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**Snell & Wilmer**  
L.L.P.  
LAW OFFICES

Gateway Tower West  
15 West South Temple  
Suite 1200  
Salt Lake City, Utah 84101-1531  
801.257.1900  
801.257.1800 (Fax)  
www.swlaw.com

Denise A. Drago  
(801) 257-1998  
ddragoo@swlaw.com

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**JAN 03 2012**  
DIV. OF OIL, GAS & MINING

December 29, 2011

*Via E-Mail and Certified Mail, Return Receipt Requested*

Mr. John R. Baza, Director  
Utah Division of Oil, Gas and Mining  
1594 West North Temple  
Salt Lake City, Utah 84114

**RE: *Background Information -- Informal Conference on Fact of Violation and Assessment Conference for Proposed Penalty Assessment for State Violation No. 10093, UtahAmerican Energy, Inc., Lila Canyon Coal Mine, C007/0013***

Dear Director Baza:

UtahAmerican Energy, Inc. ("UEI") has requested an informal conference to review the fact of the violation for Notice of Violation No. 10093 ("NOV") regarding the Lila Canyon Mine. We understand that the Division has tentatively scheduled this conference for January 31, 2012, and this letter serves to provide you with additional background information.

The alleged violation is based on the very general provisions of R645-300-145 providing that the permittee will comply with the terms of its permit and the requirements of the Utah Coal Program. The NOV relates to a wildlife mitigation enhancement project ("**Mitigation Project**"), involving UEI, the Bureau of Land Management ("**BLM**") and the Utah Division of Wildlife Resources ("**DWR**"). The Mitigation Project is a condition of BLM's approval of the Lila Canyon Project which occurs on BLM public lands. The Mitigation Project resulted from the 2000 EA/FONSI/Decision Record for the Lila Canyon Project, approved by BLM on October 27, 2000 ("**Decision Record**"). Pursuant to BLM's Decision Record, BLM, not the Utah Division of Oil, Gas and Mining ("**DOG M**"), has authority to approve the Mitigation Project on public lands. The Mitigation Project has been submitted for informational purposes only to DOGM, as described in Appendix 3-7. BLM and UEI have agreed to a new timeline for implementation of the Mitigation Project. This new timeline governs the Mitigation Project and DOGM is without authority to enforce the outdated timeline set forth in Appendix 3-7.

Therefore, the NOV should be vacated as a result of the informal conference. However, in the event that the fact of violation is upheld over UEI's objection, we also request an assessment conference immediately following the informal conference to review any proposed assessment regarding this NOV. The following facts submitted pursuant to R645-401-610 should be considered by DOGM in its deliberations regarding the requested vacation of the NOV and/or determination of any proposed penalties.