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DEPARTMENT OF NATURAL RESOURCES

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Division of Oil, Gas and Mining

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February 4, 2010

Outgoing
C0070013

#3408

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Ms. Denise Dragoo
Snell & Wilmer L.L.P.
15 West South Temple, Suite 1200
Beneficial Tower
Salt Lake City, UT 84101

Subject: NOV #10045, Horse Canyon Mine, Lila Canyon Extension, C0070013

Dear Ms. Dragoo:

As a follow-up to the informal conference held on December 16, 2009, and in response to your subsequent letter dated December 21 requesting extension of the abatement period, I am providing you with this letter documenting my decision in this matter.

1. As indicated by e-mail dated January 6, 2009, from Steve Alder to you, the abatement period for the NOV has been extended beyond the time allowed by Priscilla Burton. This extension was in effect pending the preparation of this letter of decision. By this letter, I am further extending the abatement period for the NOV until April 5, 2010 in order to accomplish the action items identified in this letter.
2. The rationale for the issuance of the NOV is that UEI did not follow the approved plan for mining. At this time, I am upholding the Division's issuance of the NOV; however, I am also withholding final decision on reversing any or all of the NOV including the assessment of penalty based on UEI's efforts with regard to the following paragraphs (parts 3 and 4) of this letter and accomplishment of necessary action items within the extended abatement period.
3. Your December 21 letter states, "UEI timely applied for, and has diligently pursued approval of designs and plans to the approved mining and reclamation plan" – apparently with the intent to revise the plan to conform with UEI's actions that are not included in the approved plan. In order to arrive at an approved and revised plan, it is necessary for UEI to ensure that it accurately addresses deficiencies previously identified by the Division from past reviews of UEI submittals, and then resubmit its revisions for final review and action by the Division. To facilitate this effort, I have attached a document entitled "Bullet List, Lila Canyon Detailed Design Changes, UtahAmerican Energy, Inc. Horse Canyon Mine, Permit #C/007/0013, Task ID #3351". This additional information



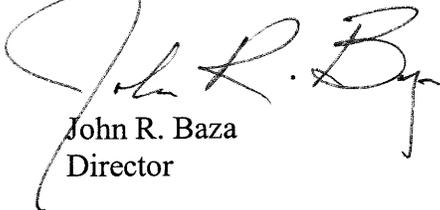
will hopefully further clarify the previously identified deficiencies to allow UEI to succinctly address them in its next submittal. I am allowing UEI until close of business on March 15, 2010, to respond to these deficiencies. The Division will then have time to review the application before the end of the abatement period.

4. To prevent erosion of the topsoil pile, UEI must collect additional cryptogams and seed the topsoil pile, dispersing the cryptogams on the topsoil with the seed. This must also be completed by March 15. (see MRP Sections 232.100 and 234.230)

I look forward to UEI's future efforts to achieve compliance with the requirements of Coal Regulatory Program of the Division. If the required information is not provided to the Division's satisfaction, or the topsoil pile is not properly seeded by the end of the abatement period, a Failure to Abate Cessation Order will be issued under R645-401-420.

If you have any questions concerning this matter, please direct them to Dana Dean or Daron Haddock here at the Division.

Sincerely,



John R. Baza
Director

Bullet List
Lila Canyon Detailed Design Changes
Utah American Energy, Inc., Horse Canyon Mine,
Permit #C/007/0013, Task ID # 3351

R645-301-122,

Provide the drawings that belong in Appendix A of the February 2009 Wastewater Disposal System Report.

R645-301-121.200, -150,

Ensure that the figures referred to in the text of Appendix 7-4 are:

- Listed in the Table of Contents of Appendix 7-4 and,
- Included in Appendix 7-4.

R645-301-121.200 and -512.210, and -512.220,

On Plate 2-3 show:

- The location of refuse storage and final disposition,
- The location of the durable rock fill storage and final disposition.

R645-301-535.300 *et seq* and -514.100 *et seq*,

Provide with the amendment:

- Quarterly or more frequent reports certified by a professional experienced in the construction of rock and earth fills.
- The reports must detail the following, as applicable
 - Foundation preparation, including the removal of topsoil and organic material
 - Placement of under drains and protective filter systems.
 - Installation of final surface drainage systems
 - The configuration and disposition of the final graded and revegetated fill.
 - Any signs of instability, structural weakness, or other hazardous conditions.

R645-301-232.720,

- Provide a plan for the sampling and analysis of the final regraded subsoil materials prior to final topsoil application.
 - Follow the protocol described in the *Division Guidelines for Topsoil and Overburden*, including analysis for parameters described in Tables 3 and 7 of the guideline.

R645-301-536.510,

- Identify what facility will be used for the permanent disposal of the coal processing waste and / or mine development waste generated at the Lila Canyon Mine.

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- The facility must be permitted under the R-645 rules to dispose of such waste permanently.
- For any proposed destination (such as Wildcat Loadout or ECDC):
 - ✓ Provide documentation that the facility is willing and capable of accepting the waste
 - ✓ Demonstrate that the facility meets the requirements for accepting Coal Mine Waste from activities located outside its permit area (this can be done by referencing the appropriate sections of the Wildcat MRP).

R645-301-121.200,

- Revise Appendix 5-7 and Chapter 5, Page 16 so they are consistent in regards to permanent disposal of coal mine waste.

R645-301-512.100

- Identify escarpments which require protection above the outcrop line (MRP, Chapter 3, section 332, Page 13)
- Describe the extraction ratio and the engineering methods utilized to design the protective pillars below the escarpments

R645-301-512.100,

- **Identify**, on a certified mine workings projection, ALL areas within 200 feet of the outcrop line (Only first mining is to be practiced within 200 feet of the outcrop line)
- Describe how “holing through” to the outcrop will be prevented.

R645-301-525.440,

1. Revise commitment #6 of section R645-301-525.440 Description of the Proposed Subsidence Monitoring Method to state that:
 - a) *“A ground survey of the mine permit area ‘where secondary extraction has occurred over the last year’ will be conducted in conjunction with the quarterly water monitoring program.”*
 - b) *Identified features will be monitored until they are repaired, or self-healed.*
 - c) *The survey will be conducted on roads, adjacent to stock watering ponds, in drainage channels where they cross tension areas relative to the underground extraction areas, and areas where geology is exposed on the surface, and will include:*
 - I. *a description of the identified subsidence related feature,*
 - II. *length, and width measurements, and compass bearing,*
 - III. *dated photographic documentation,*
 - IV. *located on a topographic overlay map of the underground disturbed area.*

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- V. *If the feature is determined as significant, the Division will be notified within a 48 hour period.*
- d) *A written report will be submitted as part of the Annual Report required by the Division.*

R645-301-731.300,

- Remove the statement in Appendix 5-7 that there are no acid or toxic forming wastes at the site (rock sampling data shows otherwise).

R645-301-742.300,

- Clarify how runoff from UA-5 will reach UC-1: include calculation and design information and show flowpaths and diversions on appropriate plates.

R645-301-742.300,

- Clarify what areas or structures provide flow to DD-20 and where DD-20 delivers the flow.