INTRODUCTION

The Alton coal field is located in T39S, R6W and T39S, R5W SLB&M, Kane County, Utah. Kane County is located in the southwest quarter of Utah. The town of Kanab, which is the Kane County Seat, is located about 30 miles south of the Alton coal field (see attached vicinity and location drawings).

Alton Coal Development, LLC (ACD) is currently mining a portion of the Alton coal field. This development is the Coal Hollow Mining Project. The center of the Coal Hollow Project (CHP) is located approximately 3 miles south of the town of Alton, Utah. ACD is proposing the development of a portion north of the current CHP. The development is the North Private Lease. The center of the North Private Lease is located approximately 0.8 miles south east of the town of Alton, Utah.

ACD has initiated the processes involved to secure coal leases and a permit to mine coal from the project area. In 2004, ACD negotiated surface and coal leases for the private or fee areas of the Alton coal field. In 2004 ACD submitted a Lease by Application (LBA) to the Department of the Interior, Bureau of Land Management State Office, Salt Lake City, Utah for federal coal acreage contiguous to the secured private lease area. In 2006, ACD submitted a Mining and Reclamation Plan (MRP) to the Utah Division of Oil, Gas and Mining (UDOGM). This MRP submittal was determined to be administratively incomplete in August 2006. ACD addressed the deficiencies list provided by the Division and resubmitted the MRP in June of 2007. August 2007, UDOGM completed the Administrative Completeness Review of the June 2007 submission and provided ACD with a deficiencies list. January of 2008, ACD submitted a package addressing the August UDOGM deficiencies list.

The Coal Hollow Project involves a surface mining operation that will produce approximately 2,000,000 tons of coal annually. The coal will be transported from the Alton coal field in trucks (and possibly rail) to markets in the surrounding region. Operations at the mine are expected to be conducted 24 hours a day, 6 days a week.
In early 2004, ACD initiated base line studies within the area of the Alton coal field. Base line studies are required by state and federal agencies prior to submitting a MRP application.

In 2004, ACD hand picked consultants and personnel to prepare field and base line studies for the Coal Hollow Project. Consultants were selected based on their technical expertise and professional ethical standards. The CHP will be a flagship coal mining operation and its culture of excellence will not start when the first ton of coal is mined, but rather from project inception. ACD seeks to develop a culture of high integrity extending to it personnel, mining operations, community relations, and environmental performance.
Startup area of the surface mine - phase 1 mining area
View to the south

View of coal seam exposed in Robinson Creek
Phase 1 area of Mining
View to the NE
Phase 1 mining area (left)
Coal loadout (background)
Phase 2 mining area (foreground) – view to the north

Phase 3 & 4 mining area
View to the west
View of the proposed coal loadout area
The town of Alton (background) – view to the NE

View of proposed coal loadout
View to the NE
View of area to be mined and reclaimed – view to the south

- BLM Pinion-Juniper 2005 treatment area (foreground)
  - The Pinion-Juniper community has out competed with the other vegetative species, creating barren ground
  - The reclamation process will improve the natural ground and vegetation communities by planting more suited vegetative plant species more suitable to the area (grazing and wildlife)
- County Road #136 running north/south through proposed permit area
- County road will be relocated to bypass mining operations
- Bypass route will start at the bottom right edge of photo
  - Bypass route will be relocated west of existing county road
  - Bypass route will reconnect with existing county road (top of photo) approximately 3 miles of bypass road
- Mining operations will be cordoned off to civilian traffic
- After coal is removed and the area reclaimed, the surface contour will be reduced by 0.7'
View of area to be mined and reclaimed – view to the north

Location of 1960's reclaimed Alton Coal mine
Portal was in cleared area of hillside
ALTON COAL DEVELOPMENT
KANE COUNTY, STATE OF UTAH
• SECTIONS 19, 20, 29, & 30, T39S, R5W, S.L.B.&M.
General Location

INCORPORATED
OCT 15 2009
Div. of Oil, Gas & Mining
CHAPTER 1

Legal, Financial, Compliance and Related Information

R645-301-100
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Chapter 1

R645-301-100

Legal, Financial, Compliance and Related Information

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INCORPORATED
MAR 04 2019
Div. of Oil, Gas & Mining
Alton Coal Development, LLC is submitting a Mining and Reclamation Plan for the Coal Hollow Project to the Utah Division of Oil, Gas and Mining pursuant to rules governing coal mine permitting at R643-301-100 et seq. Permit Area Base Drawing – Drawing 1-1. Following is the legal descriptions of the permit areas for the Coal Hollow Mine and the North Private Lease.

Coal Hollow Mine Legal Description

TOWNSHIP 39 SOUTH-RANGE 05 WEST. SLB&M
Section 30: All of Section Lot #1 (NW ¼ NW ¼); NE ¼ NW ¼; N ½ NE ¼; ALSO: BEGINNING 3.50 chains West of the East Quarter corner of Said Section 30, and running South 34° 34' West 22.64 chains of the 1/16 section line; thence West 2.64 chains to the Southwest corner of NE ¼ SE ¼ of Said Section 30; thence North 40.00 chains; thence East 20.00 chains; thence South 14.69 chains; thence southwesterly to the point of beginning...containing 217.64 acres, more or less.

TOWNSHIP 39 SOUTH-RANGE 05 WEST. SLB&M
Section 29: BEGINNING at the Northwest corner of Said Section 29, and running thence South 34.69 chains; thence North 33°22' East 35.50 chains; thence North 40° West 0.58 chains; thence North 37°30' East 12.30 chains; thence West 22.23 chains to the point of beginning...containing 36.04 acres, more or less.

TOWNSHIP 39 SOUTH-RANGE 05 WEST. SLB&M
Section 19: SW ¼ SE ¼, E ½ SE ¼., SE ¼ NE ¼...containing 160.0 acres, more or less.

TOWNSHIP 39 SOUTH-RANGE 05 WEST. SLB&M
Section 20: SW ¼ ...containing 160.00 acres, more or less.

TOWNSHIP 39 SOUTH-RANGE 05 WEST. SLB&M
Section 30: BEGINNING at a point 5.3 1 chains North of the E ¼ corner of Said Section 30, and running thence South 45.31 chains; thence West 20.00 chains; thence North 20.00 chains; thence East 2.64 chains; thence North 34° 34' East 22.64 chains to the 1/16 section line; thence North 33° 22' East to the point of beginning...containing 61.96 acres, more or less.
TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M

Section 29: BEGINNING at the Northeast Corner of the Northwest Quarter of Said Section 29, and running thence South 14.97 chains; thence West 73 degrees North, 12.41 chains; thence South 36 degrees 45 minutes West to the Quarter Section Line of Section 29; thence South 36 degrees 45 minutes West 15.61 chains; thence South 5.20 chains to the center section line of Section 29; thence South 20.0 chains; thence West 10.96 chains to the west section line of Section 29; thence North 20.0 chains to the Quarter Section Corner of Section 29; thence North 25.31 chains; thence North 33 degrees 22 minutes East 35.50 chains; thence in a Northwesterly direction 2 rods; thence North 37 degrees 30 minutes East 12.30 chains to the North Section Line of Section 29; thence East 17.77 chains to the point of beginning…containing 85.88 acres, more or less.

This legal description is for the permit area (721 acres) of the Coal Hollow Mine

**North Private Lease Legal Description**

The following described lands located in Kane County, Utah within Sec. 12 & 13, T39S, R6W and within Sec. 7 & 18, T39S, R5W:

Beginning S 58° 16' 29" W a distance of 1,920.87 ' from Section Corner 7-18-12-13, T39S, R5 R6W; thence N 89°29'27" W a distance of 823.81'; thence S 00°00'38" E a distance of 1313.93'; thence S 65°46'32" E a distance of 479.40'; thence S 89°44'30" E a distance of 1861.86'; thence S 54°58'33" E a distance of 226.53'; thence S 89°45'07" E a distance of 1235.50'; thence N 00°41'09" E a distance of 1322.97'; thence N 00°41'09" E a distance of 1322.97'; thence S 89°30'20" E a distance of 241.42'; thence N 00°51'49" E a distance of 1323.52'; thence N 89°22'59" W a distance of 249.30'; thence N 89°56'02" W a distance of 2923.34'; thence S 00°24'59" W a distance of 2326.09'; which is the point of beginning, having an area of 12,877,780.47 square feet, or **295.633 acres**

**112 IDENTIFICATION OF INTERESTS**

112.100 **Business Entity**

Applicant, Alton Coal, LLC, is a limited liability company duly organized and validly existing under the laws of the State of Nevada, and authorized to conduct business under the laws of the State of Utah.

112.200 **Names, address, telephone number, and employer identification number of:**

112.210 **Applicant:**

Alton Coal Development, LLC
463 N. 100 W, Suite 1
Cedar City, UT 84721
Telephone (435) 867-5331

Chapter 1 2 01/25/2019
Resident Agent for Applicant:

B. Kirk Nicholes
463 N. 100 W., Suite 1
Cedar City, Utah 84721
(435) 867-5331

The tax payer identification number for the applicant and operator:

EIN: 42-1655092

Ownership and Control Information

Description of Ownership and Chart showing the “Family Tree” for Alton Coal Development, LLC, attached in Appendix 1-10

OFFICERS AND SHAREHOLDERS

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Title</th>
<th>Date Position Assumed</th>
<th>Ownership</th>
<th>Phone Numbers</th>
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<td>Officers/Shareholders</td>
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<td></td>
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<tr>
<td>James Wayland</td>
<td>2841 Capistrano Way</td>
<td>Member</td>
<td>September 9, 2004</td>
<td>25.5%</td>
<td>(239)595-1786</td>
</tr>
<tr>
<td></td>
<td>Naples, FL 34105</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>SH Coal Investment, LLC</td>
<td>2375 Cambridge Rd.</td>
<td>Member</td>
<td>August 2, 2010</td>
<td>49.0%</td>
<td>* See below</td>
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<tr>
<td></td>
<td>Coshocton, Ohio 43818</td>
<td></td>
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<td></td>
<td></td>
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<tr>
<td>Other Owners (all having less than 10%)</td>
<td></td>
<td>Member</td>
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<td>25.5%</td>
<td></td>
</tr>
</tbody>
</table>

Note: Refer to R645-301-112.210 for phone number of officers and shareholders.

Owners of SH Coal Investment, LLC:

SH Coal Investment, LLC, is a Delaware limited liability company, which is a wholly owned company of Sleepy Hollow Mineral Investors, LLC, which is a Delaware limited liability company.

Sleepy Hollow Mineral Investors, LLC 100%
P.O. Box 1058
Coshocton, Ohio 43812
EIN: 27-3192842

Incorporated

Div. of Oil, Gas & Mining

JUL 09 2019

Sleepy Hollow Mineral Investors, LLC, is owned as follows:
Name | Address | Title | Ownership | Phone Number
--- | --- | --- | --- | ---
Charles Ungurean | 2375 Cambridge Road, Coshocton, Ohio 43812 | Manager | 50% | (740)294-7296
Thomas Ungurean | 1690 Sleepy Hollow Drive, Coshocton, Ohio 43812 | Manager | 50% | (435)238-3798

Managers and Officers of **Applicant**:

Social Security numbers of Alton Coal Development, LLC’s individual member, manager and officer and for Charles Ungurean and Thomas Ungurean provided in “CONFIDENTIAL BINDER” Appendix 1-1

112.320 **Ownership and Control Relationship to the Applicant**

Refer to R645-301-112.310 for ownership and control information.

112.330 **Title and Date of Position**

Refer to R645-301-112.310 for ownership and control information.

112.340 **Ownership or control of Other Coal Mining and Reclamation Operations**

**Applicant**:

For ownership or control of other coal mining or reclamation operations Charles Ungurean and Thomas Ungurean have, see attached Appendix 1-10 for listing of Ungurean’s operations.


**JUL 09 2019**

**Div. of Oil, Gas & Mining**

Chapter 1 4 01/25/2019
112.350 Application Number – Other Pending Coal Mining and Reclamation Operations

Applicant:

Refer to R645-301-112.340 for ownership and control information.

112.400 Coal Mining and Reclamation Operations Owned or Controlled

Applicant:

Refer to R645-301-112.340 for ownership and control information.

112.410 Coal Mining and Reclamation Operations Owned or Controlled by Managers or Members of Alton Coal Development, LLC

Applicant:

Refer to R645-301-112.340 for ownership and control information.

112.420 Ownership and Control Relationship of Managers and Members of Alton Coal Development, LLC

Relationship to the Applicant

Applicant:

Refer to R645-301-112.310 for ownership and control information.

112.500 Legal or Equitable Owner of the Surface and Mineral Properties

The legal and equitable owners of the properties to be affected by this mining operation during the duration of the permit period along with legal descriptions are included in this section. Surface and coal ownership are also shown on Drawings 1-3 and 1-4. The following table is a summary of the ownership within the Permit boundary.

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<thead>
<tr>
<th>Coal Hollow Permit Area Ownership (Acres)*</th>
<th>Fee</th>
<th>Federal</th>
<th>State</th>
<th>Total</th>
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<tr>
<td>Surface</td>
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<td>0</td>
<td>721</td>
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<tr>
<td>Coal</td>
<td>521</td>
<td>200</td>
<td>0</td>
<td>721</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note*: Acreages are approximate based on legal descriptions

JUL 09 2019

Div. of Oil, Gas & Mining
The legal description for lands included within the Permit Boundary is provided below for each surface owner.

SURFACE OWNERSHIP:

Owner/Lessor: C. Burton Pugh
533 N 650 E
Lindon, Utah 84042-1567
801-785-6220

Lessee: Alton Coal Development, LLC

Legal Description (C. Burton Pugh Property):

TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M
Section 30: All of Section Lot #1 (NW¼ NW¼); NE¼ NW¼ ; N¼ NE¼ ;
ALSO: BEGINNING 3.50 chains West of the East Quarter corner of Said
Section 30, and running South 34° 34’ West 22.64 chains to the 1/16
section line; thence West 2.64 chains to the Southwest corner of NE¼
SE¼ of Said Section 30; thence North 40.00 chains; thence East 20.00
chains; thence South 14.69 chains; thence southwesterly to the point of
beginning.

....containing 217.64 acres, more or less.

TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M
Section 29: BEGINNING at the Northwest corner of Said Section 29, and
running thence South 34.69 chains; thence North 33°22’ East 35.50 chains;
thence North 40° West 0.58 chains; thence North 37°30’ East 12.30 chains;
thence West 22.23 chains to the point of beginning.

....containing 36.04 acres, more or less.

TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M
Section 19: SW¼SE¼, E¼SE¼, SE¼NE¼

....containing 160.0 acres, more or less

TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M
Section 20: SW¼

....containing 160.0 acres, more or less
COAL OWNERSHIP:

Owner/Lessor: C. Burton Pugh
533 N 650 E
Lindon, Utah 84042-1567
801-785-6220

Lessee: Alton Coal Development, LLC

Roger M. Pugh
140 South 100 West
Kanab, UT 84741

Mark and Margaret Moyers
9397 Avanyu Drive
Pleasant Grove, UT 84062

Department of the Interior,
Bureau of Land Management
District and Regional Office
440 West 200 South, Ste. 500
Salt Lake City, Utah 84101

SURFACE OWNERSHIP:

Owner/Lessor: Alecia Swapp Dame Trust
Through Richard Dame, Trustee
1620 Georgia Ave.
Boulder City, NV 89005
702-293-4773

Lessee: Alton Coal Development, LLC

Legal Description (Alecia Dame Swapp Trust):

TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M
Section 30: BEGINNING at a point 5.31 chains North of the E¼ corner of
Said Section 30, and running thence South 45.31 chains; thence West
20.00 chains; thence North 20.00 chains; thence East 2.64 chains; thence
North 34° 34’ East 22.64 chains to the 1/16 section line; thence North 33°
22’ East to the point of beginning.

...containing 61.96 acres, more or less.

The following description is an addition to the original permit and
constitutes an Incidental Boundary Change (IBC) as shown on Drawing 1-
1. Coal contained in the IBC will be mined by highwall mining, no surface mining may take place on the leased premises.

TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M
Section 29: BEGINNING at the Northeast Corner of the Northwest Quarter of Section 29, Township 39 South, Range 5 West, Salt lake Base and Meridian and running thence South 14.97 chains; thence West 73 degrees North, 12.41 chains; thence South 36 degrees 45 minutes West to the Quarter Section Line of Section 29, Township 39 South, Range 5 West, Salt Lake Base and Meridian; thence South 36 degrees 45 minutes West 15.61 chains; thence South 5.20 chains to the center section line of Section 29, Township 29 South, Range 5 West, Salt lake Base and meridian; thence South 20.0 chains; thence West 10.96 chains to the west section line of Section 29, Township 39 South, Range 5 West, Salt Lake Base meridian; thence North 20.0 chains to the Quarter Section Corner of Section 29, Township 39 South, Range 5 West, Salt Lake Base and meridian; thence North 25.31 chains; thence North 33 degrees 22 minutes East 35.50 chains; thence in a Northwesterly direction 2 rods; thence North 37 degrees 30 minutes East 12.30 chains to the North Section Line of Section 29, Township 39 South, Range 5 West, Salt Lake Base meridian; thence East 17.77 chains to the point of beginning.

...containing 85.88 acres, more or less.

COAL OWNERSHIP:

Owner/Lessor: Alecia Swapp Dame Trust
Through Richard Dame, Trustee
1620 Georgia Ave.
Boulder City, NV 89005
702-293-4773

Lessee: Alton Coal Development, LLC

North Private Lease Permit Area Ownership (Acres)*

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<th>Fee</th>
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<td>262</td>
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<td></td>
<td>296</td>
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</tbody>
</table>

Note*: Acreages are approximate based on legal descriptions
The legal description for lands included within the Permit Boundary is provided below for each surface owner.

SURFACE OWNERSHIP:

Owner/Lessor: Heaton Brothers, LLC
P. O. Box 100008
Alton, Utah 84710

Lessee: Alton Coal Development, LLC

Legal Description (Heaton Brothers, LLC Property Tract 9-6-13-1 & 9-6-12-5):

TOWNSHIP 39 SOUTH-RANGE 06 WEST, SLB&M
Section 13: E1/4NE1/4; SW1/4NE1/4

....containing 120.0 acres, more or less.

TOWNSHIP 39 SOUTH-RANGE 06 WEST, SLB&M
Section 12: BEGINNING at a point 20 chains West and 10 chains North of the South East corner of said Section 12; thence North 10 chains, thence East 3 chains, thence South 10 chains, thence West 3 chains to the point of beginning.

....containing 3.00 acres, more or less.

COAL OWNERSHIP:

Owner/Lessor: Heaton Brother, LLC
P.O. Box 100008
Alton, Utah 84010

Lessee: Alton Coal Development, LLC

 SURFACE OWNERSHIP:

Owner/Lessor: G. Ferril & Dorothy M. Heaton
P.O. Box 100063
Alton, UT 84710

Lessee: Alton Coal Development, LLC
Legal Description (G. Ferril & Dorothy M. Heaton Property Tract 9-6-12-1, 9-5-7-3A, 9-5-18-5):

TOWNSHIP 39 SOUTH-RANGE 06 WEST, SLB&M
Section 12: E¼ E½ SE½ SE½: BEGINNING at a Southeast corner of Said Section 12, and running thence West 5.00 chains; thence North 20.00 chains; thence East 5.00 chains; thence South 20.00 chains to the point of beginning.

....containing 10.00 acres, more or less.

TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M
Section 7: BEGINNING at a point Southwest corner Said Section 7, and running thence East 15.00 chains; thence North 20.00 chains; thence West 15.00 chains; thence South 20.00 chains to the point of beginning.

....containing 30.00 acres, more or less.

TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M
Section 18: BEGINNING at the Northwest corner of Said Section 18, and running thence East 15.00 chains; thence South 20.00 chains; thence West 15.00 chains; thence North 20.00 chains to the point of beginning.

....containing 30.00 acres, more or less

COAL OWNERSHIP:

Owner/Lessor: Delbert R. Palmer
P.O. Box 6
Orderville, Utah 84758-0006

Lessee: Alton Coal Development, LLC

Owner/Lessor: Elgin R. Palmer and
9670 Cove Avenue
Pensacola, Florida 32534-1034

Lessee: Alton Coal Development, LLC

SURFACE OWNERSHIP:

Owner/Lessor: G. Ferril & Dorothy M. Heaton
P.O. Box 100063
Alton, UT 84710

Lessee: Alton Coal Development, LLC
Legal Description (G. Ferril & Dorothy M. Heaton Property Tract 9-5-18-3A):

TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M
Section 18: The SW¼NW¼ (Lot 2) of Said Section 18.
... containing 38.34 acres, more or less.

COAL OWNERSHIP:

Owner/Lessor: Lessee:
Heaton Brothers, LLC Alton Coal Development, LLC
P.O. Box 100773
Alton, UT 84710

Delila B. Heaton
Inter Vivos Trust,
P.O. Box 100063
Alton, UT 84710

Ross E. Heaton
Family Trust,
P.O. Box 100063
Alton, UT 84710

SURFACE OWNERSHIP:

Owner/Lessor: Lessee:
Dean R. Heaton-Successor
Trustee of the Trust Dated
11/12/90
P.O. Box 435
Fredonia, AZ 86022

Alton Coal Development, LLC

JUL 9 2019
Div. of Oil, Gas & Mining

Legal Description (Dean R. Heaton Property Tracts 9-6-12-2, 9-5-18-3, & 9-5-7-4A):

TOWNSHIP 39 SOUTH-RANGE 06 WEST, SLB&M
Section 12: BEGINNING at a point 5.00 chains West from the SE Corner of Said Section 12, and running thence North 20.00 chains; thence South
10.00 chains; thence West 5.00 chains; thence South 10.00 chains; thence
West 10.00 chains; thence South 10.00 chains; thence East 15.00 chains to
the point of beginning.
TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M

Section 18: BEGINNING at a point 60.00 rods East of the Northwest corner of Said Section 18, and running thence East 20.00 rods; thence South 80.00 rods; thence West 20.00 rods; thence North 80.00 rods to the point of beginning.

...containing 20.00 acres, more or less.

TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M

Section 18: BEGINNING at a point 60 rods East of the Southwest corner of Said Section 7, and running thence North 80.00 rods; thence East 33.00 rods; thence South 80.00 rods; thence West 33.00 rods to the point of beginning.

...containing 10.00 acres, more or less.

TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M

Section 18: BEGINNING at a point 60.00 rods East of the Northwest corner of Said Section 18, and running thence East 20.00 rods; thence South 80.00 rods; thence West 20.00 rods; thence North 80.00 rods to the point of beginning.

...containing 15.00 acres, more or less.

**COAL OWNERSHIP:**

*Owner/Lessor:*  
Dean R. Heaton-Successor  
Trustee of the Trust Dated  
11/12/90  
c/o Dean R. Heaton  
P.O. Box 435  
Fredonia, AZ 86022

*Lessee:*  
Alton Coal Development, LLC

**SURFACE OWNERSHIP:**

*Owner/Lessor:*  
Orval & Greta Palmer  
P.O. Box 100144  
Alton, UT 84710-0144

*Lessee:*  
Alton Coal Development, LLC

*Legal Description (Orval & Greta Palmer Property Tract 9-6-12-3):*

TOWNSHIP 39 SOUTH-RANGE 06 WEST, SLB&M

Section 12: BEGINNING at a point 20.0 chains North & 10.0 chains West of the Southeast corner of Section 12 Township 39 South, Range 6 West, SLB&M; & run th South 10.0 chains; th West 7.0 chains; th North 10.0 chains; th East 7.0 chains to the point of beginning.
....containing 7.0 acres, more or less.

COAL OWNERSHIP:

Owner/Lessor: Lessee:

Orval & Greta Palmer Alton Coal Development, LLC
P.O. Box 100144
Alton, UT 84710-0144

SURFACE OWNERSHIP:

Owner/Lessor: Lessee:

Heaton Brothers, LLC
P.O. Box 100773
Alton, Utah 84710

Legal Description (Heaton Brothers, LLC Property Tract 9-6-12-5 and 9-6-13-2):

TOWNSHIP 39 SOUTH-RANGE 06 WEST, SLB&M
Section 12: BEGINNING 20.00 chains West from the Southeast corner of
Section 12, T39S-R6W, S.L.B.&M., Running Thence North 20 chains,
then West 5 chains, thence South 20 chains, thence East 5 chains to the
point of beginning.

....containing 10.00 acres, more or less.

TOWNSHIP 39 SOUTH-RANGE 06 WEST, SLB&M
Section 12: BEGINNING 20.00 chains West from the Southeast corner of
Section 12, T39S-R6W, S.L.B.&M., Running Thence South 20 chains,
then West 20 chains, thence North 5 chains, thence East 15 chains,
then North 15 chains, thence East 5 chains to the point of beginning.

....containing 17.50 acres, more or less.

COAL OWNERSHIP:

Owner/Lessor: Lessee:

USA Not Leased
112.600 Owners of Record of Property Contiguous to Proposed Permit Area

Owners of surface properties contiguous to the proposed permit area are shown on Drawing 1-3
and the name and address of each such owner is as follows:

Chapter 1 13 01/25/2019
Department of the Interior, Bureau of Land Management  
District and Regional Office  
Salt Lake City, Utah  

Darlynn and Arlene Sorensen  
Orderville, Utah  
435-648-2462  

Ann Marie Stanworth 9-5-18-2  
1757 N 2975 W  
Cedar City, Utah 84720-2507  

Darrel A. & Georgia T. Heaton 9-6-12-4  
PO Box 232  
Fredonia, Arizona 86022-0232  

William J. Mackelprang 9-5-18-1  
6562 Begonia Bay Ave.  
Las Vegas, Nevada 89142  

Gene Edward Roundy 9-6-12-8  
440 E 200S  
Cedar City, Utah 84720-3313  

112.700 MSHA Numbers  

The MSHA Mine Identification Number for the Coal Hollow and North Private Lease Project is 42-02519. The Burton #1, underground mine, has been issued MSHA Mine Identification Number 42-02639.  

112.800 Interest in Contiguous Lands  

The applicant has interest in lands contiguous to the permit area. A Lease by Application (LBA) was processed and a lease UTU81895 signed by the United States Department of the Interior, Bureau of Land Management, Salt Lake City, Utah on February 14, 2019. Alton Coal Development, LLC, the sole party in interest, submitted the LBA application in September, 2004. The LBA is contiguous to the permit area and contains approximately 3,581 acres. Coal recovery within the LBA is amenable to both surface and underground mining. See Drawing 1-1 for LBA delineation.  

In addition to the LBA application, Alton Coal Development, LLC also has property leased from C. Burton Pugh located east of the permit boundary. This property which is contiguous to the permit area, is part of a land tract (9-5-20-2) owned by Mr. Pugh that is split across the permit boundary and is located in Section 20, Township 30 South, Range 5 West. This entire tract was leased prior to the final determination of the Permit Boundary (9/10/04). The area leased from
Mr. Pugh outside the Permit Boundary are not planned for development except for approximately 43 acres located in the SW¼, NW¼ Section 20 which is included as part of the LBA application. The 43 acres would possibly be developed for surface coal mining operations if the LBA mining rights are successfully acquired. Land tracts leased by Alton Coal Development, LLC within and contiguous to the permit area are identified on Drawing 1-3.

112.900 Certification of Submitted Information

After Alton Coal Development, LLC is notified that the application is approved, but before the permit is issued, Alton Coal will update, correct or indicate that no change has occurred in the information submitted under R645-301-112.100 through .800.

113 VIOLATION INFORMATION

Neither the applicant, affiliates, members or managers or persons controlled by or under common control with the applicant (including Charles Ungurean and Thomas Ungurean, as confirmed by the Applicant/Violator System (AVS) search, dated December 23, 2013) has: (i) had a federal or state mining permit suspended or revoked in the last five years; (ii) nor forfeited a mining bond or similar security deposited in lieu of a bond. Neither the applicant, affiliates, members or managers or persons controlled by or under common control with the applicant has received a violation during the last three year period. Compliance information on Ungurean’s operations and the Coal Hollow Mine is attached at Appendix 1-10.

114 RIGHT OF ENTRY INFORMATION

Applicant bases its right to enter and begin coal mining activities in the permit area and the consent of the surface owner to extract coal by surface mining methods upon the following documents:

Lessor: C. Burton Pugh
Lessee: Alton Coal Development, LLC
Surface and Mineral Lease, dated 9/10/04; originally recorded 5/25/06

Lessor: Roger M. Pugh
Lessee: Alton Coal Development, LLC
Mineral Lease, dated 9/11/08; recorded 9/11/08

Lessor: Margaret and Mark Moyers
Lessee: Alton Coal Development, LLC
Mineral Lease, dated 6/26/08; recorded 7/21/08

Lessor: Department of the Interior, Alton Coal Development, LLC

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Surface and Mineral Lease UTU-81895, dated 02/14/19; recorded 02/19/19

Lessor: Alecia Swapp Dame Trust  Lessee: Alton Coal Development, LLC
Surface and Mineral Lease, dated 4/29/05; recorded 5/17/06
Mineral Lease, dated 10/23/13; recorded 10/23/13

Lessor: Heaton Brothers, LLC  Lessee: Alton Coal Development, LLC
Surface and Mineral Lease, dated 3/15/07
Surface and Mineral Lease, dated 10/22/14
Surface and Mineral Lease, dated 12/31/14

Lessor: G. Ferril & Dorothy M. Heaton  Lessee: Alton Coal Development, LLC
Surface Lease, dated 5/4/07
Surface Lease, dated 5/4/07
Surface Lease, dated 5/4/07
Surface Lease, dated 5/4/07

Lessor: Delbert R. Palmer  Lessee: Alton Coal Development, LLC
Mineral Lease, dated 7/2/14

Lessor: Elgin R. Palmer  Lessee: Alton Coal Development, LLC
Mineral Lease, dated 7/8/14

Lessor: Dean R. Heaton  Lessee: Alton Coal Development, LLC
Surface and Mineral Lease, dated 5/4/07
Surface and Mineral Lease, dated 5/4/07
Surface and Mineral Lease, dated 12/15/14

Lessor: Orval & Greta Palmer  Lessee: Alton Coal Development, LLC

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Surface and Mineral Lease, dated 6/30/14

Copies of these lease assignments are included in Appendix 1-2 located in the Volume 9, Confidential binder.

115 STATUS OF UNSUITABILITY CLAIMS

115.100 The permit area is not within an area or under study as an area designated as unsuitable for mining under R645-103-400, nor has any petitions been filed with the UDOGM under R645-103-420 that could affect the proposed permit area. The Coal Hollow Project is located on private lands adjacent to federal lands, which after careful consideration were declared suitable for mining in 1980 by then Secretary of Interior Andrus. Secretary's Decision, Petition to Designate Certain Federal Lands In Southern Utah Unsuitable for Surface Coal Mining, OSM Ref No. 79-5-001, dated December 16, 1980, copy attached at Appendix 1-3.

This petition was filed under the provisions of section 522(c) of the federal Surface Mining Control and Reclamation Act ("SMCRA"). OSM Notice, Receipt of a Complete Petition for Designation of Lands as Unsuitable for Surface Coal Mining Operations, 45 fed. Reg. 3398, Jan. 17, 1980, attached at Appendix 1-3.

Those federal lands in the Petition area found suitable for mining include lands adjacent to the private lands which the Project has included in a federal lease by application and located in Kane County, Utah within Township 39 South, Ranges 5 and 6 West, SLM. Secretarial Decision at Paragraph 4. The Secretarial Decision was based on an extensive Administrative Record, including the Petition filed under Section 533 of SMCRA, 30 U.S.C. Section 1272, public hearings, a combined petition evaluation document and environmental impact statement published in two volumes on November 26, 1980 as, "Southern Utah Petition Evaluation Document" and the "Southern Utah Petition Evaluation Document - Comments and Responses." The Secretarial Decision was further supported by a 52 page Statement of Reasons, dated January 13, 1981, attached at Appendix 1-3.

The Secretarial Decision was upheld by the federal court in Utah International, Inc. v. Watt, 553 F. Supp. 872 (D. Utah 1982).

115.300 Coal mining and reclamation activities at the Coal Hollow Project are not planned within 300 feet, measured horizontally, of an occupied dwelling or 100 feet of a public road. Drawing 1-5 shows the proximity of the Swapp Ranch to the planned operations. With the alternate highwall method, coal will be recovered by highwall mining beneath the Swapp Ranch. Engineering has been completed and incorporated into the plan such that subsidence does not occur to the surface.
Although the initial permit application covered only a five-year period of mining, the information presented below estimates the anticipated mining for the life of operation. A detailed reclamation sequence by area (including Fed Block 1) within each lease can be found on Drawings 5-38 and 5-76A for the South Private Lease and North Private Lease respectively.

<table>
<thead>
<tr>
<th></th>
<th>South Private Lease</th>
<th>North Private Lease</th>
</tr>
</thead>
<tbody>
<tr>
<td>Last Augmented Seeding</td>
<td>End of UG mining</td>
<td>2023</td>
</tr>
<tr>
<td>Acres Affected</td>
<td>414.5</td>
<td>181.8</td>
</tr>
</tbody>
</table>

The Coal Hollow Mine Project is proposed for a 5-year term under the Permanent Regulatory Program for 5 years.

Proof of publication pursuant to R645-303-322 is included in Appendix 1-5.

A copy of the Certificate of Liability Insurance is found in Appendix 1-4.

A copy of this permit is on file with the Utah Division of Oil, Gas and Mining (UDOGM), P.O. Box 145801, Salt lake City, Utah 84114-5801. A filing fee of $5.00 accompanied permit submittal.

This permit application contains information and will comply with R645-301-120. A notarized statement attesting to the accuracy of this information is set forth at Appendix 1-6.

All technical data submitted in the permit application will be accompanied by the name or organization responsible for the collection and analysis of data, dates of collection and descriptions of methodology used. Technical analyses will be planned by or under the direction of a qualified professional in the subject to be analyzed.
The following assisted or were consulted in the preparation of this permit application:

State of Utah, Department of Natural Resources
Division of Oil, Gas and Mining
Salt Lake City, Utah

Department of the Interior, Bureau of Land Management
District and Regional Office
Kanab and Salt Lake City, Utah

United States Geological Survey, Utah Region
Salt Lake City, Utah

United States Department of Agriculture
Natural Resources Conservation Service
Salt Lake City, Richfield and Cedar City, Utah

State of Utah, Department of Natural Resources
Division of Wildlife Resources (DWR)
Salt Lake City, Price and Cedar City, Utah

Dr. Patrick D. Collins
Mt. Nebo Scientific Research & Consulting
Springville, UT

Erik Petersen, P.G.
Petersen Hydrologic, LLC
Lehi, UT

John T. Boyd Company
James Boyd
Mining & Geological Consulting
Canonsburg, PA

John T. Boyd Company
Rich Bate
Mining & Geological Consulting
Denver, CO

Keith Montgomery
Montgomery Archaeological
Moab, UT

Dr. James E. Nelson
Brigham Young University
Provo, UT

Talon Resources, Inc
Huntington, UT

C. Burton Pugh
Lindon, UT

Richard Dame
Boulder City, NV

University of Miami
Miami, FL

Keith Montgomery
Montgomery Archaeological
Moab, UT

Geochron Laboratories
Cambridge, MA

Chapter 1 19 01/25/2019
140 DRAWING AND PLANS

The Drawing and plans in the Mining and Reclamation Plan are submitted consistent with the requirement of R645-301-140.

150 COMPLETENESS

Alton Coal Development, LLC represents that the information contained in the Coal Hollow Mining and Reclamation Plan permit application to be complete and correct.
APPENDIX 1-3

Exhibit 1  Petition to Designate Certain Federal Lands
Exhibit 2  Lands as Unsuitable for Surface Coal Mining Operations
Exhibit 3  The Secretarial Decision
Exhibit 1

Petition to Designate Certain Federal Lands

INCORPORATED
OCT 15 2009
Div. of Oil, Gas & Mining
United States Department of the Interior
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

PETITION TO DESIGNATE CERTAIN FEDERAL
LANDS IN SOUTHERN UTAH UNSUITABLE FOR
SURFACE COAL MINING

SECRETARY'S DECISION

Under section 522 of the Surface Mining Control and Reclamation Act of 1977, I have been petitioned by the Sierra Club, Environmental Defense Fund, Friends of the Earth and others to declare certain lands adjacent to Bryce Canyon National Park in Southern Utah unsuitable for all types of surface coal mining operations. Other individuals also intervened in support of the petition. Utah International Inc. and Nevada Electric Investment Co., who hold Federal coal leases in the petition area, were granted leave to intervene in opposition to the petition.

As required by sections 522 (c) and (d) of the Surface Mining Act, public comment on the petition was sought, public hearings were held in Utah and a detailed statement was prepared to evaluate the petition and the alternative actions available to me in reaching a decision on the petition. In reaching my decision on the Southern Utah petition, I have considered the information contained in the final combined petition evaluation and environmental impact statement, as well as the information provided by the petitioners, intervenors, Federal agencies, the State of Utah, local agencies, industry and members of the public in the form of testimony at the public hearings and all written comments received up to the close of the comment period on October 20, 1980.

Based upon all of that information, which is in the administrative record of this proceeding, I have reached the following decision:

1. I hereby designate as unsuitable for surface coal mining operations, including surface impacts incident to underground mining which would be visible from Bryce Canyon National Park, all Federal lands in townships T.40S, R. 4W; T. 39S, R. 4W; T. 38S, R. 4W; T. 38S, R. 3W; T. 37S, R. 4W; T. 37S, R. 3W; and T. 36S, R. 3W; of the Salt Lake Meridian; and T. 36S, R. 2W, of the Salt Lake Meridian is designated unsuitable only for mining by surface methods;

2. I base this designation on the criteria of Section 522(a)(3)(5) of the Surface Mining Act which provides that an area may be designated unsuitable for all or certain types of surface coal mining operations if such operations will "affect fragile or historic lands in which such operations could result in significant damage to important historic, cultural, scientific, and aesthetic values and natural systems."

