

C/007/013 Incoming

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U. S. DEPT. OF THE INTERIOR OFFICE OF SURFACE MINING Mine Site Evaluation State Program

RECEIVED

JUN 06 2011



1. Person/Permittee UTAHAMERICAN ENERGY		9. Permit Number UT-007-013		10. Permit Type PP	
2. Address PO BOX 910		11. Field Visit Date 05/18/2011 mm -dd - yyyy		12. Purpose OP	
3. City EAST CARBON		14. Permit Status A		15. Site Status AP	
4. State UT		17. OSM Office # 140		18. CCID # []	
5. Zip Code 84520		20. M.S.H.A. ID # []		21. State Code UT	
6. Phone Number (435) 655 - 3177		23. AVS Permittee Entity ID Number []		13. SRA Present Y	
7. Operator Name (if different than Permittee) []		16. Facility Type B		19. Land Code F	
8. Mine Name HORSE CANYON		22. County Name CARBON		24. State Office []	

25. Hours		26. Signature Block		27. Reviewing Official:	
2.00	a. Permit Review				
2.00	b. Site Visit Time	Signature Elizabeth Shaeffer ID # 377		Signature 6/2/11	
15.00	c. Travel Time	Printed Name		Review Date: [] mm - dd - yyyy	
3.00	d. Report Writing	Date: 06/02/2011		Is Supplemental MSE Page Used Y?N Y	

Permit Type - Item 10 IP = Interim Program, PP = Permanent Program, NP = No Permit

Purpose Type Codes - Item 12			CCR... Citizen Compliant Referral (non site)
Oxx... Oversight	RFx... Reclamation Fees	CC... Citizen Complaint (initial site visit)	CCF... Citizen Complaint Follow-up
Axx... Assistance	Fxx... Federal Actions		

Joint Inspection - Item 13 A joint inspection is when a state inspector accompanies an OSM inspector any time during the review of the mine site.

Permit Status - Item 14		AB.... Abandoned: All surface and underground coal mining activities have ceased and operator has left the site without completing reclamation as defined in 30 CFR 840.11(g)
A.... Active: Coal mining and reclamation activities occurring or permitted but not yet disturbed.	AB1.. Bond Forfeiture: Bond forfeiture officially in process or completed, and reclamation in progress or not yet commenced.	
IN... Inactive (Permanent Program Permit): Phase II completed or Temporary Cessation of Operations. (Interim Program Permit) Coal mining completed and reclamation activities initiated	AB2.. Partially Reclaimed Forfeiture: Forfeited site where all bonds have been used to reclaim site, but site not reclaimed to Program standards.	
BR.. Bond Release: Reclamation completed and State Regulatory Authority (RA) has released all of the bond (Phase III Release.)	AB3.. Reclaimed Forfeiture: Forfeited site that has been reclaimed to Program standards.	
	NA.... Not Applicable: When site is unpermitted.	

Site Status Codes - Item 15		NS.. Non-Site Visit: Status of site not determined.
ND.. No Disturbance: No coal mining and reclamation operations have been started.	MC.. Mining Complete: No mining activity on site, site regraded and awaiting phase bond release.	FP.. Forfeiture Pending: The RA is pursuing actions to revoke the permit, collect the performance bond(s), and/or reclamation of forfeited site is in progress.
EX.. Coal Exploration: Coal exploration operations have started and where coal mining operations have not begun.	TC.. Temporary Cessation: The RA has granted cessation of mining pursuant to 30 CFR 816/817.131(b).	FR.. Forfeited and Reclaimed: Forfeiture reclamation completed.
AP.. Active Coal Producing: Coal surface mining activities are occurring	P1... Phase I Release: At least Phase I bond release granted for entire permitted area. For interim permits, partial bond release.	FO.. Abandoned Site: Abandoned site that is permitted but there is no bond.
AN.. Active Non-Producing: Active non-producing facility such as tipple or preparation plant.	P2... Phase II Release: At least Phase II bond release for the entire permitted area.	WC.. Wildcat: Coal mining and reclamation operations have or are taking place and the activity is not covered by the required permits from the RA.
NM.. No Mining: The Permit Status is active, site is not in Temporary Cessation, no surface coal mining activity, and site not regraded.	P3... Phase III Release: Reclamation completed and the RA has released all bond.	

