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February 2, 2012

Hand Delivered

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

**RE: Supplemental Response – Request to Vacate Notice of Violation No. 10093
("NOV"), Lila Canyon Mine, C/007/0013**

Dear Director Baza:

On behalf of UtahAmerican Energy, Inc. ("UEI"), we appreciated the opportunity to meet with you and the Division yesterday in the informal conference seeking to vacate the NOV. During the conference, Assistant Director Dana Dean asked UEI whether the Bureau of Land Management ("BLM") had approved the schedule for implementation of the Lila Canyon Project Wildlife Enhancement Plan. To date, the BLM has not issued a formal Notice to Proceed or final schedule for implementation as contemplated by the Mining and Reclamation Plan ("MRP"). As we discussed at the conference, pursuant to Chapter 3 of the MRP, a schedule for implementation will not be set until after plan approval and BLM's issuance of the Notice to Proceed:

The overseeing agency for the EA mitigation/enhancement will be BLM. The implementation dates, and project locations will not be determined until the BLM notice to proceed is given, after permit approval. The Permittee will submit the BLM mitigation plan as an Appendix to this volume within one year of the initial mine construction. The BLM plan will include: project goal, expected benefits, project procedures company commitment, implementation dates, project location and agencies contacts.

MRP Chapter 3, at p. 18 (emphasis added).

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BLM has not issued a formal Notice to Proceed for activities set forth in the Lila Canyon Project Wildlife Enhancement Plan dated April 2, 2010, and incorporated into the MRP as Appendix 3-7. The draft implementation schedule set forth in the Plan is not effective until BLM's Notice to Proceed is issued. The BLM notified UEI of Plan approval by e-mail dated September 7, 2011, attached as Exhibit A. However, this e-mail is not BLM's formal Notice to Proceed, which must be in writing, set forth the terms and conditions of approval and signed by both BLM and UEI. See 43 C.F.R. 2805.10 – (How will I know whether BLM has approved or denied my application?); BLM form 2800-15. The BLM's new schedule of implementation has yet to be agreed upon by UEI and BLM. UEI responded to BLM's September 7th e-mail notification of Plan approval and requested that the Project be delayed until Spring 2012. September 16, 2011 e-mail from Jay Marshall to BLM, attached as Exhibit B. BLM's formal Notice to Proceed will not issue until BLM and UEI determine an implementation schedule. This schedule can then be incorporated into the MRP.

As set forth in the MRP, until BLM's formal Notice to Proceed issues, the plan has no enforceable implementation schedule. Therefore, the NOV is premature and should be vacated.

We appreciate your consideration in this matter.

Very truly yours,



Denise A. Drago

DAD:jmc

cc: Dana Dean
Steve Alder, Esq.
Jay Marshall

EXHIBIT A

Marshall, Jay

From: Waller, David L [dwaller@blm.gov]
Sent: Wednesday, September 07, 2011 3:35 PM
To: Marshall, Jay
Cc: Rigby, Steven W; Joe Helfrich; Leroy Mead
Subject: Environmental Document for Lila Wildlife Project (part 1)
Attachments: Lila-Canyon-Wildlife-DNA-maps-signed_part_1.pdf

Jay,

Attached is the approved environmental document for the wildlife habitat project for Lila Canyon. The project is ready to go. (due to our e-mail restrictions, the document will be in 3 parts)

I will send a hard copy through the mail, along with the materials list for the 2 guzzlers, later this week.

David

EXHIBIT B

Marshall, Jay

From: Marshall, Jay
Sent: Wednesday, September 07, 2011 3:51 PM
To: dwaller@blm.gov
Subject: Lila EA Mitigation

Dave:

I received the approved EA for the mitigation project. I am waiting on one more bid and then we will be ready to go. The cost for this project is above our approval authority here and will have to be sent to Ohio for approval.

I spoke with Derris Jones today and he is getting prices on the guzzlers. We will move soon on these also.

If you have any questions please give me a call.

Thanks

R. Jay Marshall P.E.
Chief Engineer/Project Manager
Lila Canyon Mine

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