INTEGRATED
OCT 15 2009
Div. of Oil, Gas & Mining

OSM REFERENCE
No: 75-5-001
3. My statement of reasons, to be issued shortly, will explain the basis for my conclusions that mining in the designated areas would cause significant cumulative impacts on Bryce Canyon National Park by reducing visibility, by creating dust plumes and large disturbed areas which would be visible for long periods of time from the park, and by generating mechanical activity and blasting that would be audible from the park, thereby adversely affecting the values for which the park was established and, thus, the experience of the park's visitors;

4. I decline to designate, and hereby reject the petition as it relates to, remaining areas of Federal lands other than those described above in paragraph 1;

5. Upon review of any specific mining plan and permit application for surface mining of the other Federal leases in the Alton coal field that are not covered by this designation, or underground mining in the designated areas, the Department, through the National Park Service and the Office of Surface Mining, will consider whether potential impacts on the visual resources and noise levels in the park from mining on these leases need to be mitigated by means of special stipulations or conditions;

6. Under no circumstances should this decision become the only basis for protection of the values for which Bryce Canyon National Park was established and I direct that these park values be taken into account in future decisions by the bureaus of this Department on mining plans, permit applications or other activities on undesignated Federal lands near the park;

7. Appropriate bureaus of the Department are hereby directed to take all necessary actions under section 522(b) of the Surface Mining Act or other authority to implement this decision for the areas listed in paragraph 1 above; and

8. The lessee-intervenors' claims of substantial legal and financial commitments in the leased area, under section 522(a)(6) of the Surface Mining Act, are being processed separately according to the procedures of the Office of Surface Mining, and a decision on those claims will be issued subsequently by that office.

Copies of this decision should be sent simultaneously by certified mail to all parties in this proceeding. This decision will become final upon the date of issuing my statement of reasons. Any appeal from this decision must be filed within 60 days from that date in the United States District Court for Utah, as provided in section 526(a)(1) of the Surface Mining Act.

December 16, 1980

Date

Cecil D. Andrus

INCORPORATED

OCT 15 2009

Div. of Oil, Gas & Mining
Exhibit 2

Lands as Unsuitable for Surface Coal Mining Operations
Office of Surface Mining Reclamation and Enforcement

Extension of Public Comment Period on the Texas Amended Program Submission

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), United States Department of the Interior.

ACTION: Extension of public comment period on the Texas amended program submission of the regulation and control of surface coal mining.

SUMMARY: OSM is extending the period for review and comment on the proposed regulatory program until January 21, 1980. This action further extends the program period until December 18, 1979. The extended period provides additional opportunity for the public to review and comment on amendments to the proposed regulatory program submitted by Texas and on summaries of meetings and communications between OSM and Texas on these amendments.

DATES: All comments must be received on or before 5:00 p.m. on January 21, 1980, to be considered in the Secretary's decision on the proposed Texas regulatory program.

ADDRESSES: The proposed Texas regulatory program, as amended, is available for review during business hours at:

The Office of Surface Mining Reclamation and Enforcement, Southeast Building, 818 Grant Avenue, Kansas City, Missouri 64109, Telephone (816) 374-6520.

The Federal Coordinating Committee, P.O. Box Drawer 12597, Austin, Texas 78711.


Written comments should be delivered by 5:00 p.m. on January 21, 1980 at:

The Office of Surface Mining Reclamation and Enforcement, Southeast Building, 818 Grant Avenue, Kansas City, Missouri 64109.


SUPPLEMENTARY INFORMATION: This extended period of public comment is to allow opportunity for any interested persons to review and comment on a December 31, 1979 letter from the Director of the Texas Surface Mining and Reclamation Division to the Regional Director. The letter concerns those portions of the Texas program dealing with intervention in administrative proceedings, ex parte contact during administrative proceedings, and discovery in administrative proceedings. This announcement is made in keeping with OSM's commitment to public participation, as a vital component in fulfilling the purposes of the Surface Mining Control and Reclamation Act of 1977.

Due date: January 21, 1980.

Carl G. Close, Acting Director.

FR Doc. 80-135 Filed 1-18-80; 8:42 am
BILLING CODE 4310-04-M.

Receipt of a Complete Petition for Designation of Lands as Unsuitable for Surface Coal Mining Operations.

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice of Receipt of a Complete Petition for Designation of Lands as Unsuitable for Surface Coal Mining Operations.

SUMMARY: Pursuant to 769.16 of Title 20, Code of Federal Regulations, notice is given that the Office of Surface Mining has received a petition to designate certain Federal lands in southern Utah as unsuitable for mining. The petition is described below:

Location of Lands Petitioned for Designation

Petitioner: Environmental Defense Fund, Friends of the Earth, Sierra Club Legal Defense Fund, Sylvan Jonson, Leon Lippiscott, Carolyn Lippiscott, etc.

Mackay Baum, Cynthia Myers, Susan Hiltzon and Larry Little

State: Utah

County: Kane and Garfield

Towns: Range: Section: The federal lands within St. Lake Muitdum, Utah

T.40S., R.4W., S.L.M.

T.40S., R.4W., S.L.M.

T.40S., R.4W., S.L.M.

T.40S., R.4W., S.L.M.

T.30S., R.5W., S.L.M.

T.30S., R.5W., S.L.M.

T.30S., R.5W., S.L.M.

T.30S., R.5W., S.L.M.

T.29S., R.3W., S.L.M.

T.29S., R.3W., S.L.M.

T.29S., R.3W., S.L.M.

T.29S., R.3W., S.L.M.

T.28S., R.2W., S.L.M.

T.28S., R.2W., S.L.M.

T.28S., R.2W., S.L.M.

T.28S., R.2W., S.L.M.

T.27S., E.2W., S.L.M.

T.27S., E.2W., S.L.M.

T.27S., E.2W., S.L.M.

T.27S., E.2W., S.L.M.

T.26S., E.2W., S.L.M.

T.26S., E.2W., S.L.M.

T.26S., E.2W., S.L.M.

T.26S., E.2W., S.L.M.

Office of Surface Mining Reference Number: 79-6-001.

The petition, filed under Section 525 of the Surface Mining Control and Reclamation Act of 1977, seeks to have specified federal lands in the area of Bryce Canyon National Park and the Dixie National Forest declared as unsuitable for mining. The petition was submitted to the Office of Surface Mining on November 28, 1979 and was found to be complete on December 27, 1979.

A review of the area's suitability for mining has been undertaken by this office. In addition, the Bureau of Land Management—Utah State Office and the Utah Regional Forester—United States Forest Service serve as the surface managing agencies for the petitioned area will make recommendations on the petition.

A public hearing is planned for late September 1980, notice of which will be given prior to the hearing. A decision on the petition will be made by November 28, 1980.

This notice is issued at this time for the convenience of the public. The public file on the petition is available for public review during normal working hours at the Division of State and Federal Programs, Office of Surface Mining, Region V, second floor, Brooks Towers, 1020 15th Street, Denver, Colorado and at the Kanab Resource Area Headquarters, Bureau of Land Management, 220 North 1st East, Kanab, Utah.

Copies of the petition are available to the public from the Office of Surface Mining, Region V, Relevant information and comments on the issues raised in the petition are solicited.

FURTHER INFORMATION CONTACT: Barbara J. Woot, Office of Surface Mining, Region V, Brooks Towers, 1020 15th Street, Denver, Colorado, 80202.

SUPPLEMENTAL INFORMATION: Under Section 522 of the Surface Mining Reclamation and Control Act of 1977 and its implementing regulations, persons with interests which may be adversely affected by surface coal mining operations may petition the Office of Surface Mining to have an area designated as unsuitable for all or certain types of surface coal mining operations. In the petition submitted to OSM, the petitioners allege that (1) the lands in question could not be reclaimed in accordance with the requirements of the Act; (3) surface coal mining operations could result in significant damage to important historic, cultural, scientific, and aesthetic values and natural systems of fragile lands; and (3) such operations could result in a substantial loss of water resources and/or wildlife or fiber products, including damage...
to aquatic and aquifer recharge areas of renewable resource lands. The proximity of mineable coal lands to Brey Canyon National Park and the possible adverse effects of mining on the Park and Forest are of particular concern to the petitioners.

After completion of the analyses and hearing mentioned above, the Department can designate the area or a portion thereof as unsuitable for all or certain types of surface coal mining operations (which includes the surface effects of underground mining). The agency may also find the area as suitable for surface coal mining operations.

Information on which to base analyses of the issues raised by the petitioners is being sought from all interested parties.

Donald A. Canon,  
Regional Director.  

[FR Doc. 2009-2037 Filed 1-20-09; 8:45 am]  
BILLING CODE 3510

INTERNATIONAL TRADE  
COMMISSION  

Certain Rotary Scraping Tools;  
Commission Determination and Order  
(Investigation No. 337-TA-62)  

In the matter of certain rotary scraping tools.  

The U.S. International Trade Commission conducted an investigation under the authority of section 337 of the Tariff Act of 1930, as amended [19 U.S.C. 1337], of alleged unfair methods of competition and unfair acts in the unauthorized importation into or sale in the United States of certain rotary scraping tools by reason of (1) the infringement of U.S. Letters Patent No. 3,938,294, and (2) misleading packaging and/or deceptive advertising of the imported rotary scraping tools, including the simulation of complainant's trade dress. On January 9, 1990, the Commission unanimously determined that there was a violation of section 337 and entered a preliminary determination that rotary scraping tools which infringe U.S. Letters Patent No. 3,938,294 are excluded from entry into the United States for the term of that patent (until May 23, 1993), unless the importation is licensed by the patent owner.

The purpose of the Commission determination and order which follow is to provide for the final disposition of the Commission's investigation on certain rotary scraping tools.  

Determination  

Having reviewed the record compiled in this investigation, the Commission on January 9, 1990, determined—

1. That with respect to eight of the respondents in this investigation, there is a violation of section 337 of the Tariff Act of 1930, as amended, in the importation and sale by the owner, importer, consignee, or agent of either, of rotary scraping tools which infringe U.S. Letters Patent No. 3,938,294, the effect of which is to substantially injure an industry, efficiently and economically operated, in the United States;

2. That the appropriate remedy for such violation is to direct that rotary scraping tools manufactured abroad which infringe U.S. Letters Patent No. 3,938,294 be excluded from entry into the United States for the term of said patent, except where such importation is licensed by the owner of said patent;

3. That, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers, such rotary scraping tools should be excluded from entry for the term of said patent, except where such importation is licensed by the owner of said patent; and

4. That the bond provided for in subsection (h) of section 337 of the Tariff Act of 1930, as amended, be in the amount of 401 percent ad valorem of the imported article (ad valorem to be determined in accordance with sec. 402 of the Tariff Act of 1930, as amended [19 U.S.C. 1401a]).

Order

Accordingly, it is hereby ordered—

1. That rotary scraping tools which infringe U.S. Letters Patent No. 3,938,294 are excluded from entry into the United States for the term of said patent, except where such importation is licensed by the owner of said patent;

2. That rotary scraping tools ordered to be excluded from entry are entitled to entry into the United States under bond in the amount of 401 percent ad valorem (ad valorem to be determined in accordance with sec. 402 of the Tariff Act of 1930, as amended [19 U.S.C. 1401a]) from the day after this order is received by the President pursuant to section 337(g) of the Tariff Act of 1930, as amended; until such time as the


President notifies the Commission that he approves or disapproves this section, but, in any event, not later than 60 days after the date of receipt:  

Ord. That this order be published in the Federal Register and that this order and the opinion in support thereof be served upon each party of record in this investigation and upon the U.S. Department of Health, Education, and Welfare, the U.S. Department of Justice, the Federal Trade Commission, and the Secretary of the Treasury.

2. That the Commission may amend this order at any time.

By order of the Commission.

[FR Doc. 1990-2036 Filed 1-20-90; 8:45 am]  
BILLING CODE 3510

(701-TA-21 (Preliminary))

Fresh Cut Roses from the Netherlands;  
Institution of Preliminary Countervailing Duty Investigation and  
Scheduling of Conference  

Investigation Instituted. Following receipt of a petition on January 5, 1990, filed on behalf of workers incorporated, a trade association of the U.S. rose growing industry, the United States International Trade Commission conducted an investigation under section 705(a) of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of allegedly subsidized imports from the Netherlands of fresh cut roses, provided for in Item 930, 20 of the Tariff Schedules of the United States. This investigation will be subject to the provisions of Part 207 of the Commission's Rules of Practice and Procedure (38 CFR 207, 44 FR 75437) and, particularly, Subpart B thereof, effective January 1, 1980.

Written Submissions. Any person may submit to the Commission on or before February 5, 1990, a written statement of information pertinent to the subject matter of the investigation. A signed original and nineteen copies of such statements must be submitted. Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the


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Div. of Oil, Gas & Mining
Exhibit 3

The Secretarial Decision
PETITION TO DESIGNATE CERTAIN FEDERAL LANDS IN SOUTHERN UTAH UNSUITABLE FOR SURFACE COAL MINING OPERATIONS

STATEMENT OF REASONS

I. Introduction

On December 16, 1980, in response to a petition filed by the Sierra Club and others, I issued my written decision declaring unsuitable for surface coal mining operations certain Federal lands in the Alton coal field and adjacent to Bryce Canyon National Park in Southern Utah. As noted in that document, I based my decision on all of the information contained in the administrative record of this proceeding. This record includes the final combined petition evaluation and environmental impact statement document and information provided by the petitioners, intervenors, Federal agencies, the State of Utah, local agencies, industry and members of the public. This document constitutes the Statement of Reasons underlying my conclusion that mining in the designated areas would cause significant cumulative adverse impacts on Bryce Canyon National Park and supporting my decision to reject all of the petitioners' other claims.

II. Background

This decision is the first made under Section 522 of the Surface Mining Control and Reclamation Act of 1977 (Surface Mining Act), 30 U.S.C. § 1272. Section 522 establishes procedures that enable states...
and the federal government to respond to the conflicts between surface coal mining operations and other uses of land. Section 522 contains two general categories of designation — statutory designations and designations by petition. Subject to exceptions for valid existing rights and existing operations, mining is statutorily prohibited in certain nationally significant areas (e.g., the National Park System, the National Wildlife Refuge System) and within certain specified distances of dwellings, public buildings, communities and parks and cemeteries. Section 522(e)(1) and (e)(5). Subject to those same exceptions, mining in national forests and near public roads and mining which adversely affects public parks or National Register sites may also be prohibited or limited by the Surface Mining Act. Section 522(e)(2), (e)(3) and (e)(4). Lands within the petition area on which surface coal mining operations are already prohibited under these sections of the statute include Bryce Canyon National Park, the town of Alton and the Alton cemetery.

In addition, Section 522(c) allows any person having an interest which is or may be adversely affected by surface coal mining to petition the regulatory authority to have an area designated unsuitable. The specific procedures for acting on a petition to designate Federal lands appear in Section 522(c) and 30 CFR Part 769. As the regulatory authority for Federal lands (Sections 523 and 701(22)), the Department followed these procedures in acting on the instant petition. See Section III below. The regulatory authority must designate an area unsuitable for all or certain types of surface coal mining operations if the regulatory authority determines that
reclamation pursuant to the Surface Mining Act is not technologically and economically feasible. Section 522(a)(2); 30 CFR 762.11(a). The regulatory authority has discretion to designate an area unsuitable if mining operations will (1) be incompatible with existing state or local land use programs, (2) affect fragile or historic lands by causing significant damage to important historic, cultural, scientific, and esthetic values and natural systems, (3) affect renewable resource lands by causing a substantial loss or reduction of long-range productivity of water supply, food or fiber products, or (4) affect natural hazard lands so as to endanger life and property.

Section 522(a)(3); 30 CFR 762.11(b). The petition in this case (as described in detail below) states that designation is mandatory under Section 522(a)(2) and also requests designation based on the fragile or historic lands and renewable resource lands criteria of Section 522(a)(3)(B) and (C).

The boundaries of the entire petition area enclose approximately 325,200 acres or slightly more than 500 square miles of land in Southern Utah. About 203,900 acres, excluding Bryce Canyon National Park, are in Federal ownership. About 16,300 acres are owned by the State of Utah and 68,600 acres are privately owned. Page I-1 of the Southern Utah Petition Evaluation Document (PED). By law the petition applies only to the Federal lands within the petition area. See map attached as Appendix A; see also Figure IIB8-1 at PED II-12a.

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III. CHRONOLOGY

On November 28, 1979, the Environmental Defense Fund, Friends of the Earth, Sierra Club Legal Defense Fund, Sylvan Johnson, Leon Lippincott, Caroline Lippincott, Jet Mackelprang, Cynthia Myers, Susan Hittson and Larry Little submitted to the Department's Office of Surface Mining Reclamation and Enforcement (OSM), a petition to designate certain Federal lands in southern Utah unsuitable for surface coal mining operations. The petition was found to be complete on December 27, 1979. Notice of receipt of the complete petition was published on January 17, 1980. 45 F.R. 3398. The notice described in detail the lands in the petition area.

On April 24, 1980, OSM published notice of intent to prepare a statement of coal resources, demand for coal, and impact of the designation in accordance with Section 522(d) of the Surface Mining Act, in combination with preparation of an environmental impact statement 45 F.R. 27836. That notice described the major issues derived from the petition and, in addition, gave notice to the public of a scoping meeting to be held on May 6, 1980. At the public meeting, relevant issues to be addressed by the combined statement were raised by citizens.

The Surface Mining Act provides that designation of Federal land shall be within the exclusive authority of the Secretary of the Interior after consultation with the states involved. Section 503(a)(5). Under the Department's regulations implementing the Surface Mining Act, the OSM Regional Director within whose region the petition area is located normally is delegated the authority to issue the final written...
decision on a petition. 30 CFR 769.18(b). However, by Federal Register notice of May 20, 1980, I announced that I would exercise my retained authority to make the decision in this important and novel proceeding. 45 F.R. 33738.

To aid in preparing the combined petition evaluation and environmental impact statement document, studies of the potential impacts of surface coal mining operation in the petition area, particularly as identified in the petition and at the scoping meeting, were conducted by various federal agencies and contractors. The petitioners and intervenors also conducted studies of potential impacts of such mining. On September 12, 1980, OSM announced the availability to the public of the draft combined petition evaluation and environmental impact statement document. 45 F.R. 60495. That notice summarized available information, including related NEPA reviews, as well as the information generated by the new studies. The notice required comments on the draft document to be received by October 15, 1980, and announced the times and format of the public hearings on the petition, noting that anyone wishing to speak would be given the opportunity to do so.

On September 16, 1980, Utah International, Inc. (UII) and Nevada Electric Investment Company filed with OSM a petition in intervention to the original petition. Each of these companies holds federal coal leases in the Alton coal field and within the petition area. The lands in these leases are hereafter referred to as the Alton leasehold or leasehold. On September 26, 1980, Gary A. Kalpakoff, Joan A. Kalpakoff, Henry Carroll, Norman H. Carroll and East Canyon Irrigation...
Company filed with OSM an intervention petition supporting the original petition. On October 3, 1980, an amended petition was filed that removed the names of Henry Carroll and Norman Carroll.

The public hearings on the petition were held on September 29, 1980, at Kanab; Utah; on September 30, 1980, at Kanab and Panguitch, Utah; and on October 10, 1980, at Kanab. Testimony at the hearings was received by a panel of officials from the Office of the Secretary, OSM, and Office of the Solicitor. Members of the panel asked clarifying questions at the conclusion of witnesses' testimony. Attendance at the hearings totalled nearly 600 persons and 102 witnesses were heard. Witnesses included numerous local citizens, the intervenors, and representatives of various local and Federal agencies and the State of Utah.

On October 16, 1980, OSM extended the comment period for written comments on two reports. 45 F.R. 68762. The reports, a U.S. Environmental Protection Agency noise study report and a U.S. air quality report, were not submitted until the October 10, 1980, hearing. Because of the length and detail of the reports, the comment period on the two reports was extended until October 20, 1980.

More than 100 written comments were received during the public comment period. Commenters included industry, environmental groups, citizens, and local, State and Federal agencies. As required by 30 CFR 769.4(a), I have solicited and obtained the views of the appropriate State and local agencies. In addition, I obtained the detailed recommendations of Governor Matheson of Utah. Letter of Scott M. Matheson to Paul Bodenberger, OSM, dated October 14, 1980. All...
substantive comments were considered and the comments and responses to them are included in the final combined petition evaluation and environmental impact statement document.