Facility Type Codes - Item 16		D... Ancillary (Haulroad, Conveyor, and/or Rails)	H... Exploration Permits	L... Remaining site permitted under 30CFR785.25
A... Surface	E... Refuse and/or Impoundment	F... Loading Facility and/or Tipple	I... Notice of Intent to Explore	
B... Underground	G... Stockpiles		J... Exempt 16 and 2/3	
C... Preparation Plant			K... Government Financed Construction Exemption	

Small Business Regulatory Enforcement Fairness Act (SBREFA) Your Comments Are Important

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you are a small business (a business with 500 or fewer employees including those of affiliates) and wish to comment on the enforcement or compliance activities of OSM, call 1-888-REG-FAIR (1-888-734-3247).

U. S. DEPT. OF THE INTERIOR OFFICE OF SURFACE MINING

Mine Site Evaluation

State Program
Continuation Page

Permittee/ Person UTAHAMERICAN ENERGY Permit Number UT-007-013 Field Visit Date 05/18/2011

28. Performance Standard Categories

Codes: 1=Compliance, 2=Noncompliance, 3=Not Planned, 4=Not Started, 5=Noncompliance Identified Elsewhere, 6=Previously Cited

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|---|---|--|
| <p>A. Administrative</p> <ol style="list-style-type: none"> 1. <u>1</u> Mining within Valid Permit 2. <u>1</u> Mining within Bonded Area 3. <u>1</u> Terms & Conditions of Permit 4. ___ Liability Insurance 5. ___ Ownership and Control 6. ___ Temporary Cessation 7. ___ AML Rec. Fees -- Non-Respondent 8. ___ AML Rec. Fees -- Failure to Pay <p>B. Hydrologic Balance</p> <ol style="list-style-type: none"> 1. ___ Drainage Control 2. ___ Inspections & Certifications 3. ___ Siltation Structures 4. ___ Discharge Structures 5. ___ Diversions 6. ___ Effluent Limits 7. ___ Ground Water Monitoring 8. ___ Surface Water Monitoring 9. ___ Drainage -- Acid-Toxic Materials 10. ___ Impoundments 11. ___ Stream Buffer Zones <p>C. Topsoil & Subsoil</p> <ol style="list-style-type: none"> 1. ___ Removal 2. ___ Substitute Materials 3. ___ Storage and Protection 4. ___ Redistribution | <p>D. Backfilling & Grading</p> <ol style="list-style-type: none"> 1. ___ Exposed Openings 2. ___ Contemporaneous Reclamation 3. ___ Approximate Original Contour 4. ___ Highwall Elimination 5. ___ Steep Slopes (includes downslope) 6. ___ Handling of Acid & Toxic Materials 7. ___ Stabilization (rills and gullies) <p>E. Excess Spoil Disposal</p> <ol style="list-style-type: none"> 1. ___ Placement 2. ___ Drainage Control 3. ___ Surface Stabilization 4. ___ Inspections & Certifications 5. ___ Impounding Structures <p>F. Coal Mine Waste (Refuse Piles/Impoundments)</p> <ol style="list-style-type: none"> 1. ___ Drainage Control 2. ___ Surface Stabilization 3. ___ Placement 4. ___ Inspections and Certifications 5. ___ Impounding Structures <p>G. Use Of Explosives</p> <ol style="list-style-type: none"> 1. ___ Blaster Certification 2. ___ Distance Prohibitions 3. ___ Blast Survey/Schedule 4. ___ Warnings & Records 5. ___ Control of Adverse Effects | <p>H. ___ Subsidence Control Plan</p> <p>I. Roads</p> <ol style="list-style-type: none"> 1. <u>1</u> Road Construction 2. ___ Certification 3. <u>1</u> Drainage 4. <u>1</u> Surfacing and Maintenance 5. ___ Reclamation <p>J. Signs & Markers</p> <ol style="list-style-type: none"> 1. <u>1</u> Signs 2. <u>1</u> Markers <p>K. ___ Distance Prohibitions</p> <p>L. Revegetation</p> <ol style="list-style-type: none"> 1. ___ Vegetative Cover 2. ___ Timing <p>M. ___ Postmining Land Use</p> <p>N. Other</p> <p style="text-align: center;">General
Category
Performance</p> <p style="text-align: center;">___ ___ 1) _____</p> <p style="text-align: center;">___ ___ 2) _____</p> <p style="text-align: center;">___ ___ 3) _____</p> |
|---|---|--|

