.blm.gov>

IN REPLY REFER TO:  
3482  
SL-066490  
(UT-923)

OCT 27 2010

Certified Mail--Return Receipt Requested 7009 1410 0001 9070 8724

Mr. David Hibbs  
UtahAmerican Energy, Inc.  
P.O. Box 910  
East Carbon, Utah 84520

RECEIVED  
OCT 28 2010

DIV. OF OIL, GAS & MINING

Re: Non-compliance Mining Conducted on Federal Coal Lease No. SL-066490

### NOTICE OF NONCOMPLIANCE

The Bureau of Land Management (BLM) is issuing this notice of non-compliance to UtahAmerican Energy, Inc. (UEI) for failure to comply with the approved resource recovery and protection plan (R2P2) dated April 22, 2010. The regulations at 43CFR3480 Sec. 3481.1 ,b state:

The operator/ lessee shall conduct surface and underground coal mining operations involving development , production, resource recovery and protection, and preparation and handling of coal in accordance with the rules of this part, terms and conditions of the Federal leases or licenses, the approved resource recovery and protection plan, and any orders issued by the authorized officer.

As shown in the attached approved R2P2 Map of April 22, 2010, the Mine Plan provided for the development of multiple entry mains in the eastern direction on Federal Coal Lease SL-066490. Development of a similar mains system is shown in the south-southeast direction on the same federal coal lease. In addition, one breakout location is shown in the approved in the mine plan, including and the surface disturbance for a fan on the right-of-way.

However, mining has now progressed south at a different point beyond the location approved in the R2P2. Further, the underground development is proceeding for a ventilation breakout some 800 feet south of the approved location.

**Requirements to Correct the Mining Plan Noncompliance:** Within 30 days of receipt of this letter, UEI must:

- 1) submit justification for mining south and toward a breakout location that is not approved in your current R2P2 Mine Plan and explain how mining of this coal did not adversely affect the Maximum Economic Recovery of the mine coal reserve.
- 2) submit justification or explain why the BLM was not properly notified seeking mine plan change approval of the mine plan change prior to the mining of this coal.
- 3) submit a new R2P2 clearly showing the revised mine plan and intended breakout location.
- 4) Any other evidence that UEI may deem important to support the position of the actions taken by UEI in the mining of this coal.

**Compliance:**

Failure to comply with this Notice of Non-Compliance will result in an immediate order to provide the required information and any documentation to the BLM and UEI will be subject to the provisions in 43 CFR 3486.3 including cessation of all operations upon notice by the authorized officer. In addition the BLM holds a lease bond and may increase the bond to cover additional liabilities under the Federal coal lease.

**Appeal Rights:**

You have 30 calendar days from the receipt of this notice to abate the noncompliance. Following the abatement period, UEI has 30 calendar days to appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulation at 43 CFR Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office within 30 calendar days following at the end of the compliance period. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and the petition for a stay must also be submitted to the Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

**Standards for Obtaining a Stay**

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards;

- (1) The relative harm to the parties if a stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of the immediate and irreparable harm if the stay is not granted, and;
- (4) Whether the public interest favors granting the stay.

If you have any questions, feel free to contact Mr. Vaughn Hughes (435) 636-3626 at the Price Field Office or Mr. Jeff McKenzie (801) 539-4038 of my staff.

Sincerely,

/s/ Roger L. Bankert

Roger Bankert  
Chief, Branch of Minerals

Enclosure:

R2P2 Approved Mine Map dated April 22, 2010

cc: UT-070, Price Field Office (w/ Enclosure)  
Utah Division of Oil Gas and Mining (w/ Enclosure)  
1594 West North Temple, Suite 1210  
Salt Lake City, Utah 84114-5801

LilaR2P2Non-compliance10-27-10-JM-SA