On November 26, 1980, OSM announced the availability of the final combined petition evaluation and environmental impact statement document. 45 F.R. 78816. The notice described the document itself, as well as the procedure for obtaining copies. The document was published in two volumes: the text, Southern Utah Petition Evaluation Document (PED) and the comments with responses, Southern Utah Petition Evaluation Document - Comments and Responses (PED Comments).

The notice also indicated that a decision on the petition would follow shortly. On December 16, 1980, I issued my decision on the petition.

IV. BRYCE CANYON NATIONAL PARK AND DIXIE NATIONAL FOREST ISSUES

A. Allegations of Petitioners and Intervenors

Petitioners alleged, under Section 522(a)(3)(B) of the Surface Mining Act, that surface coal mining operations in the petition area would significantly damage Bryce Canyon National Park, Dixie National Forest and other fragile lands. Specifically, petitioners alleged that:

1. Surface coal mining operations in part of the petition area would cause significant adverse visual impacts on Bryce Canyon National Park. Those impacts would include mining activities, raw and disturbed earth, dust plumes from mining operations and potentially permanent alteration of the vegetation visible from the park (Pet. ¶24):

   2. Surface coal mining operations would produce noise and
industrial odors that would diminish the experiences of visitors to the park (Pet. ¶24);

3. Surface coal mining operations would significantly increase ambient particulate concentrations in the vicinity of the park, which would impair scenic attractions in the park, as well as the vistas from the park (Pet. ¶25);

4. Blasting associated with surface coal mining operations could harm the erosional formations for which Bryce Canyon is famous (Pet. ¶26);

5. Surface coal mining operations would disrupt the park’s natural systems and destroy local wildlife habitats (Pet. ¶27);

6. Surface coal mining operations would damage important esthetic and recreational values in Dixie National Forest, including hiking, camping, hunting and fishing; and mining operations would impair vistas and visibility, increase noise and disrupt wildlife habitats of the forest (Pet. ¶¶28-29);

7. Surface coal mining operations would destroy the present diverse vegetation of the petition area and severely disrupt the natural systems of the petition and adjacent areas, irreparably damaging wildlife habitats and the ecological, esthetic and recreational values of the Alton area (Pet. ¶30).

In response, the intervenors who opposed the unsuitability petition contended:

1. Surface coal mining operations would not adversely affect lands within the park or forest and would not adversely affect the experience of visitors to the park or forest. In particular, no
harmful effects on erosional structures, odor levels, animal migration or habitat, or air quality within the park or forest would result from surface coal mining operations in the petition area (UII Pet. Int. ¶28);

2. Any such adverse impacts that might be found must be balanced against loss of coal supplies and injuries to the local economy that would result from designation of all or part of the petition area as unsuitable for surface coal mining operations (UII Pet. Int. ¶27);

3. The Surface Mining Act contains no authority for the creation of buffer zones around Bryce Canyon National Park in the absence of competent scientific evidence supporting designation of such lands as unsuitable for surface coal mining operations (UII Pet. Int. ¶29).

B. Description of Bryce Canyon National Park

The authorities establishing and enlarging Bryce Canyon National Park explicitly refer to, and direct the preservation of, the scenic values of the park. Presidential Proclamation No. 1665, 43 Stat. 1914 (June 8, 1923); letter to House Committee from the Department of the Interior, incorporated into H.R. Rep. No. 554, 68th Cong., 1st Sess. 2 (1924); Presidential Proclamation No. 1952, 47 Stat. 2455 (May 4, 1931). In addition, the Clean Air Act Amendments of 1977, 42 U.S.C. §§ 7401 et seq., grant the Secretary of the Interior authority and responsibility for protecting the air quality related values of class I federal areas, which include Bryce Canyon National Park. These values are defined as visibility and those scenic, cultural, biological and recreational resources of a park that are affected by or dependent on air quality. Thus, Bryce Canyon National Park's charter and subsequent legislation require preservation of...
the park for the enjoyment of present and future generations and
preservation of the scenic, visibility and air quality resources of
the park. See PED I-5 to I-6.

Bryce Canyon National Park comprises approximately 34,715 acres
of the petition area. PED II-12. The park receives about 620,000
visitors each year who use the park for sightseeing, hiking, camping,
horseback riding and other activities. The park is used throughout
the year, though most visits are from May through September. PED
II-17.

The park is a Class I attainment area under the Prevention of
Significant Deterioration (PSD) increment system of the Clean Air Act
Amendments of 1977, which means that very little deterioration of its
ambient air quality is allowed. The park has some of the highest
visual ranges in the United States. Typically, points as distant as
150 kilometers (93 miles) are visible. PED II-3. Yovimpa Point and
the Southern Amphitheater, located in the southern portion of the
park, offer vistas including such features as the Kaiparowits Plateau,
Navajo Mountain, the Kaibab Plateau, the Coral Pink Sandunes, the
Kanab Canyon system and the Grand Staircase. Also, about 2,000 acres
of the Alton leasehold are visible from Yovimpa Point, extending 5 to
11 miles from the Point. PED II-4.

Measurements by EPA have indicated that background sound levels
at Bryce Canyon National Park are comparable to those in a high-quality
sound studio. The park is the quietest area yet measured in EPA's
Region VIII. PED II-17. In some areas, the background noise levels
are below the level of detection of current sound recording instruments. PED II-18.

Bryce Canyon is famous for its exceptional erosional features. Its bedrock is characterized by a complex system of "master" joints and differences in erodibility among rock layers. These have resulted in the formation of the fantastic walls and pinnacles (also called "hoodoos") for which the park is renowned. PED II-10.

The most common wildlife species in the petition area are mule deer, cottontail rabbit, mourning dove, blue grouse, cougar, wild turkey, band-tailed pigeon, beaver, pronghorn antelope and sage grouse. A variety of other large and small mammals inhabit the area. PED II-

The Utah prairie dog, which is protected under the Endangered Species Act of 1973, 16 U.S.C. §1361, inhabits a small area in the northwestern corner of the petition area. Bald and golden eagles, protected under the Bald Eagle Protection Act, 16 U.S.C. §668, also may be found in the petition area. Certain migratory bird species, protected under the Migratory Bird Treaty Act, 16 U.S.C. §703, inhabit the forests within the petition area. PED II-16.

The southern and northern portions of the petition area have been surveyed for wildlife values. The southern portion is characterized by high-priority and, in the Dixie National Forest, critical wildlife values. The northern portion exhibits mostly substantial or limited wildlife values. In addition, deer summer and winter ranges are located within the petition area. While deer herds tend to move from summer to winter range along creek bottoms through the petition area, the petition area contains no mass migration corridors. PED II-15.
The East Fork Virgin River has limited fishery values, but is classified as sportfish waters. This river flows into the Virgin River, which is of critical value to the woodfin minnow, a federally listed endangered species. The Virgin River roundtail chub, which being considered for listing as an endangered species, and the Virgin River spinedace, which the Utah Department of Wildlife Resources considers a declining species, also are present in the Virgin River. PED 11-16.

C. Findings

My findings that relate to impacts on Bryce Canyon National Park and the Dixie National Forest are based upon consideration of the full administrative record of this proceeding. This record includes the PED, as well as information provided by the petitioners, intervenors, Federal agencies, the State of Utah, local agencies, industry, and members of the public in the form of petitions, materials submitted for the record, testimony at the public hearings, and all written comments received up to the close of the comment period on October 20, 1980.

1. Air Quality

The record does not support petitioners' allegation that particulate concentrations in the park's air would increase by as much as 3.29 ug/m³. Pet. Ex. 4, ¶6. The record on air quality impacts consists primarily of three studies. Analyses of the probable air quality impacts of mining the petition area were prepared by EPA Region VIII OSM, by Environmental Research and Technology, Inc. (ERT) for UII; the Sierra Club Legal Defense Fund. The EPA and ERT studies were...
based on information supplied by UII concerning its proposed methods for mining its leasehold.

EPA Class I and Class II PSD increments for fugitive dust emissions were utilized in the PED as a device for comparing the results of these studies. In response to the invalidation of EPA's prior fugitive dust PSD regulations in *Alabama Power Company v. Costle*, 602 F.2d 1068 (D.C. Cir. 1979), EPA has exempted surface coal mining operations as sources of fugitive dust emissions for PSD purposes. 45 F.R. 52675 (August 7, 1980). Accordingly, the PSD increments for Class I and Class II areas were utilized only as references; they have not been used to determine whether surface coal mining in the petition area might result in violations of these incremental standards.

The EPA study (discussed at PED III-2 to III-4) yielded predictions for 1994, the year of maximum mining activity, and 2014 when mining would be closest to the park. The EPA study predicted that annual total suspended particulate (TSP) concentrations in the park would not exceed 5 ug/m$^3$, the Class I annual PSD increment. PED figures IIIB1-2 and IIIB1-3 at PED III-4a and III-4b. The study did show that 24-hour particulate concentrations might exceed the 24-hour Class I PSD standard on 1 or 2 days per year in the southeast corner of the park. PED III-3 to III-4.

The ERT study (discussed at PED III-4 to III-5; see also PED Comments at 390-393 (comments of UII)) utilized the same emission rates, particle size distributions, control efficiencies and meteorological data used in the EPA study, but employed a different diffusion
modeling approach. The particulate concentrations resulting from the ERT study were below both the annual and 24-hour Class I increments. PED Table IIB1-3 at PED III-6a.

The study conducted by the Sierra Club used different modeling assumptions than were used in the EPA and ERT studies. PED III-5. The Sierra Club concluded that the 24-hour Class I increments would be exceeded by mining near the park. PED Table IIIB1-4 at PED III-6a. However, the Sierra Club modeling (1) did not consider mining operations other than dragline operations, (2) assumed a mining rate three times that planned by UII in the eastern part of the Alton leasehold, (3) assumed that mining would occur within 5 km of the park although 7 km is a more realistic distance, and (4) used a dragline emission rate that is higher than the rate used by EPA. Corrections for these factors would tend to reduce the 24-hour concentrations to near the Class I increment level. PED III-5.

Based on these studies and the PED, I find that (1) the annual average TSP concentrations in the park would not exceed the Class I annual PSD increments and (2) the 24-hour Class I PSD increments would be exceeded in the park only rarely and only in one area. I find that these small increases in particulate concentrations do not in themselves constitute a basis for an unsuitability determination.

2. Visibility

The petition alleges that increased ambient particulate concentrations caused by surface coal mining operations in the petition are would impair visibility in the park and reduce visual ranges from viewpoints in the park. As explained below, the record incorporates
that mining in the petition area would lead to impairment of visibility, particularly with respect to views from the park in the direction of active mining operations near the park.

Three visibility studies were conducted with respect to potential mining of the petition area. Each of these studies focused on impacts to the south-facing scenic overlooks of the park, especially Yovimpa Point. Yovimpa Point is the developed scenic overlook from which mining activities would primarily be visible. The study conducted by Systems Applications, Inc. (SAI) for EPA (discussed at PED III-6 to III-7) indicated a strong possibility of perceptible, localized impairment of the view from Yovimpa Point caused primarily by dust plumes resulting from mining activities. Because of the transient nature of the dust plumes, however, the photo analyses of the potential visual impact of mining on the view from Yovimpa Point that were enclosed in the PED do not reproduce the visual effects of dust plumes. PED Comments at l2l (OSM response to comments of Environmental Defense Fund). The SAI study showed that plumes would be perceptible as whitish-gray clouds or large layers that would be visible against the darker tree-covered background of the view from Yovimpa Point. The largest and most visible plumes would occur infrequently and usually during the early morning, but plumes would be visible near mining operations two-thirds of the daylight hours. SAI concluded that the plumes would reduce visual ranges in the direction of the plumes. PED III-6 to III-7 and Figure IIIB2-1 at PED III-6b. The light and moderate winds characteristic of the petition area would contribute to frequent reductions of visual range. PED III-7.
SAI predicted insignificant increases in regional haze as opposed to localized plumes. PED III-7. This prediction was corroborated by the ERT study performed for UII, which concluded that, under worst case conditions, regional haze would noticeably reduce visual ranges in the direction of mined areas only 1 percent of the time. PED III-7. This conclusion is consistent with the SAI prediction of visual reductions in the direction of plumes because the SAI study focused on the visual impact of plumes, while the ERT study was concerned with regional visibility. PED Comments at 358-359 (comments of Sierra Club and Friends of the Earth) and 394-395 (comments of UII).

A Sierra Club study evaluated the visibility impact of a single dragline. Using two different assumed particle size distributions, the study predicted visual range reductions from the dragline operation. PED III-7. However, the accuracy of the particle size distribution which formed the basis for the larger visual range reduction was not adequately demonstrated. Insufficient information was provided to confirm that the downwind monitors used in the separate study which derived the distribution were placed so as to record representative particle size distributions or that the distribution was representative of typical emissions from a dragline. PED III-7; see PED Comments at 357-358 and 361-362 (comments of Sierra Club and Friends of the Earth) and 157-158 (comments of ERT). The Sierra Club study did show that dust plumes created by a dragline would be dense enough so that viewers from the park would see opaque plumes near the plume point of origin, thus obscuring the view beyond the plumes. PED III-8.
Based upon these three studies, I find that the park's visibility would be impaired by surface coal mining operations in the petition area. Some reduction in visual range from the park to the south is likely. Plumes resulting from surface coal mining would reduce visual range in the directions of the dust plumes created by mining. Therefore, I have concluded that surface coal mining operations whose plumes would be visible from the park, especially from mining operations east and south of the park, would have severe impacts on visibility from the park.

3. Visual Resources

The record demonstrates that surface coal mining operations in the portions of the petition area nearest Bryce Canyon National Park would adversely impact the significant visual resources of the Park as well as its visibility. Visibility refers to the clarity and visual range of the views in and from the park, whereas visual resources are the scenic objects, such as the Grand Staircase, Kaiparowits Plateau, Navajo Mountain, and the relatively unspoiled scenery visible in and around the park. Adverse impacts on visibility include reductions in clarity and visual range; adverse impacts on visual resources include visible uncharacteristic activities that are visible from the park and obstruction of scenic objects.

The record shows that surface coal mining operations in the eastern part of the Alton leasehold, due south of the park, would result in approximately 25 years of visual intrusion upon the visual resource of the park. Blasting and operation of heavy mining equipment would generate dust plumes in this area that would be visible from Yovimpa.
Point and other south-facing park overlooks. PED III-11. During mining in the eastern part of the Alton leasehold, visibility from Yovimpa Point could be reduced so that portions of the landscape from five to fifteen miles from Yovimpa Point could be obscured by plume blight (visible emissions traceable to the source of the plume). PED III-11 to III-12; see also visibility finding above.

Much of the eastern portion of the Alton leasehold is visible from Yovimpa Point. See Figure IIB3-1 at PED II-4a. In addition, other vista points in the park overlook potentially surface mineable areas outside the Alton leasehold east and south of the park. PED III-12. Surface coal mining activities in any of these areas, particularly dragline operations, would be visible to park visitors using these overlooks until mining activities in each area are terminated. PED III-9 and III-12. Moreover, for some years following commencement of reclamation operations, viewers would be able to perceive differences in landscape color and texture and see that these areas had been altered, although, this effect would lessen over time as the reclaimed areas become fully revegetated. PED III-12 to III-13. Thus, I find that there will be adverse visual impacts on the park and its esthetic values if portions of the petition area, as described in paragraph 1 of my decision, are ever mined and that surface coal mining operations would adversely affect those areas because they are fragile lands, as defined in 30 CFR 762.5.


The National Park Service (NPS) conducted a survey at Bryce Canyon National Park from mid-June to mid-September, 1980. The survey
was designed to determine: (1) why visitors go to Bryce Canyon National Park; (2) what visitors perceive as the important values of the park; and (3) how visitor enjoyment of the values might be affected by surface coal mining operations near the park. The methodology and results of the visitor survey are described in the PED at III-8 to III-11, V-2 through V-20, and in the NPS report of September, 1980 entitled Results of the NPS-Visitor Survey Conducted at Bryce Canyon National Park - Summer 1980.

The survey received heavy criticism during the comment period, mostly from UII. In particular, K.L. Berry, a social psychologist hired by UII to analyze the survey, presented extensive comments. NPS responded to these criticisms. The specific criticisms and responses appear in the PED Comments at 405, 452-470, 673-680 (comments of UII including K.L. Berry and Frank K. Vance); 38-39 (comments of NPS); 65-66 (comments of the State of Utah); and 79-80 (comments of Garfield County Commission).

These critics did not dispute, however, that hundreds of thousands of people do visit Yovimpa Point and other points overlooking potentially mineable areas in the petition area. Nor did they dispute that views of surface coal mining operations in the eastern Alton leasehold would have adverse impacts on many visitors. I have treated the NPS survey as a source of broad trends but have not relied on it for specific numbers. PED Comments at 405 (response of NPS to comments of UII). These trends identified by the survey are as follows: park visitors value clean (fresh) air, scenic views, rock formations and solitude; and degradation of these values would decrease their
enjoyment of visits to the park and reduce their time spent in the park. Thus, the survey confirms my finding that surface coal mining operations in the designated portions of the Alton leasehold would have an adverse impact on the experiences of visitors to Bryce Canyon National Park and result in significant damage to the aesthetic values of the park and surrounding area, especially the extraordinary scenic quality.

5. Fish and Wildlife Resources

Petitioners' allegation regarding the destruction of wildlife and wildlife habitats by surface coal mining operations in the petition area are not supported by the administrative record. A number of potential impacts were presented by petitioners or discussed in the PED, but none will result in irretrievable destruction of wildlife resources. There are generally two types of impacts on wildlife and fish: those resulting directly from the mining operations and those resulting from reclamation after the mining operations have terminated.

Four direct impacts of mining were identified by petitioners and the PED:

1) Destruction of wildlife due to general human activity (PED III-35);
2) Loss of habitat, and thus destruction of wildlife, due to the presence of mining operations (PED III-34);
3) Destruction of wildlife due to loss of water resources (Pet. ¶14); and
4) Destruction of wildlife due to the disruption of migration patterns (Pet. ¶27).

The PED indicates that, while reduced populations will result from increased human activity in the area and from the loss of habitat, no adverse long-term impact is anticipated. PED III-26. The annual
disturbance resulting from mining operations would be limited and temporary because the area would be mined in blocks and reclamation would occur concurrently. *Ibid.* see also PED Comments at 21 (statement of District Manager, BLM Cedar City, Utah, District Office). I is therefore doubtful that increased activity or loss of habitat will cause sufficient destruction of wildlife to support a finding of unsuitability.

The effect of surface coal mining operations on water resources in the petition area is discussed in detail in Section V B of this Statement. Depletion of the flow in the East Fork Virgin River by pumping ground water from the Navajo Sandstone aquifer might adversely affect endangered and other species in the Virgin River (the woodfi minnow, Virgin River roundtail chub and Virgin River spinedace). PED III-35. Available data are not sufficient, however, to determine the extent of the adverse impact on wildlife that might result from pumping water from the Navajo aquifer. PED III-36; Section V B 4 below. I am therefore doubtful that increased activity or loss of habitat will cause sufficient destruction of wildlife to support a finding of unsuitability.