Performance Standard Categories 30 CFR Counterparts

<p>A. Administrative (816/817.41-57)</p> <ol style="list-style-type: none"> 1. Valid Permit 773.11 2. Mining within Bonded Area 773.11 3. Terms & Conditions of Permit 773.17 4. Liability Insurance 800.60 5. Ownership and Control 778.13 6. Temporary Cessation §42.11(e) & §16/§17.131 7. AML Rec. Fees -- Non-Respondent §70.15(b) 8. AML Rec. Fees -- Failure to Pay §70.15(a) <p>B. Hydrologic Balance (816/817.41-57)</p> <ol style="list-style-type: none"> 1. Drainage Control 45 2. Inspections & Certifications 49(a)(10) 3. Siltation Structures 46 4. Discharge Structures 47 5. Diversions 43 6. Effluent Limits 42 7. Ground Water Monitoring 41(c) 8. Surface Water Monitoring 41(e) 9. Drainage--Acid - Toxic Materials 41(f) 10. Impoundments 49 11. Stream Buffer Zones 57 <p>C. Topsoil & Subsoil (816/817.22)</p> <ol style="list-style-type: none"> 1. Removal 22(a) 2. Substitute Materials 22(c) 3. Storage and Protection 22(c) 4. Redistribution 22(d) <p>D. Backfilling & Grading §16/§17.95-107</p> <ol style="list-style-type: none"> 1. Exposed Openings §16/§17.13, 14, 15, & §23.11 & 21 2. Contemporaneous Reclamation 100 3. Approximate Original Contour 102(a)(1) 4. Highwall Elimination 102(a)(2) 5. Steep Slopes (includes downslope) 107 6. Handling of Acid & Toxic Materials 102(c) 7. Stabilization (rills and gullies) 95(b) 	<p>E. Excess Spoil Disposal (816/817.71-74)</p> <ol style="list-style-type: none"> 1. Placement 71(e) 2. Drainage Control 71(f) 3. Surface Stabilization 71(g) 4. Inspections & Certifications 71(h) <p>F. Coal Mine Waste (Refuse Piles/Impoundments) §16/817.81-84</p> <ol style="list-style-type: none"> 1. Drainage Control 83(a) 2. Surface Stabilization 83(b) 3. Placement 83(c) 4. Inspections and Certifications 83(d) 5. Impounding Structures 84 <p>G. Use of Explosives (816/817.61-63)</p> <ol style="list-style-type: none"> 1. Blaster Certification 61(c) 2. Distance Prohibitions 61(d) 3. Blast Survey/Schedule 62-64 4. Warnings & Records 66 & 68 5. Control of Adverse Effects 67 <p>H. Subsidence Control Plan (817.121-122)</p> <p>I. Roads (816/817.150-151)</p> <ol style="list-style-type: none"> 1. Road Construction 150(e) 2. Certification 151(a) 3. Drainage 150(b)-151(d) 4. Surfacing and Maintenance 150(e)-151(d) 5. Reclamation 150(f) <p>J. Signs & Markers 816/817.11)</p> <ol style="list-style-type: none"> 1. Signs 11(a),(b), & (c) 2. Markers 11(a),(b),(d),(e), & (f) <p>K. Distance Prohibitions (761.11)</p> <p>L. Revegetation (816/817.111-116)</p> <ol style="list-style-type: none"> 1. Vegetative Cover 111 & 116 2. Timing 113 <p>M. Postmining Land Use (816/817.133)</p>
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Horse Canyon Partial Oversight Inspection
Utah Division of Oil, Gas, and Mining (DOGM) Permit ID # UT-007-013
Wednesday, May 18, 2011, 9:00 – 11:00 a.m.