I also find that the surface coal mining operations will not disrupt migration patterns for the mule deer from summer to winter ranges. Although major movements of deer occur within the petition area, no migration corridors can be identified. The winter range south of
Alton leasehold is sufficiently widespread to permit the deer to circumvent any mining operations. PED III-35; see also PED Comments at 21 (comments of UII). Furthermore, the Utah Big Game Range Inventory indicates that deer which summer in Bryce Canyon usually winter in the Sevier and Virgin River drainages rather than south of the coal field PED III-35.

Two potential wildlife impacts after mining were identified by petitioners:

1) Non-native plant species introduced in the revegetation efforts will invade the park and alter the natural plant communities within the park (Pet. ¶27); and

2) Revegetation will destroy the diverse vegetative mosaic of the area (Pet. ¶30).

Non-native plant species may be used to revegetate the mined areas. PED III-25. However, the Department's regulations already contain stringent requirements to ensure that introduced plant species do not interfere with natural systems. 30 CFR 816.111 and 816.112. In addition, non-native species have been introduced by BLM in close proximity to the park and there is no indication that these species are invading the park despite their close proximity to it. PED III-25 to III-26; see also PED comments at 20-21 (statement of BLM District Manager).

The PED indicates that, rather than destroying the current vegetative diversity, revegetation will increase it and provide for improved forage. PED III-29 to III-30. The creation of open-spaces will provide a diversity of foods not currently available to the wildlife.
community. The creation of a maximum "edge" (the border between wooded and non-wooded areas) will particularly benefit the summer range of the mule deer. Moreover, a variety of predators would also be benefited by the increase in open space. PED III-34 to III-35; see also PED Comments at 60-61 (comments of the State of Utah). Thus, I have concluded that reclamation after mining will not adversely affect wildlife.

In summary, I find that the administrative record does not substantiate the petitioners' allegations that wildlife in the petition area will be adversely impacted by surface coal mining operations.


Petitioners allege that surface coal mining operations in the petition area would threaten the delicate erosional formations and unique vertical features, known as "hoodoos," that are located within Bryce Canyon National Park. (Pet. ¶¶23 and 26). In particular, petitioners claim that "vibrations from blasting operations could be transmitted directly to these formations, causing their destruction." (Pet. ¶26). Studies performed to determine the validity of these statements, however, indicate that blasting from mining operations will have no adverse impact on the park's erosional formations.

In support of their claims, petitioners cite a letter dated November 28, 1979, from Glen Bean, Regional Director of the National Park Service, Rocky Mountain Region, to the Sierra Club Legal Defense Fund and the Environmental Defense Fund. In his letter, Mr. Bean speculated that "[t]he delicately carved limestone spires are indeed fragile; blasting, as a part of the mining operations, may cause
seismic waves and air overpressure which could damage rock formations inside the Park." (Pet. Ex. 3) (emphasis added).

As further noted by Mr. Bean in his letter, OSM and NPS conducted a study designed to predict the effects of blasting on the hoodoos. The methodology used in the study is described in the PED in Chapter V, Section C. The techniques employed in the study are described as representing the state-of-the-art, PED V-21 to V-26. The results of this investigation are summarized in the PED: "[V]ibration associated with blasting from the proposed Alton mine will have no adverse impact on the erosional forms of the Bryce Canyon National Park or Dixie National Forest." PED III-32; see also 9/29-30/80 Tr. at 110 (statement of James Thompson, NPS). The record contains no other evidence supporting petitioners' claims and includes another study which supports the conclusion that blasting will not adversely affect the hoodoos. L. L. Obriand examined this potential problem for UIII and concluded that, "the proposed blasting operations will have no detrimental effect on the erosional features of Bryce Canyon National Park." PED Comments at 227, 231 and 236-243 (statement of L. L. Obriand). I therefore conclude that blasting from mining operations will not harm the hoodoos.

7. Noise

The petition alleges that surface coal mining operations in the Alton leasehold and other petition areas near Bryce Canyon National Park would adversely impact the experiences of visitors to the park due to noise from mining machinery and blasting. Pet. ¶24. The park currently is one of the quietest places in the United States, with
background noise levels in some areas that are undetectable by sound recording instruments. PED II-17 to II-18. Because Bryce Canyon National Park is extremely quiet, noise intrusion from sources external to the park will be particularly noticeable to visitors in the park. PED II-18 to II-19.

The 170-ton trucks and scrapers used in surface mining will be the principal equipment that produces noise. Truck noise from surface mining activities in the Alton leasehold alone can be expected to increase significantly the nocturnal sound levels at Yovimpa Point and other areas of the park during summer months. PED Figures IIIB11-1 and IIIB11-2 at PED III-38b and III-38c. Even at the farthest point in the Alton leasehold which is visible from Yovimpa Point, trucks will be distinctly audible throughout the park 10 percent of the time in the early morning hours. PED III-37; Figure IIIB11-2 at PED III-38c. During the daytime in the summer, truck noise from mining operations in the portion of the Alton leasehold nearest to the park will be perceptible throughout much of the park. PED III-37; Figure IIIB11-3 at PED III-38d. Truck noise from daytime summer operations at the farthest point in the Alton leasehold visible from Yovimpa Point would be audible mainly by persons on trails south of Yovimpa Point. PED III-38; Figure IIIB11-4 at PED III-38e. Truck noise from mining operations east of the park in the vicinity of Horse Mountain, Willis Creek and Sheep Creek will have a greater impact on the park than would operations anywhere in the Alton leasehold. PED III-39; Figure IIIB11-7 at PED III-40d.
Truck noise generated in the western portion of the Alton leasehold will have a less significant impact due to greater distances from the park and the intervening topographical barriers. PED III-38 to III-39. Thus, truck noise from mining operations in the area of the Alton leasehold farthest from the park would be distinctly audible in the southwestern part of the park during summer only 10 percent of the time in the early morning. Figure IIIBII-5 at PED III-40b. That noise would be marginally perceptible in the southwestern part of the park during the evening 50 percent of the time. PED III-39; Figure IIIBII-6 at PED III-40c.

Blasting is the other major source of noise associated with surface mining that would affect the park. The methodology utilized by OSM in the prediction of blasting noise impact on the park is described at PED III-39 to III-40. The analysis addressed the three types of blasting used in surface mining; they are, in order of loudness, parting blasting, coal blasting and overburden blasting.

Because blasting noise travels over long distances, the effect of atmospheric absorption must be considered in determining noise levels. In particular, the effect of winds in increasing or decreasing blasting noise impact on the park was considered. The results of OSM's analysis of blasting noise impact on the park during the summer months are found in PED Tables IIIBII-2 through IIIBII-8 at PED III-4 III-40e and III-42a and Figure IIIBII-8 at PED III-40f.

The Committee on Hearing, Biocoustics, and Biomechanics of the National Research Council (PED III-40), has issued recommended criteria for assessing noise impacts on critical use areas such as national
Based on its criteria, surface mine blasting noise generated anywhere in the Alton leasehold would create significant adverse impacts in the park during summer months whenever 10 m.p.h. winds blow from the Alton leasehold toward the park, which is a characteristic condition. PED III-40 to III-41. When winds are not blowing or blow from the park towards the leasehold, as occurs during early evening, only blasting noise from the eastern portion of the leasehold would adversely impact the entire park. PED III-40. Blasting noise from the western portion of the leasehold would not significantly impact high use areas of the park, except that parting blasting noise would adversely impact trails and campsites throughout the park. PED III-40.

In summary, OSM’s analysis of expected truck and blasting noise indicates that surface coal mining operations in the eastern portion of the Alton leasehold can be expected to cause significant adverse noise impacts on the park. Mining east of the park would have an even more severe adverse impact on the park. However, truck noise from mining in the western portion of the Alton leasehold would seldom adversely affect visitors to the park. Blasting noise from the western portion of the Alton leasehold would not usually have an adverse impact on high use areas of the park, although parting blasting noise from this area would adversely affect trails and campsites in the park. Therefore conclude that surface coal mining operations in the portions of the petition area south and east of the park, including the eastern portion of the Alton leasehold, would significantly damage the exceptional sound qualities of the park. I also conclude that noise from mining operations in the petition area to the west of the eastern
portion of the Alton leasehold would not significantly damage the sour
qualities of the park.


The U.S. Forest Service manages an estimated 57,200 acres within
the boundaries of the petition area known as the Dixie National Forest
PED II-12. Petitioners allege (Pet. ¶28) that "surface coal mining op-
erations would also damage important aesthetic and recreational value
in Dixie National Forest which include hiking, camping, hunting, and
fishing." They allege that mining activities would impair visibility
and air quality values and diminish the recreational value of the
forest lands. (Pet. ¶29). UII claims that petitioners have not ade-
quately supported their claims regarding impacts on forest lands.

PED Comments at 429 (comments of UII). The Forest Service recommends
rejection of the petition as it related to National Forest System
lands. Letter from Regional Forester, U.S. Forest Service, to Region
Director, OSM, Denver, dated October 21, 1980.

The Department's studies show that proposed mining activities
would adversely affect the recreational and visual resources of the
Dixie National Forest. PED III-4, III-33, III-36, and III-39. More-
over, because Dixie National Forest and Bryce Canyon National Park
are contiguous within the petition area (see PED Figure IIIB8-1 at
II-12a), the adverse impacts of mining on the park, as discussed above,
are equally applicable to the forest. For the reasons stated above,
therefore must designate the Dixie National Forest lands within the
petition area which are contiguous to the park as described in para-
graph 1 of my decision. This designation does not apply, however, to

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portions of the forest within the petition area and west of R. 4W, nor to portions of the forest outside the petition area. In T. 36S, R. 2W, underground mining operations may be allowable, subject to the requirements of Section 522(e)(2) of the Surface Mining Act.

Conclusion

All of the evidence before me, including comments, hearing testimony, the PED and other materials, demonstrates that surface coal mining operations in most areas east and south of the park, including the eastern portion of the Alton leasehold, will adversely impact the visibility, visual resources and noise levels of Bryce Canyon National Park. The park now possesses exceptionally clean air and offers views characterized by their high visual range and unique, interesting features. In addition, the park is one of the quietest places in the United States.

For these and all of the above-stated reasons, I find that coal mining by surface methods, and coal mining by underground methods, where the surface impacts would be visible from Bryce Canyon National Park, on Federal lands in townships T. 40S, R. 4W; T. 39S; R. 4W; T. 38S; R. 4W; T. 37S; R. 4W; T. 36S; R. 3W; and T. 36S, R. 3W, of the Salt Lake Meridian, would significantly damage the values for which Bryce Canyon National Park was created. Designation of this area affects Federal coal leases U 0115938, U 0122582, U 0122623, U 0122647, U 0122650, U 0122651, U 0122652, U 0124768, U 0126916, U 0149582, and part of U 098774, all held by UII. I also find that coal mining by surface methods on Federal lands in townships T. 36S, R. 2W, of the Salt Lake Meridian, would significantly damage the values for which Bryce Canyon National Park was created.
Canyon National Park was created. Designation of this area affects Federal coal lease SL 071561, held by Caesar Fulton.

I reject, however, all of petitioners' allegations relating to impacts on the air quality, fish and wildlife and erosional forms of Bryce Canyon National Park. In Section V below, I explain my reasons for rejecting petitioners' other claims that do not relate to alleged damage to the park.

V. OTHER REJECTED PETITION CLAIMS

As stated in paragraph 4 of my decision of December 16, 1980, I have rejected some of petitioners' claims. These claims are as follows: (1) the lands within the petition area cannot be reclaimed as required by the Surface Mining Act (Pet. ¶¶2, 3, 11-20); (2) surface coal mining operations could affect renewable resources resulting in a substantial loss or reduction of long-range productivity of water supply, food or fiber products (Pet. ¶¶2, 3, 31-34); and (3) alternative energy sources to the Allen-Warner Valley Energy System, such as conservation, solar, cogeneration, geothermal, wind and hydropower, could provide more energy with fewer environmental and economic costs (Pet. ¶¶4, 35-38).

A. Reclamation of Lands Within the Petition Area.

Petitioners stated that these lands "could not be reclaimed after surface coal mining operations" (Pet. ¶2). As a result, petitioners alleged that I must designate these areas as unsuitable under Section 522(a)(2) of the Surface Mining Act and 30 CFR 762.11(a).
Petitioners contended that revegetation of the petition area after surface coal mining operations will be impossible or highly unlikely. They attacked the numerous studies and other evidence of revegetation success in the petition area as not representative of the soils and other conditions (topography, size of disturbed area, climatological information) that will be present after the proposed mining. Petitioners also stated that successful revegetation will not occur because of lack of topsoil, lack of suitable overburden and adverse climatological factors. The Forest Service, Bureau of Land Management (BLM), and intervenors vigorously defended the methodology and conclusions of the studies. Utah believed that reclamation is not only possible, but would enhance the wildlife and grazing capabilities of the area.

1. Studies of Soils and Revegetation.

None of the land within the petition area has ever been disturbed by large scale surface coal mining operations. PED III-26. Numerous studies of the soils and the potential for revegetation of the petition area have been conducted. These studies include the Energy Mineral Rehabilitation Inventory and Analysis (EMRIA) evaluation (a cooperative study by the BLM, Bureau of Reclamation and Geologic Survey), revegetation studies by Dr. Neil Frischknecht and Robert Ferguson (U.S. Forest Service), in cooperation with BLM and UI, and soils studies by BLM, UI and the NUS Corporation. Revegetation data have also been developed from chained and/or plowed areas. The areas are Alton, Black Rock, Deer Springs, Swallow Park and First Point. Removal of existing vegetation by chaining, spraying or plow.
is a common practice used to improve the utility of the land for grazing. PED III-24. Climatological information was gathered by the Geological Survey and UII.

Petitioners and other commenters objected to the use of these data stating that the soils in the areas studied are flat, well-drained, rich, sandy loams ideally suited for plant growth. In contrast, they stated, the areas that will be mined are steep and stony and the reconstructed soils in these areas will be a poor medium for growth. In addition, petitioners claimed that management practices such as chaining do not disturb the natural soils as do the earth-moving operations associated with mining. Petitioners also claimed that many of the areas studied by the Forest Service and BLM are too small to produce the representative data necessary to study the potential for reclamation.

Although the studies did not precisely simulate the conditions associated with mining, revegetation has been successful in large areas of surface disturbance (chaining) and in the smaller plots where soil movement and redistribution were used to simulate major surface disturbances. PED III-26. In addition, the studies have shown that chemical and physical characteristics of soils in the EMRIA study area are very similar to the major soils found in the Alton area. PED III-26 and Table IIIB6-7 at PED III-26b. Significant vegetative cover was established in all of the areas studied. In the majority of areas studied, the vegetative cover either exceeded or was not significantly different from the major plant communities existing within the petition area. PED III-24 and III-25. The methodology for determining
vegetative cover is described in the PED, Chapter V, Part B. Petitioners' statements regarding potential insect infestation and slow growth rates are not substantiated. PED III-24 and III-25.

As stated in the PED, it is appropriate to extrapolate from these studies in order to determine whether revegetation after mining is feasible. PED Comments at 588-590 (response to comments of Robert Curry). Based upon the numerous studies, the variety of study conditions and the fact that no vegetation type conversions have failed within the petition area during the past 20 years, I conclude that petitioners' contentions on this issue must be rejected.

2. Topsoil.

Petitioners claimed that insufficient topsoil exists in the petition area to support successful revegetation and that the physical and chemical characteristics of the overburden (including sodium content and lack of nutrients) will inhibit plant growth. As noted above, a large amount of information about the soils in the petition area can be used to evaluate this contention. Even assuming disturbance of all 16,747 acres containing surface stripable coal (PED III-27), the studies show that sufficient "good" and "fair" material is available for replacement on the stripped area to a depth of six inches and sufficient "poor" material is available for replacement to a depth of 23 inches. The characteristics of the "good," "fair," and "poor" categories of reconstructed soils for drastically disturbed areas are shown on Table IIIb6-10 at PED III-28d. This estimate of about 30 inches for the total depth of suitable plant growth material is further substantiated by UII's study which shows that 22
to 37 inches of suitable material is available for reclamation. Western Ecological Services Co., July 1980, PED VII-12; see also PED Comments at 420 (comment of UII). These depths may be increased with the use of approved overburden materials as a supplement to or substitute for topsoil. 30 CFR 816.22(e).

Petitioners also claim that topsoil stored in piles during mining operations is subject to some erosion and degradation of biological activity. Current regulations, however, require that temporary topsoil piles be protected from erosion and contaminants. 30 CFR 816.23; PED III-28. Petitioners' allegation that topsoil suffers biological degradation when stored for long periods is not supported by current data PED III-28. I therefore conclude that the petition area contains sufficient topsoil that is suitable for plant growth to support successful revegetation of surface mined areas.

3. Overburden.

Three studies, the EMRIA report cited above, the SWA report prepared for UII, and a study of 16 drill holes performed by UII, have demonstrated that suitable overburden for reclamation exists in the petition area. PED III-28. Estimates of the depth of suitable plant growth material in the petition area ranged from 15 to 298 feet. PED III-28. These studies, however, do not substantiate petitioners' claims that the overburden has a high sodium content. The effects of a high sodium content (measured as sodium absorption ratio—SAR) are detailed in Dr. Coats' affidavit, Pet. Ex. 2 ¶¶10-11. The problems of sodic overburden can be controlled, however, by burial under topsoil and better quality overburden. Burial with four feet of good quality

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overburden or comparable treatment is required by applicable regulations. 30 CFR 616.103; PED III-29. Such burial or treatment should suffice because studies show that burial with far less good quality topsoil (only 5 cm.) can substantially reduce sodic damage. While upward movement of sodium may occur over time, research suggests that proper burial mitigates the effects of this migration. PED III-29.

Dr. Frischknecht has found no increase in sodium in four years of testing soil samples. Tr. 9/29-30/80, p. 89.

Accordingly, I conclude that suitable overburden for reclamation exists in the petition area.

4. Vegetation Diversity.

Petitioners claimed that non-native species should not be permitted to spread to Bryce Canyon National Park and interfere with the park's natural systems. Pet. Ex. 2 ¶26. They also argued that any attempted reclamation will be lacking in vegetation diversity. Pet. Ex. 2 ¶27.

Revegetation with native species is required by the Surface Mining Act, although introduced species may be used if it is shown that they will not interfere with natural systems. 30 U.S.C. § 1265(b)(19 Non-native species have been introduced in the study areas close to Bryce Canyon National Park. These species of plants have not been shown to be a threat to the park. PED III-26.

Specific diversity tests on the vegetation in the petition area were conducted by OSM. Tabulated results appear in Tables IIIB6-11, IIIB6-12, and IIIB6-13 at PED III-29 to III-30. These studies indicate that the vegetation communities are generally more evenly dis-
tributed within the areas that have been revegetated than in the exist
isting communities of the petition area. PED III-30. It is signifi-
cant that this distribution occurred even though the revegetated por-
tions of the study area were planted with seed mixtures containing on
one or two species. PED Comments at 419 (comments of UII). Seed mix
design will be critical to the achievement of postmining vegetation
diversity requirements; however, numerous different species have been
successfully established on experimental plots within the petition
area. Table IIIB6-14 at PED III-30b.
I therefore reject petitioners' claims that non-native species
should not be used in revegetation and that revegetation would result
in a lack of vegetation diversity.