Operator: Utah American Energy Inc. (UEI)

Participants:

Joe Helfrich, DOGM
Ingrid Campbell, DOGM
Pete Hess, DOGM
Howard Strand, OSM
Elizabeth Shaeffer, OSM, Badge # 377
Jay Marshall, UEI

Weather conditions: upper 30's, snow and rain, wet

Background:

The purpose of this oversight inspection was to determine whether Utah is successful in preventing off-site impacts by ensuring that raptors are adequately protected from mining operations by requiring mine operators to use the *Raptor Survey Guidelines* protocol. The protocol was written by the Utah Division of Oil, Gas, and Mining (DOGM) in 2008 in coordination with the Bureau of Land Management (BLM), U.S. Fish and Wildlife Service (FWS), and the Utah Division of Wildlife Resources (UDWR). The protocol enables mine operators to avoid active raptor nests during critical periods so that they prevent disturbance and comply with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The Utah Coal Program is required to prevent offsite impacts. Federal Rules at 30 CFR 817.97(c) and (d) and State Rules at R645-301-358 state that:

“No underground mining activity shall be conducted in a manner which would result in the unlawful taking of a bald or golden eagle, its nest, or any of its eggs. The operator shall promptly report to the regulatory authority any golden or bald eagle nest within the permit area of which the operator becomes aware. Upon notification, the regulatory authority shall consult with the U.S. Fish and Wildlife service and also, where appropriate, the State fish and wildlife agency and, after consultation, shall identify whether, and under what conditions, the operator may proceed.”

The Utah Coal Program, in coordination with the UDWR, the BLM, and the FWS, developed the *Raptor Survey Guidelines* document in order to aid mining operators in the inventory and protection of raptors near mining facilities. The use of this document as a best technology currently available to prevent offsite impacts is of particular interest for this topic evaluation. Annual raptor monitoring programs ensure that raptor nests are properly identified and protected during critical life periods specific to each raptor species including important mating, reproduction, and nesting periods. The Division, upon report of active raptor nests, will coordinate with UDWR, the land owner, and the USFWS to develop an adequate protection plan to avoid disturbance and/or offsite impacts. Depending on the disturbance and raptor species, the

protection plan can include seasonal or spatial avoidance of the nest or a mitigation plan. Spatial and seasonal buffers differ between species because some species are more sensitive to disturbance than others. As a best technology currently available to minimize disturbances, the raptor monitoring program is ideal because it aids mining operators and the Division to *avoid* disturbances to raptors. However, it is often difficult for an operator to avoid certain areas when conducting mining activities.

The *Raptor Survey Guidelines* document is used by the Coal Regulatory Program as the official document containing recommended protocols for raptor inventory and protection. The document was prepared using recommended survey procedures and protection methods described in the *Utah Field Office Guidelines for Raptor Protection from Human and Land Use Disturbances* prepared by Laura A. Romin and James A. Muck (2002).

Inspection:

The Team met a representative of Utah American Energy Inc. (UEI) at the West Ridge Mine Office and discussed the results of a recent helicopter raptor survey that was conducted in accordance with the requirements of their approved mining permit. Current and past mitigation initiatives were discussed, including ceasing or decreasing construction activities during the nesting season, and prey habitat enhancement projects.

During an Environmental Assessment conducted by the BLM in 2000, it was determined that there was a high probability that all nests within a half-mile radius of the surface facilities have a high probability of being abandoned by indirect disturbance associated with mining activities. Raptor surveys were initiated in 1998 and continue annually with the exception of 2004. The 2010 survey identified two tended Golden eagle nests (numbers 947 and 455) and one active Raven nest (number 1381) all located in Township and Range Section 15. In May of 2011, another helicopter survey was performed. The survey identified two tended Golden Eagle nests (numbers 947 and 955) and one active Raven nest (number 1381).

An active golden eagle nest was identified during a spring 1999 raptor survey. There seemed to be enough nest sites in the area to accommodate the population base; the limiting factor appeared to be available prey base. For this reason, the operator has committed to enhancing 93 acres of habitat, which will mitigate impacts caused by surface disturbance activities. This will be managed by the BLM. UEI has also agreed to participate in a Utah Partners in Conservation Development project sponsored by UDWR that will provide for an additional 1500 acres of eagle prey base.

During the evaluation, the Team spotted a golden eagle nest on the cliff edge, but it did not appear to be active. This nest was previously identified and calculated to be 1500 feet away from the facilities area. Our viewing time of this nest was impeded due to inclement weather (heavy rain and fog).

The difficulty with this site is that it is nearly impossible to conduct mining operations and avoid disturbing golden eagle habitat. For this reason, a *take permit* may be required if there is the potential for impacting a nest. The operator has committed to coordinating with the United States Fish and Wildlife Service (USFWS), UDWR, and DOGM to avoid the "take" of golden eagles. The mine will continue to conduct helicopter raptor surveys each spring and the

operator will contact the USFWS and DOGM immediately if raptors are observed nesting or tending to nests.