5. Climate.

Petitioners stated that the climatic conditions in the area also
would impede revegetation because large storms common to the area wou
increase erosion and replacement of forest cover with alternating area
of grassland and bare soils would cause changes in climate ("dessica-
tion"). Pet. ¶18. Variability in precipitation and evaporation
make irrigation essential for plant growth but an adequate supply
of suitable water for irrigation is not present. The available
water is of poor quality and its use would aggravate the sodium

Severe spring thunderstorms, accompanied by high winds, and less
severe summer convective storms occur in the petition area. Such
storms can cause significant damage, including erosion. PED II-2.
Furthermore, the drying or "dessication" effect caused by the increased surface temperatures of disturbed soils and wind may be enhanced when the predominant pinyon-juniper community is removed. PED III-32. However, substantial surface acreage within the petition area has been disturbed and successfully revegetated. These revegetation successes have occurred over long periods of time (10-20 years) and on plots of land ranging from 2,000 to 3,300 acres, surface disturbances which far exceed the annual disturbance of potential mining operations assumed in the Department's analysis. PED II-9, III-32. Furthermore, these areas have been successfully revegetated under a variety of weather conditions and no large scale revegetation failures have been reported or observed. PED II-32; PED Comments at 600-601 (response to testimony of Robert Curry).

Petitioners' claim that disturbed areas will have to be irrigated is also refuted by the available evidence. The annual precipitation characteristic of this area (PED II-2, III-27 and Table IIIB6 at PED III-28c) is apparently sufficient for revegetation since large disturbed areas in this region have been successfully reseeded without the aid of irrigation. PED III-31. Petitioners and other commenters characterize the precipitation of the last four years (when the studies were conducted) as atypical. PED Comments at 324 (comments of Sierra Club Legal Defense Fund) and 601 (testimony of Robert Curry). They suggest that more representative data is available in sources analyzing the historical weather conditions in the region and in Utah. Ibid. The Department has relied on site-specific data obtained from the

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surrounding areas rather than "precipitation data extrapolated from regional or State averages." PED Comments at 599 (response to testimony of Robert Curry). These precipitation measurements, together with 20 years of success on chained areas and experimental plots without the aid of irrigation, demonstrate that vegetation can be established on disturbed soils in this area under natural weather conditions. I therefore find that petitioners have not shown that climatic conditions will be an insurmountable barrier to successful revegetation of disturbed soils in the petition area.

B. Hydrologic Balance.

Petitioners claimed that surface coal mining operations in the petition area would irreparably harm the hydrologic balance and water quality and quantity both within and without the petition area. Pet. ¶¶12-15. Such operations allegedly would destroy and permanently alter aquifers and associated springs (including the Navajo Sandstone aquifer) which are the principal sources of water for many important land uses in the area. Pet. ¶13. Agricultural activity would be adversely affected because the essential hydrologic functions of alluvial valley floors would be altered and damaged. Pet. ¶15. The erosion, flooding and sediment caused by mining operations and aggravated by revegetation failures would adversely affect streams in the area and result in loss of pasture and cropland. Pet. ¶15.

The quality and quantity of water is a major concern in the State of Utah and is of special concern in the petition area. Springs and wells in the area are important sources of water for agricultural, livestock and other uses. PED II-5 to II-6. The
major ground water resource in the petition area is the Navajo sandstone aquifer, an aquifer of good chemical quality. PED II-7 to II-8. While the Department's studies suggest that mining operations may alter the hydrologic balance in and around the petition area, uncertain, insufficient and conflicting data concerning the hydrologic balance preclude accurate assessment of potential changes or adverse impacts, at least until specific mining and reclamation plans/permit applications are evaluated in the future. PED Comments at 301 (response to comments of Sierra Club Legal Defense Fund).

I therefore find, as described below, that petitioners' contentions that surface coal mining operations would adversely affect the hydrologic balance are not supported by the record.

1. Destruction of Aquifers and Associated Springs

The Department's studies indicate that proposed mining operations will not destroy all local aquifers as claimed by petitioners. Only parts of one localized aquifer -- the aquifer in the Dakota sandstone coal-bearing formation -- would be destroyed by mining. PED II-14. Other local aquifers that supply springs in the petition area will not be affected because a 650-700 foot shale barrier separates the aquifers from the coal-bearing material that will be mined. PED III-14. This separation is graphically displayed in Figure IIA-2 at PED II-2.

Extensive information is available on springs in the area. PED III-13. Of the 44 springs in or near proposed mining areas that are shown in existing reports and on existing maps, 20 springs in or near the Dakota formation would be destroyed or significantly affected, while 24 springs are not likely to be affected. PED III-13. The
of water for the 20 affected springs is estimated to be 132 acre-feet per year. *Ibid.* Distribution of replacement water from the affected springs will not be difficult, and there will be sufficient time before loss occurs to conduct necessary studies and provide for water replacement. *Ibid.* In addition, UII has committed to develop alternative surface water sources as necessary to replace spring waters lost during mining operations. PED Comments at 411-412. Finally, the yields of the unaffected springs are appreciably greater than the yields of the affected springs. The estimated annual yield of the 24 unaffected springs is 550 acre-feet, as opposed to 132 acre-feet for the 20 affected springs. PED III-13 to III-14.

Underground mining in the petition area could cause local water-level declines, changes in direction of water flow, increased discharge to lower beds and diversion of surface runoff into the ground. PED I: 15. The amount of diversion would not exceed average annual runoff of 20 to 25 acre-feet per square mile, but probably would range from one-fourth of the annual runoff. PED III-15. Moreover, runoff so diverted would not be lost, but would be stored and eventually discharged, probably elsewhere in the same drainage area. PED III-15.

The water needs of an increased population created by mining in the petition area are estimated at 700 acre-feet per year and are probably the only long-term unavoidable impact on water supplies (assuming a long-term increase in population). PED III-15. UII assert that consumptive use of water by humans should be considered "a long term beneficial and best use" of the resource. PED Comments at 412. Water supplies for increased population would have to be developed.

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or diverted from present uses. Ibid. The deep ground-water source of the Navajo sandstone aquifer has not been developed or appropriated for use by the State of Utah. PED II-8. The effects on the Navajo sandstone aquifer discussed below would be increased proportionately if an additional 700 acre-feet per year were pumped from it. PED III-15.

I find that the record does not support petitioners' allegations that mining in the petition area would destroy all local aquifers and associated springs.

2. Alluvial Valley Floors.

The Department sponsored a study which identified alluvial valley floors that may underlie agricultural portions of the petition area. This 1980 study by Jack C. Schmidt, Earth Resources Consulting, updated a 1977 study that found no alluvial valley floors in the Alton coal lease area. PED Comments at 133-134 (comments of Environmental Defense Fund) and 32 (Comments of UII). The location of possible alluvial valley floors is depicted in Figure II-B4-1 at PED II-8a. No commenter (including the petitioners and intervenors) has been able to determine whether the "essential hydrologic functions" of alluvial valley floors, as defined at 30 CFR 701.5, in the petition area will be damaged. The Surface Mining Act and applicable regulations require, however, that any future mining in these areas must be conducted so as to preserve or reestablish the essential hydrologic functions of identified alluvial valley floors. Sections 510(b)(5) and 515(b)(10); 30 CFR 785.19 and 822. A final determination on this issue will thus be made in reviewing specific mining and reclamation plans/permit applications in the future. I find that sufficient evidence is not available.
upon which to determine whether mining in the petition area will damage the essential hydrologic functions of alluvial valley floors.

3. Erosion and Effects on Streams Channels.

The record does demonstrate that surface coal mining operations in the petition area will cause increased erosion and surface runoff. This short-term impact would result from the removal of vegetation, topsoil, and overburden handling and road construction associated with mining. PED III-15 and III-16. Reclamation activities such as regrading have similar effects. In particular, the longer post mining slopes resulting from regrading steep slope areas and the decreased infiltration on reclaimed lands may cause an increase in erosion. PED III-16. In turn, increased sediment in streams may change the sediment-carrying characteristics and locations of receiving streams. Ibid.

The presence of significant amounts of gravel in the stream beds of all major streams crossing strippable lands in the petition area and applicable regulations (concerning post mining topography, stabilization of gullies and rills created by erosion and general hydrologic balance) would limit long term effects on stream channels. Ibid.; 30 CFR 816.41-.57 and .100-.106; PED Comments at 24 (comments of BLM Cedar City, Utah, District Office) and 299 (comments of Sierra Club Legal Defense Fund). Furthermore, the record contains strong evidence that revegetation of mined areas will be successful. See findings on soils and revegetation above. Accordingly, any short term erosion and sediment effects will decrease and productivity of soils will increase as slopes become stabilized and vegetation reestablished.
I therefore conclude that surface coal mining operations in the petition area will not cause long term adverse erosion and sediment effects, and that the short term impacts of mining will not inhibit reclamation of mined areas.

4. The Navajo Sandstone Aquifer.

The relationship between the coal within the petition area and the proposed Allen-Warner Valley Energy System is described in the Bureau of Land Management's environmental impact statement on that system. Allen-Warner Valley Energy System Final Environmental Impact Statement (AWV EIS), Volume 1, Chapter 2. Briefly, under the AWV proposal, coal within the Alton leasehold would be crushed, cleaned and combined with water at a preparation plant to form a coal slurry. AWV EIS, Volume 1, p. 2-5. The coal slurry would be pumped from the preparation plant in two separate steel 12-inch diameter pipelines to two power plants. Water needed for the preparation plant and coal slurry pipelines would be supplied from deep wells drilled in the Navajo sandstone aquifer. Ibid.

The State of Utah (PED Comments at 56 and 72), El Paso Coal Company (PED Comments at 107) and UUI (PED Comments at 435-436) have steadfastly maintained that the question of pumping water from the Navajo sandstone aquifer for the slurry pipelines is not a proper issue in this designation proceeding, but is an issue solely within the jurisdiction of the State of Utah. In contrast, petitioners have maintained that the slurry system and its potential effects on the Navajo sandstone aquifer must be considered in the context of whether reclamation is technologically and economically feasible (PED Comment at...
113-114 (comments of Environmental Defense Fund) and that pumping is within the Surface Mining Act's definition of "surface coal mining operations" (PED Comments at 321 (comments of Sierra Club and Friends of the Earth)).

The Department, through the Assistant Secretary for Energy and Minerals, has acknowledged during public hearings that the issue of water rights is within the exclusive domain of the State of Utah and not within the Secretary of the Interior's authority (9/29-30/80 Tr. p. 472-473); see also PED Comments at 663 (response to testimony of John Ferrell). The Department's specific responsibility, if any, to consider the impacts of the proposed coal slurry pipeline on water quality and quantity (see Section 515(b)(15) of the Surface Mining Act) can only be determined once a specific mining and reclamation plan/permit application is filed.

Petitioners' claims concerning the Navajo sandstone aquifer were analyzed by the Department because petitioners alleged that pumping from the aquifer would adversely affect users who depend on it for water supplies. 9/29-30/80 Tr. p. 473. The PED analysis of this indicates that pumping water from the Navajo sandstone aquifer for years may adversely affect the quantity of water in springs and wells in the petition area. PED III-19. These effects may extend well beyond life of the mine because the petition area's ground water system has a slow response time. Ibid; PED Comments at 35 (comments of National Park Service, Rocky Mountain Regional Office).

As noted in both the PED (III-20) and the AWV EIS (4-3), there conflicting information on the characteristics and recharge capabil
of the Navajo sandstone aquifer. As a result, accurate predictions of timing and location of impacts on water quantity could not be made. See also, PED Comments at 24-25 (comments of BLM, Cedar City, Utah, District Office), 123-128 (comments of Environmental Defense Fund) and 293-295 and 297 (comments of Sierra Club Legal Defense Fund)). The Utility Commission of the City of St. George, Utah, reported that it has pumped millions of gallons of water from wells drilled in the Navajo formation with no effect on springs in the area either upstream or downstream. PED Comments at 85. Other commenters noted that substantial quantities of water have been pumped from the Navajo sandstone aquifer for many years (PED Comments at 106 (comments of Bingham Engineering)) and that public demand could never exceed the available water in the aquifer (PED Comments at 413 (comments of UII)). Pumping tests and other studies now being performed by UII should provide additional information on pumping effects that can be analyzed in the context of a specific mining and reclamation plan/permit application for the Alton leasehold. PED III-20; PED Comments at 35 (comments of National Park Service, Rocky Mountain Regional Office), 295 (comments of Sierra Club Legal Defense Club) and 436 (comments of UII).

Finally, insufficient data exist to evaluate fully whether loss of good quality water available for public and irrigation use and degradation of aquifer quality by leakage from adjacent areas containing water of poor quality would affect water quality. PED III-19. I therefore conclude that present data are inadequate to determine whether pumping from the Navajo sandstone aquifer would adversely affect present users of the aquifer.
In summary, I find that the record does not support petitioners' allegations that surface coal mining operations would significantly damage the hydrologic balance of the petition and surrounding areas by destroying aquifers and associated springs, by damaging the essential hydrologic functions of alluvial valley floors, by increasing erosion and sedimentation, and by reducing discharge from the Navajo sandstone aquifer.

C. Renewable Resource Lands.

Petitioners claimed that I should exercise my discretion to designate the petition area unsuitable for surface coal mining operations because proposed mining operations would adversely affect renewable resource lands and result in substantial loss or reduction of long-range productivity of water supply or of food or fiber products. Pet. ¶¶ 31-34. "Renewable resource lands" are defined to include "aquifers and areas for the recharge of aquifers and other underground waters, areas for agricultural or silvicultural production of food and fiber and grazing lands." Section 522(a)(3)(C); 30 CFR 701.5 and 762.11 (b)(3).

Petitioners' allegations concerning this designation criterion are closely related to the effects of mining on revegetation and hydrologic balance discussed above. Impacts cited by petitioners include destruction of aquifers and aquifer recharge capacity, accelerated erosion and sedimentation, and withdrawal of water from the Navajo sandstone aquifer. Pet. ¶¶12-15. Based on my prior statements and findings concerning revegetation and hydrologic balance, I decline to designate any of the petition area as unsuitable for mining on
the basis of the renewable resource criterion.

D. Alternative Energy Sources.

Finally, petitioners alleged that "the planned AWV System (including the proposed Alton Coal Mine in the affected area) is not necessary to meet electrical energy needs." Pet. ¶36. They drew the conclusion that damage to important resources within the petition area can be avoided by developing other environmentally preferable and economically superior alternative energy sources, such as solar, conservation, cogeneration, geothermal, wind and hydropower. Pet. ¶¶35 and 36. Several commenters disagreed with petitioners' conclusions that alternative energy sources are preferable or stated that any consideration of such alternatives is more appropriate in the context of the Department's forthcoming decision on the Allen-Warner Valley System. PEI Comments at 56 (comments of the State of Utah), 611 (testimony of Rob Houston), 640 (testimony of Jeannine Holt) and 682 (comments of M. Douglas Ahlstrom).

The issue of alternative energy sources has been evaluated in the PED, as provided by Section 522(d) of the Surface Mining Act and 30 CFR 769.17(e). This issue was also appropriate for consideration in compliance with the National Environmental Policy Act. 40 CFR 1502.14. Several specific alternatives to the Allen-Warner Valley System have been analyzed in detail in BLM's Environmental Impact Statement on that system. AWV EIS, Volume 1, Chapters 2 and 4.

I have concluded, however, that possible alternative energy sources do not constitute a basis for designating lands unsuitable for mining under Section 522(a) of the Surface Mining Act. Accord-
ingly, I have deferred consideration of those alternatives to my consideration of the rights-of-way for the Allen-Warner System.

VI. FUTURE FEDERAL ACTION.

Under the terms of my decision dated December 16, 1980, as explained in the above Statement of Reasons, I have designated certain Federal lands unsuitable for surface coal mining operations in order to prevent significant damage to Bryce Canyon National Park. I have declined to designate other areas of Federal lands unsuitable for mining. Nonetheless, it is likely that a variety of future Federal actions may be sought either in undesignated areas or for underground mining in the designated areas. In the future, specific proposals may be received by Federal agencies, such as right-of-way or mineral lease applications or mining claim plan of operations to the Bureau of Land Management, or oil and gas drilling permit applications to the U.S. Geological Survey or mine plan/permit applications to the Office of Surface Mining. Whenever bureaus of the Department receive such applications or requests, they are directed by paragraphs 6 and 7 of my decision to take all necessary actions to implement this decision, including referral to the National Park Service of applications and requests that may affect Bryce Canyon National Park or the values for which it was established, and to take these factors into account in deciding whether to allow such activities on non-designated Federal lands near the park or underground mining in the designated area.

As set forth in the proclamation establishing Bryce Canyon National Park (Presidential Proclamation No. 1655, 43 Stat. 1914 (June 8, 1923)), the park's significant values are "unusual scenic
beauty, scientific interest and importance." This proclamation is reinforced by the mandates of the Act of August 25, 1916 creating the National Park Service (National Park Service Organic Act), as amended, 16 U.S.C. §§ 1, 2, 3 and 4, to preserve the "scenery and the natural and historic objects and the wildlife therein" and to "leave them unimpaired for the enjoyment of future generations," and the directive of 16 U.S.C. § 1a-1 to protect, manage and administer the park in light of the "high public value and integrity of the National Park System" and in conformity with the values and purposes for which the park was established. In order to fulfill these responsibilities, the Department bureaus that review future potential actions on Federal lands must ensure that such activities will not cause significant adverse impacts on Bryce Canyon National Park and that the values for which the park was established will be protected.

On the other hand, exploration for coal and other minerals may be conducted on Federal lands within the designated area and throughout the Alton and Henderson coal fields, so long as the requirements of applicable mining and minerals laws are satisfied. Those laws include Section 522(a)(1) of the Surface Mining Act (30 U.S.C. § 1272(a)(1)), Sections 2(b), 8A, 9 and 23 of the Mineral Leasing Act (30 U.S.C. §§ 201(b), 208-1, 211 and 261), Sections 302(b) and 504(f) of the Federal Land Policy and Management Act (43 U.S.C. § 1732(b) and 1764(f)), and Sections 2 and 9 of the Mining in the Parks Act (16 U.S.C. §§ 1902 and 1908). The procedural and substantive requirements for such exploration include the Department's regulations at 30 CFR Part 744 and 43 CFR 3410 and 3416.6

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Div. of Oil, Gas & Mining
(coal exploration), as well as 36 CFR Part 9 (mining in the parks) and 43 CFR Parts 3045, 3802 and 3809 (other mineral exploration).

On undesignated areas of the Alton and Henderson coal fields where Federal coal has already been leased, the lessees must file with OSM specific mining plans/permit applications in order to obtain permission to conduct surface coal mining. Within the designated area, lessees must apply to conduct underground mining so long as that mining will not produce surface impacts that are visible from Bryce Canyon National Park except in T. 36S, R. 2W, of the Salt Lake Meridian, where visible surface impacts from underground mining may be permitted. See paragraphs 1 and 5 of my decision. In order to obtain approval to conduct mining, the lessees must comply with the Department's regulations governing mining on Federal lands (30 CFR Subchapter D), as well as any applicable regulatory requirements of the State of Utah.

If Utah obtains my approval to assume exclusive jurisdiction over the regulation of surface coal mining and reclamation operations under Section 503 of the Surface Mining Act, it will then be eligible to enter into a cooperative agreement with the Department to regulate mining on Federal lands within Utah. Upon signing such an agreement, Utah would be primarily responsible for implementing and enforcing the permanent regulatory requirements of the Surface Mining Act for coal mining on Federal lands. The Department will still retain authority to approve mining plans, designate lands unsuitable for mining and regulate other activities on Federal lands, as provided in Sections 503(a)(5) and 523(c) of the Surface Mining Act.

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Once a mining plan/permit application for the Alton or Henderson coal field is received, it will then be reviewed by the Department and the State of Utah according to applicable State and/or Federal regulations. Upon receipt of an application, public notice will be issued and public hearings conducted pursuant to Section 513 of the Surface Mining Act. Federal, State or local governmental agencies will have an opportunity to file written objections to the application. 30 CFR 786.12.

At that time, the National Park Service and the Office of Surface Mining will review the application to determine, as required by paragraph 5 of my decision, whether mining of these Federal leases would cause adverse impacts on the visual resources and noise levels in Bryce Canyon National Park. They may then recommend that special stipulations or conditions to mitigate such damage be included in the Department's decision on the mining plan/permit application, as provided in 30 CFR 741.18, 761.12 and 786.19.

As to any Federal lands within the designated area that are not ready subject to Federal lease, the Bureau of Land Management shall, under paragraph 7 of my decision, ensure that surface coal mining operations are limited in accordance with Section 552(b) of the Surface Mining Act. Such limitations may include appropriate conditions on any leasing of the area for coal development or withdrawal of the land for leasing, as provided in 43 CFR 1601.6-6.

VII. LESSEE-INTERVENER'S CLAIMS OF SUBSTANTIAL LEGAL AND FINANCIAL COMMITMENTS.

Section 522(a)(6) of the Surface Mining Act provides that an unsuitability designation shall not apply to lands "where substantial

I understand that various companies holding leases in the petition area have intervened in this proceeding and have requested determinations by OSM, in accordance with 30 CFR Part 762. A preliminary decision by the Director of OSM on lessees' requests will be published subsequently in the Federal Register. Thereafter, all interested persons will be afforded an opportunity to comment on OSM's preliminary findings and to provide OSM with additional information concerning the requested exemptions. A final decision will then be issued by the Director of OSM, taking into account all such comments. Any appeal of that decision may be taken to the Department's Office of Hearings and Appeals, as provided in 43 CFR 4.1280-4.1286. I will therefore refrain from rendering any decision on those requests because I have delegated to the Board of Surface Mining Appeals the authority to make a final decision for the Department on such matters.

VIII. CONCLUSION.

The provisions of 30 CFR 769.18 will be followed in issuing this statement of reasons. Copies will be sent simultaneously by certified mail to the petitioners, the State of Utah, the intervenors and every other party to the petition proceeding. My decision of December 16, 1980, becomes final upon the date of signing this statement and any appeal from this decision must be filed within 60 days from this date in the United States District Court for Utah, as required by Section 526(a)(1) of the Surface Mining Act, 30 U.S.C. § 1276(a)(1).

DATE: 1-3-81

CECIL D. ANDRUS

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Div. of Oil, Gas & Mining
ALTON MINE PETITION RULING -- Magnified area at right includes the 325,200-acre portion of southern Utah that was studied in the Alton mine petition. Secretary Andrus banned surface mining and surface effects of underground mining in the area nearest to Bryce Canyon National Park. The box area at upper right, cut off by dotted lines, and the portion of the Federal coal lease area at lower left west of the vertical dotted line, would be open to mining under the decision. Shaded area is the Alton coal field. About 10 percent of the mineable coal would be excluded from surface mining by the decision. -- Interior Dept.
APPENDIX 1-4

Certificate of Liability Insurance
CERTIFICATE OF LIABILITY INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Jacobs Vanaman Agency, Inc.
530 MAIN ST.
PO BOX 370
COSHOCTON OH 43812

CONTACT NAME: Rosemary Turner
PHONE: (740) 622-1796
FAX: (740) 622-1798
E-MAIL: Rosie.Turner@jva-ins.com

INSURED
Alton Coal Development, LLC
P O Box 1058
507 Main Street
Cochecton OR 43812

CONTACT NAME: American Mining Insurance Co
INDIVIDUAL OR BUSINESS NAME: Rosemary Turner
PHONE: (740) 622-1796
FAX: (740) 622-1798
E-MAIL: Rosie.Turner@jva-ins.com

COVERAGES

CERTIFICATE NUMBER: CL1412804177

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

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DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

PERMIT # CO250005

Blasting coverage is provided for the insured's operations per General Liability form CG0001 0413

DECEMBER 2, 2014

Ur. of Oil, Gas & Mining

CERTIFICATE HOLDER
Utah Division of Oil, Gas and Mining
P O Box 145801
Salt Lake City, UT 84114

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Rex Snyder/RFT

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APPENDIX 1-5

Proof of Publication
Affidavit of Publication

STATE OF UTAH       )
COUNTY OF KANE      )

I, Dennis A. Brunner, being duly sworn, deposite and say that I am General Manager of the SOUTHERN UTAH NEWS, a weekly newspaper of general circulation for Kane County, Utah and Coconino County, Arizona, and published every Wednesday at Kanab, Utah, and the notice attached hereto,

was published in said newspaper for:                           FOUR

consecutive weeks, the first publication on:                    3/26/08

and the last on:                                               4/16/08

that said notice was published in the regular and entire issue of every number of the paper during the period and times of publication, and that the same was published in the newspaper proper and not in a supplement.

Subscribed and sworn to before me April 30, 2008

Shannon Allen, Notary Public

Residing in Kanab, Utah.

My commission expires: 5-24-08

SHANNON ALLEN
NOTARY PUBLIC - STATE OF UTAH
98 WEST CENTER
KANAB, UTAH 84741
COMM. EXPIRES 5-24-2008

INTEGRATED
OCT 15 2009
Div. of Oil, Gas & Mining
Legal Notice
Public Notice for Permit Application

Notice is hereby given that Alton Coal Development, LLC is applying for a permit to conduct mining operations at the Coal Hollow Mine in Kane County, South Central Utah. The business address for Alton Coal Development is:

Alton Coal Development, LLC
463 North 100 West, Suite 1
Cedar City, UT 84720

Alton Coal Development has filed with the Utah Division of Oil, Gas & Mining a Mining and Reclamation Plan (MRP) application number C025/0005. This Application has been filed for the Coal Hollow Mine, a surface coal mining operation. The Coal Hollow Mine is located approximately 35 miles north of Kanab, Utah and approximately 4 miles south of the town of Alton, Utah.

Project Area Legal Description
All certain real property situated in Township 39 South, Range 5 West, SBL&M, Kane County, Utah, more particularly described as follows:

DESCRIPTION: TOWNSHIP 39 SOUTH-RANGE 05 WEST, SBL&M Section 30: All of Section Lot #1 (NW1/4 NW 1/4; NE1/4 NW1/4; N1/2 NE1/4).

Also: Beginning 3.50 chains West of the East Quarter corner of Said Section 30, and running South 34°34' West 22.64 chains to the 1/16 section line; thence North 40.00 chains; thence East 20.00 chains; thence South 14.69 chains; thence Southwesterly to the point of beginning... containing 61.96 acres, more or less.

DESCRIPTION: TOWNSHIP 39 SOUTH-RANGE 05 WEST, SBL&M Section 29: Beginning at the Northwesterly corner of Said Section 29, and running thence South 34°34' East 5.31 chains North of the E1/4 corner of Said Section 30, and running thence South 45.31 chains; thence West 20.00 chains; thence North 20.00 chains; thence East 2.64 chains; thence North 34°34' 22.64 chains to the 1/16 section line; thence North 33°22' East to the point of beginning... containing 61.96 acres, more or less.

DESCRIPTION: TOWNSHIP 39 SOUTH-RANGE 05 WEST, SBL&M Section 20: SW1/4 SE1/4... containing 160.0 acres, more or less.

Notice is hereby given that Alton Coal Development will relocate to allow for mining operations. This relocated section begins approximately three miles south of the Town of Alton and will reconnect with the original road approximately five miles south of the Town. This relocation will occur in year one of mining operations and is expected to be reestablished to the approximate original location in a time frame ranging from year four to year five of the mining operation.

The permit application area is located on the Alton, Utah, U.S. Geological Survey 7.5 minute quadrangle map. The application was filed and this notice is prepared and published to comply with the Surface Mining Control and Reclamation Act of 1977 and State and Federal regulations promulgated pursuant to said act.

A copy of Alton Coal Development’s permit application will be filed for public inspection at:
Kane County Recorder Office
76 North Main
Kanab, Utah 84741; and

The State of Utah
Department of Natural Resources
Division of Oil, Gas & Mining
1549 West Temple, Suite 1210
Salt Lake City, Utah 84116

Written comments, objections or requests for informal conferences on the application may be submitted to the Division of Oil, Gas and Mining at the following mailing address:
Department of Natural Resources
Division of Oil, Gas & Mining
P.O. Box 145801
Salt Lake City, Utah 84114-5801

Written comments or objections must be submitted within 30 days following the final publication of this advertisement.

PUBLIC NOTICE

Petition for annexation have been filed in the office of the Kanab City Recorder for the purpose of requesting annexation of parcels of land belonging to WSC Partners LLC located at approximately NW 1/4 & S1/4 of Section 4, T44S, R9W S.B.M., more specifically described as follows:

BEGINNING AT THE WEST QUARTER CORNER OF SECTION 4, TOWNSHIP 44 SOUTH, RANGE 6 WEST, OF THE SALT LAKE BASE AND MERIDIAN; THENCE NORTH 52°56'34"E ALONG THE SECTION LINE AND RUNNING S00°00'00"E, 384.54 FEET; THENCE S00°00'00"W, 110.67 FEET TO THE SOUTH L1NE OF THE RONALD R. SMITH PROPERTY; THENCE S89°52'02"W, ALONG SAID LINE, 294.98 FEET; THENCE S00°07'58"E, 75.21 FEET; THENCE S89°52'02"W, 33.87 FEET; THENCE S00°07'56"W, 261.75 FEET TO A POINT LOCATED ON THE EAST CENTRE SECTION LINE; THENCE S89°52'02"W, ALONG SAID LINE, 65.33 FEET TO THE 1/16TH CORNER; THENCE S00°30'48"W, ALONG THE 1/16TH LINE 288.03 FEET; THENCE S00°30'48"W, ALONG THE 1/16TH LINE 15, 2008 beginning at 7:00 p.m. and the Public Hearing before the Kanab City Council will be held on April 22, 2008 beginning at 7:00 p.m. Hearings will be held in the Kane County Court House located at 76 North Main, Kanab, Utah.

Kanab City may grant the petition and annex the area described in the petition unless a written protest to the annexation is filed with the Kane County Boundary Commission located at 76 North Main, Kanab, Utah 84741.

If no protest is filed during the protest period, Kanab City will hold a public hearing to consider the annexation request. Kanab City Planning Commission will hear the request on April 15, 2008 beginning at 7:00 p.m. Notice of the hearing is hereby given.

Keith McAllister
Kanab City Recorder

Published in the Southern Utah News on March 26, April 2, 9 & 16, 2008.
APPENDIX 1-5

Proof of Publication
Original
Coal Hollow Mine
Publication
Affidavit of Publication

STATE OF UTAH  )
COUNTY OF KANE    )

I, Dennis A. Brunner, being duly sworn, depose and say that I am General Manager of the SOUTHERN UTAH NEWS, a weekly newspaper of general circulation for Kane County, Utah and Coconino County, Arizona, and published every Wednesday at Kanab, Utah, and the notice attached hereto,

was published in said newspaper for: FOUR consecutive weeks, the first publication on: 3/26/08 and the last on: 4/16/08

that said notice was published in the regular and entire issue of every number of the paper during the period and times of publication, and that the same was published in the newspaper proper and not in a supplement.

Subscribed and sworn to before me April 30, 2008

Residing in Kanab, Utah.

My commission expires: 5-24-08

SHANNON ALLEN
NOTARY PUBLIC - STATE OF UTAH
98 WEST CENTER
KANAB, UTAH 84741
COMM. EXPIRES 5-24-2008

INCORPORATED
FEB 02 2016
Div. of Oil, Gas & Mining
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483 North 100 West, Suite 1
Cedar City, UT 84720

Alton Coal Development has filed with the Utah Division of Oil, Gas & Mining a Mining and Reclamation Plan (MRP) application number CO2520005. This Application has been filed for the Coal Hollow Mine, a surface coal mining operation. The Coal Hollow Mine is located approximately 10 miles north of Kanab, Utah (the Kane County seat) and approximately 4 miles south of the town of Alton, Utah.

Project Area Legal Description
All certain real property situated in Township 39 South, Range 5 West, SLB&M, Kane County, Utah, more particularly described as follows:
DESCRIPTION: TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M, Section 30: All of Section Lot #1 (NW1/4 NW1/4), NE1/4 NW1/4, NE1/2 NE1/4.

ALSO BEGINNING 3 30 chains West of the E 1/4 Quarter corner of Said Section 30, and running South 24° 00' West 226.40 chains to the 1/16 section line, thence South 24° 00' West 2 64 chains to the southwest corner of NE1/4 SE1/4 of Said Section 30; thence North 40 00' chains; thence South 45.31 chains; thence South 34 ° 34' East 264.00 chains; thence South 22° 50' East 3 00.07'58" E, thence North 45°31'53" E, thence North 12.30 chains, thence West 22.23 chains to the point of beginning, containing 61.96 acres, more or less.

DESCRIPTION: TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M, Section 39: BEGINNING at a point South 33° 32' West 35 50 chains, thence North 40° 05' West 2 00 chains; thence North 30° 50' West 12.30 chains; thence West 22 23 chains to the point of beginning, containing 36.02 acres, more or less

DESCRIPTION: TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M, Section 39: BEGINNING at the North-west corner of Said Section 29, and running thence South 34.69 chains, thence North 33°32' West 35 50 chains, thence North 40° 05' West 2 00 chains; thence North 35° 00' West 12.30 chains; thence West 22.23 chains to the point of beginning, containing 36.02 acres, more or less

DESCRIPTION: TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M, Section 19: SW1/4SE1/4, E1/2SW1/4, SE1/4NE1/4 , containing 160.0 acres, more or less

DESCRIPTION: TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M, Section 20: SW1/4, containing 160.0 acres, more or less

Notices of the certification was received by the Kane County Recorder on December 10, 2007. The complete application petition is available for inspection and copying at the office of the Kane County Recorder located at 76 North Main Street, Kanab, Utah. Kanab City may grant the petition and annex the area described in the petition unless a written protest to the annexation is filed with the Kane County Boundary Commission located at 76 North Main, Kanab, Utah 84741; and

A copy of Alton Coal Development's permit application will be filed for public inspection at:
Kane County Recorder Office
76 North Main
Kanab, Utah 84741; and

The State of Utah Department of Natural Resources Division of Oil, Gas & Mining
1549 West Temple, Suite 1210
Salt Lake City, Utah 84116

Written comments or objections to the application may be submitted within 30 days following the filing of the final publication of this advertisement.

PUBLIC NOTICE

Petition for annexation have been filed in the office of the Kanab City Recorder for the purpose of requesting annexation of parcels of land belonging to WSC Partners LLC located at approximately NW 1/4 & NW1/4 of Section 4, T44S, R2W, B4N, more specifically described as follows:
BEGINNING AT THE WEST QUARTER CORNER OF SECTION 4, TOWNSHIP 44 SOUTH, RANGE 2 WEST, OF THE SALT LAKE BASE AND MERIDIAN; THENCE N0°32'54"E, ALONG THE SECTION LINE AND ALONG THE EAST LINE OF THE KANAB CREEK RANCH SUBDIVISION, (UNITS 4, 6, AND 7), A DISTANCE OF 1,315.01 FEET TO THE 1/16TH CORNER, THENCE N89°53'23"E, ALONG THE 1/16TH LINE, 930.31 FEET, THENCE DEPARTING SAID LINE AND RUNNING S30°23'52"W, 404.25 FEET; THENCE S89°27'06"E, 122.50 FEET; THENCE S30°13'00"W, 574.10 FEET TO THE NORTH LINE OF THE RONALD R. SMITH PROPERTY; THENCE S89°52'02"W, ALONG S89°52'02"W, ALONG SAID LINE, 294.98 FEET; THENCE S0°07'58"E, 75.21 FEET; THENCE S30°02'57"E, 261.75 FEET TO A POINT LOCATED ON THE EAST-WEST CENTER LINE SECTION, THENCE S89°52'02"W, ALONG SAID LINE, 65.33 FEET TO THE 1/16TH CORNER, THENCE S0°30'46"W, ALONG THE 1/16TH LINE 268.03 FEET, THENCE DEPARTING SAID LINE AND RUNNING N89°59'57"W, 33.67 FEET; THENCE S0°30'46"W, 1,045.24 FEET TO A POINT LOCATED ON THE 1/16TH LINE, THENCE N89°59'57"W, 1,045.24 FEET TO A POINT LOCATED ON THE 1/16TH CORNER, THENCE S0°30'46"W, ALONG THE 1/16TH LINE, 260.98 FEET TO THE 1/16TH CORNER, THENCE N0°31'40"E, 1,331.68 FEET TO THE POINT OF BEGINNING CONTAINING 46.98 ACRES.

If no protest is filed during the protest period, Kanab City will hold a public hearing to consider the annexation request. Kanab City Planning Commission will hear the request on April 15, 2008 beginning at 7:00 p.m. and the Public Hearing before the Kanab City Council will be held on April 22, 2008 beginning at 7:00 p.m. Hearings will be held in the Kane County Court House located at 76 North Main, Kanab, Utah 84741.

Keith McAllister
Kanab City Recorder

Published in the Southern Utah News on March 28, April 2 and 9, 2008
STATE OF UTAH

COUNTY OF KANE

I, Dennis A. Brunner, being duly sworn, depose and say that I am General Manager/Publisher of the SOUTHERN UTAH NEWS, a weekly newspaper of general circulation published every Wednesday at Kanab, Utah, for Kane County, Utah and Coconino County, Arizona, and a designated agent of the Utah Press Association and the notice attached hereto, was published in said newspaper for:

FOUR consecutive weeks, the first publication on: 07/30/2015

and the last on: 08/13/2015

that said notice was published in the regular and entire issue of every number of the paper during the period and times of publication, and that the same was published in the newspaper proper and not in a supplement and that said notice was published on www.utahlegals.com on the same day as the first newspaper publication and the notice remained on www.utahlegals.com for one week after the final publication date.

Subscribed and sworn to before me 8-27-15

Notary Public

Residing in Kanab, Utah.

My commission expires: 8-24-16

CINDY FORRESTER
Notary Public
State of Utah
Comm. No. 655323
Legal Notice

Alton Coal Development, LLC has filed a complete application with the Utah Department of Natural Resources, Division of Oil, Gas & Mining for revision of the Mining and Reclamation Plan, Coal Hollow Mine, C/025/005. Alton Coal Development, LLC operates the Coal Hollow Mine, which is located on private land near the town of Alton, Utah. The revision will add approximately 295.633 acres of new private coal leases to the Coal Hollow Mine permit area.

Surface mining (traditional and highwall) will take place in coal reserves leased by Alton Coal Development, LLC. A legal description of the proposed areas for additional mining and reclamation activities are described as follows:

The following described lands located in Kane County, Utah within Sec. 12 & 13, T39S., R5W; and within Sec. 7 & 18, T39S., R5W:

Beginning at S 58° 16' 29" W a distance of 1,920.87' from Section Corner T-18-12-13., T39S., R5 W; thence N 89°29'27" W a distance of 823.81'; thence S 00°00'38" E a distance of 1313.93'; thence S 85°46'32" E a distance of 479.40'; thence S 89°44'30" E a distance of 1861.88'; thence S 54°58'33" E a distance of 226.53'; thence S 89°45'07" E a distance of 1235.50'; thence N 00°41'09" E a distance of 1322.97'; thence N 00°41'09" E a distance of 1322.97'; thence S 89°30'20" E a distance of 241.42'; thence N 00°51'49" E a distance of 1323.52'; thence N 89°22'58" W a distance of 249.30'; thence N 89°58'02" W a distance of 2923.34'; thence S 00°24'59" W a distance of 2328.09'; which is the point of beginning, having an area of

295.633 acres

County Road 136 currently intersects the Coal Hollow Mine North Private Lease Area. Approximately 0.6 miles of this road will be temporarily relocated to allow for mining operations. This relocated section begins approximately 0.8 miles south of the Town of Alton and will reconnect with the original road approximately 1.4 miles south of the Town. This relocation will occur in year one of the mining operation and is expected to be reestablished to approximate original location in a timeframe ranging from year three to year five of the mining operation. The proposed relocation of the County road is within the North East Quarter, Section 13, Township 39 South, Range 6 West, SLB&M, Kane County, Utah.

The address of the applicant is:

Alton Coal Development, LLC
483 North 100 West, Suite 1
Cedar City, Utah 84720

After filing, copies of this permit revision will be available for inspection at the Kane County Court House, and at the Utah Division of Oil, Gas & Mining website under Coal Permit files.

Written comments or requests regarding this permit revision must be made within thirty (30) days of the last publication of this notice, and may be addressed to the Utah Division of Oil, Gas & Mining, 1594 West North Temple, Suite 1210, Salt Lake City, Utah 84114-5801.

Published in the Southern Utah News on July 23, 30, August 6 and 13, 2015.

INCORPORATED
FEB 02 2016
Div. of Oil, Gas & Mining
5-Year Renewal
Coal Hollow Mine
Publication
Affidavit of Publication

STATE OF UTAH  )
COUNTY OF KANE  )

I, Dennis A. Brunner, being duly sworn, depose and say that I am General Manager/Publisher of the SOUTHERN UTAH NEWS, a weekly newspaper of general circulation published every Wednesday at Kanab, Utah, for Kane County, Utah and Coconino County, Arizona, and a designated agent of the Utah Press Association and the notice attached hereto, was published in said newspaper for: FOUR consecutive weeks, the first publication on: 07/30/2015 and the last on: 08/13/2015 that said notice was published in the regular and entire issue of every number of the paper during the period and times of publication, and that the same was published in the newspaper proper and not in a supplement and that said notice was published on www.utahlegals.com on the same day as the first newspaper publication and the notice remained on www.utahlegals.com for one week after the final publication date.

Subscribed and sworn to before me 8.27-15

Notary Public

Residing in Kanab, Utah.

My commission expires: 8.24-15

INTEGRITY IN PUBLIC SERVICE

COPY OF NOTICE

INCORPORATED

FEB 02 2016

Div. of Oil, Gas & Minin
Legal Notice

Alton Coal Development, LLC has filed a complete application with the Utah Department of Natural Resources, Division of Oil, Gas & Mining for permit renewal for the Coal Hollow Mine CGSM-00099. Alton Coal Development, LLC has filed the Coal Hollow Mine which is located in Price and Carbon counties, state of Utah.

The following described area, upon which this mine is situated, is to be used for reclamation activities:

**TOWNSHIP 33 SOUTH RANGE 03 WEST, SLABAM**
Section 30: All of Section 30
(NW ¼ NE ¼ SW ¼ NE ¼ SW ¼ NE ¼ SE ¼ NE ¼ NW ¼)
Beginning
3.90 chains West of the East Quarter corner of Said Section 30, and running South 34°31'31" West 22.64 chains of the 1/4 section line, then South 2.64 chains to the Southerly line of NE ¼ SW ¼ of Said Section 30, thence East 20.00 chains, thence South 14.69 chains, thence Southwardly to the center of beginning, containing 217.84 acres, more or less.

**TOWNSHIP 33 SOUTH RANGE 03 WEST, SLABAM**
Section 29: Beginning at the Northeast corner of the Northwest Quarter of Said Section 29, and running thence South 34°31'31" West 22.23 chains to the point of beginning, containing 36.04 acres more or less.

**TOWNSHIP 33 SOUTH RANGE 03 WEST, SLABAM**
Section 16: SE ¼ SE ¼ SW ¼ SW ¼ containing 160.00 acres, more or less.

This legal description is for the permit area (721 acres) of the Coal Hollow Mine and includes in the operation and reclamation plan on file at the Division. The permit holder is authorized to conduct coal mining and reclamation operations connected with a surface mine on the foregoing described property subject to the leases and Conditional Use Permit issued by Kane County, including all conditions and all other applicable conditions, laws and regulations.

The address of the applicant is:
Alton Coal Development, LLC
463 North 100 West, Suite 1
Cedar City, Utah 84720

If filing, copies of this permit renewal will be available for inspection at the Kane County Court House, and at the Utah Department of Oil, Gas & Mining Webb-site under Coal Permit File.

Written comments or requests regarding this permit renewal must be made within thirty (30) days of the last publication of this notice, and may be addressed to the Utah Division of Oil, Gas & Mining, 1534 West North Temple, Suite 1210, Salt Lake City, Utah 84114-5601.

Published in the Southern Utah News on July 31, August 4, and 13, 2010.

INTEGRATED
FEB 0 2 2016
Div. of Oil, Gas & Mining
APPENDIX 1-6

A notarized statement attesting to the accuracy
STATE OF UTAH  
COUNTY OF IRON

I, Chris R. McCourt, hereby certify that I am the manager for the applicant, Alton Coal Development, L.L.C., and that the information contained in this application for the Coal Hollow Mining and Reclamation Plan is true and correct to the best of my knowledge and belief, in all respects, with the laws of Utah, specifically in reference to the applicant's commitments, undertaking and obligations herein.

Signed: [Signature]
Position: Manager

SUBSCRIBED and SWORN TO by CHRIS R. MCCOURT, the Manager of Alton Coal Development, L.L.C., before me this 22nd day of January, 2008.

Notary Public: Catherine Stucki

My Commission Expires: 5/30/10
APPENDIX 1-7

County Road 136 (K3900) Approvals and Agreements

Alton Coal Development, LLC and Kane County Agreement
(Kane County Road 136 (K3900) Closure, Relocation and Replacement)

And

Grant of Easement and Assignment Agreement for County Road 136
(Easement for Reestablishment of County Road 136 on C. Burton Pugh
Property in the postmining, modified alignment)

And

Kanab Field Office, Bureau of Land Management
County Road 136 Relocation – Environmental Assessment and Finding of
No Significant Impact
AGREEMENT

AN AGREEMENT TO TEMPORARILY CLOSE, RELOCATE AND REPLACE KANE COUNTY ROAD NUMBER K3900, KNOWN AS THE SINK VALLEY ROAD

THIS AGREEMENT ("Agreement") is made and entered into this 24th day of 2008, by and between Kane County, a body corporate and politic, having an address of 76 North Main Street, Kanab, Utah 84741 ("County"), and Alton Coal Development, LLC ("Alton Coal"), having an address of 463 North 100 West, Suite 1, Cedar City, Utah 84720.

RECITALS

WHEREAS, Alton Coal has applied with the Utah Division of Oil, Gas & Mining ("Division") for a permit to conduct coal mining operations at the Coal Hollow Mine under application number C/025/0005. The Mine will be developed on private lands located in Kane County, Utah, approximately 4 miles south of the Town of Alton within Sections 20, 29 and 30, Township 39 South, Range 5 West, SLB&M ("Mine Permit Area"); and

WHEREAS, a portion of Kane County Road K3900 ("Kane County Road K3900"), is located within the Mine Permit Area; and

WHEREAS, Kane County Road K3900 is a Class B multiple use public road and is part of the highway and road system within the sole jurisdiction, maintenance and control of Kane County pursuant to Utah Code Ann. § 72-3-103(4); and

WHEREAS, for the public health, safety and welfare, a portion of Kane County Road K3900 will be relocated outside the boundaries of the Mine Permit Area during the period of
mining activities within the Mine Permit Area ("Relocated Section") and then restored to its original location; and

WHEREAS, the two mile section of County Road K3900 located within the Mine Permit boundaries will be subject to long-term closure during mining activities; and

WHEREAS, the Relocated Section of Kane County Road K3900 will be located on public lands administered by the federal Bureau of Land Management ("BLM"). Alton Coal has applied for a right of way for the Relocated Section ("ROW") under Title V, Federal Land Policy and Management Act ("FLPMA") and intends to assign the BLM ROW so acquired to Kane County. A true and correct copy of this application is attached hereto as Exhibit 1; and

WHEREAS, the Relocated Section begins approximately three (3) miles south of the Town of Alton and will reconnect with the existing public road approximately five (5) miles south of the Town of Alton. see Plan of Development attached to BLM Application, Exhibit 1; and

WHEREAS, on June 16, 2008, the Division held a public hearing in Alton, Utah, on the relocation of Kane County Road K3900 pursuant to Utah Administrative Code R645-103-234 and will issue findings on this matter; and

WHEREAS, this Agreement confirms the responsibilities of Kane County and Alton Coal with respect to the temporary closure, rerouting and replacement of Kane County Road 3900; and
WHEREAS, this Agreement further confirms that both the two-mile segment of Kane County Road K3900 within the Mine Permit Area, to be temporarily closed during mining and reopened albeit on a realigned right-of-way (ROW) thereafter and the Relocated Segment are Class B multiple-use "public roads" within the jurisdiction of Kane County and exempt from regulation under Mine Permit No. C/025/0005 consistent with criteria adopted by the Division's 1995 Public Road Policy, attached hereto as Exhibit 2.

AGREEMENT

NOW, THEREFORE, for and in consideration of the premises, the mutual covenants and agreements of the parties hereto, and the consideration in favor of the County described below, the parties hereto agree as follows:

I. PUBLIC ROAD CLASSIFICATION

Kane County Road K3900 is a Class B, multiple-use, public road and is part of the County and State highway and road system within the sole jurisdiction, maintenance and control of Kane County pursuant to Utah Code Ann. § 72-3-103(4).

II. CLOSURE OF PORTION OF KANE COUNTY ROAD K3900

A. Upon approval of Mine Permit C/025/0005, Kane County will follow the procedures for long-term closure of a public road pursuant to Utah law. Following these procedures, the two-mile segment of Kane County Road K3900 within the Mine Permit Area will be closed and the public road will be relocated to an alternate route along the Relocated Segment per the map attached as Exhibit 3.
B. Kane County has determined that closure is authorized as follows:

1. Alton Coal has provided an alternate route via the Relocated Segment to be located within the BLM ROW. The Relocated Segment has been accepted by the Kane County Commissioners and the BLM ROW for the Relocated Segment will be assigned to Kane County; and

2. Kane County Commissioners will hold a hearing following public notice on the long-term closure;

and

3. Kane County intends to enact an ordinance authorizing the long-term closure.

III. PUBLIC LAND RIGHT OF WAY

A. Alton Coal has applied to the BLM for a right of way grant ("ROW Grant") across public land for the Relocated Segment. Alton Coal agrees to pay for all filing fees, costs of processing the ROW Grant (including expenses related to retaining a third party contractor to assist BLM with its environmental analysis of the application) and the first year rental payment.

B. Upon BLM's issuance of the ROW Grant, Alton Coal agrees to assign the ROW Grant for the Relocated Segment to Kane County. This assignment is for the purpose of securing Kane County's jurisdiction to the Relocated Segment of County Road K3900 and is not to avoid regulation. Pursuant to Utah Code Ann. § 72-5-103, the County has authority to acquire the BLM ROW pursuant to the terms of this Agreement.
IV. RELOCATION AND REPLACEMENT OF KANE COUNTY ROAD 3900

A. Kane County has authority pursuant to Utah Code Ann. § 17-50-305 to acquire, construct and maintain Class B County roads. Kane County will be responsible to supervise the design of any improvements to the Relocated Segment of Kane County Road K3900 as set forth in the attached Plan of Development ("Phase I Improvements"). Alton Coal will pay all costs. Alton Coal will notify Kane County at the point in its mine development that relocation and replacement of Kane County Road K3900 may commence. Kane County will provide Alton Coal with thirty (30) days written notice prior to commencing road construction. The County will also be responsible to supervise the design for the reconstruction of the two-mile segment of the Kane County Road K3900 following the completion of mining activities ("Phase II Improvements"). Alton Coal will pay any and all costs associated with said construction. Kane County will develop a Scope of Work regarding these road improvements. The Scope of Work will be performed according to the plans and specifications as approved by Kane County's professional engineer. Alton Coal will pay for developing said Scope of Work and all costs associated thereto. Once the detailed engineering design for each phase is completed, the County will provide Alton Coal with the Scope of Work and a preliminary cost estimate for the Scope of Work for each phase of construction.

B. Alton Coal agrees to pay to the County prior to the commencement of each phase of the Scope of Work and for that phase only, along with any incidental costs associated with this improvement project as set forth in the Scope of Work based on the preliminary cost estimate for that phase. Alton Coal's obligation for payment shall be subject to the following limitations:
1. The County will provide Alton Coal with project cost estimates for the Scope of Work of each phase.

2. A written agreement approving the Scope of Work and cost estimate for each phase of development will be approved by both parties. Prior to commencement of work, Alton Coal shall provide the County with a written request to proceed.

3. Funds provided by Alton Coal in an amount equal to the estimated cost for a particular phase of development shall be held by the County in a third party escrow account. Interest earned in that account shall belong to Alton Coal. Upon receipt of said funds, the County will proceed with the Scope of Work.

4. Construction bids will be received by the County. An abstract of bids will be submitted to Alton Coal for approval. Alton Coal will approve the awarding of the bid. The escrow account balance will be adjusted to equal the amount of the bid, plus 5%. The County will award the contract and proceed with the Scope of Work.

5. The County will obtain Alton Coal's prior permission before issuing a change order that will cause the total expenditures with respect to the Scope of Work to exceed the amount originally approved by Alton Coal.

6. The County will provide Alton Coal with a copy of each of the Partial Pay Estimates as issued for any and all costs incurred in connection with performance of the Scope of Work.
7. Alton Coal shall be provided with the opportunity to audit the records with respect to such Partial Pay Estimates and to audit the final close out of any construction contract relating to the Scope of Work.

V. MISCELLANEOUS PROVISIONS

A. All of the parties understand and agree that the Kane County Road K3900 is a Class B county road for which Kane County remains responsible, including but not limited to responsibility for road maintenance. Alton Coal will be responsible for incidental maintenance as requested by the County, including dust control by chemical treatment.

B. Alton Coal agrees to indemnify and hold Kane County and each of their commissioners, officers, offices, employees, agents, limited liability company members and affiliates ("Indemnities"), heirs, assigns or successors harmless of and from any liability, cost or expense, including defense costs, from any claim, demand or action which may be brought again Indemnities and which arises out of or alleges any negligence or responsibility on the part of Indemnities in the design or construction of the Kane County Road K3900 as well as any and all actions taken under this contract. This obligation to indemnify and hold harmless commences upon execution of this Agreement during performance of the Scope of Work for Phase I and Phase II Improvements and shall terminate upon the County's completion of the reconstruction and replacement of the Kane County Road K3900.

C. The County further agrees to continue maintenance of the Kane County Road K3900 past the north reroute diversion point to the Coal Hollow Mine permit boundary. This section consists of approximately 3,500 feet of gravel road between the north diversion point
and the mine permit boundary, on federal land, which will continue to be under the sole jurisdiction of Kane County as a public road.

D. It is further agreed by Kane County and Alton Coal that Alton Coal's contributions do not convey jurisdiction, authority or responsibility to Alton Coal regarding the construction, maintenance or operation of Kane County Road K3900 beyond the terms of this Agreement. Said road will remain a Class B County network road under the sole authority of Kane County pursuant to Utah Code Ann. § 72-3-103(4).

This Agreement, together with its attached exhibits, constitutes the entire Agreement between the parties and supersedes and replaces any and all prior negotiations, representations, warranties, understandings or contracts between the parties. This Agreement cannot be changed except by written agreement of the parties.

Dated this 9th day of November, 2008

Alton Coal Development, LLC

Subscribed and sworn to before me this 9th day of November, 2008.

Notary Public

Daniel Hulet, Commissioner

Mark Habbes, Commissioner

Duke Cox, Commissioner

Attest to the signatures of three (3) Commissioners.
APPLICATION FOR TRANSPORTATION AND
UTILITY SYSTEMS AND FACILITIES
ON FEDERAL LANDS

NOTE: Before completing and filing the application, the applicant should completely review this package and schedule a preapplication meeting with representatives of the agency responsible for processing the application. Each agency may have specific and unique requirements to be met in preparing and processing the application. Many times, with the help of the agency representative, the application can be completed at the preapplication meeting.

I. Name and address of applicant (include zip code)
   Alton Coal Development, LLC
   463 N 100 W, Suite 1
   Cedar City, UT 84720

4. As applicant are you? (check one)
   a. Individual
   b. Corporation
   c. Partnership/Association
   d. State Government/State Agency
   e. Local Government
   f. Federal Agency
   *If checked, complete supplemental page

5. Specify what application is for: (check one)
   a. New authorization
   b. Renewing existing authorization
   c. Amend existing authorization
   d. Assign existing authorization
   e. Existing use for which no authorization has been received
   f. Other
   *If checked provide details under Item 7

6. If an individual, or partnership are you a citizen(s) of the United States? [ ] Yes [ ] No

7. Project description (describe in detail): (a) Type of system or facility, (e.g., canal, pipeline, road); (b) related structures and facilities; (c) physical specifications (length, width, grading, etc.); (d) term of years needed, (e) time of year of use or operation; (f) Volume or amount of product to be transported; (g) duration and timing of construction; and (b) temporary work areas needed for construction (Attach additional sheets, if additional space is needed)
   (a) Relocation of County Road 136.
   (b) No permanent structures or facilities are anticipated as part of the road relocation.
   (c) 3.1 miles long, 24 foot gravel road in a 66 foot ROW, grading varies from 0.5% to 8%, clearing width varies from 30 ft to 100 ft, with cutfill slope ratios of 2:1 and 3:1, respectively.
   (d) Approximately 5-10 years.
   (e) Depending on site and weather conditions and time of year once the ROW is issued, construction would take approximately 3-4 months.
   (f) Approximately 9,000 cubic yards of gravel.
   (g) Approximately 3-4 months.
   (h) Approximately 2 acres would be needed for temporary use areas.

Please see the attached Plan of Development for further details.

8. Attach a map covering area and show location of project proposal

9. State or local government approval: [ ] Attached [ ] Applied for [ ] Not required

10. Nonreturnable application fee: [ ] Attached [ ] Not required

11. Does project cross international boundary or affect international waterways? [ ] Yes [ ] No (If "yes," indicate on map)

12. Give statement of your technical and financial capability to construct, operate, maintain, and terminate system for which authorization is being requested.
   Alton Coal Development, LLC is a privately owned company licensed to operate in the State of Utah. The company has successfully operated since 2004 without any defaults as to technical or financial capability to construct, operate, maintain and to terminate said rights-of-way.

(Continued on page 2)
13a. Describe other reasonable alternative routes and modes considered.

Alton Coal considered additional routes and locations of the ROW. An Environmental Assessment will be prepared discussing the other routes that were considered.

b. Why were these alternatives not selected?

Other routes considered were eliminated for various constraints including, but not limited to, environmentally sensitive areas, cultural resources, public safety, and topography.

c. Give explanation as to why it is necessary to cross Federal Lands

The route proposed on federal land is a result of the various reviewed Alternatives, and the constraints identified during the route selection process. Crossing federal land is necessary to comply with state and federal coal permitting/mining regulations with respect to the proposed Coal Hollow mine (permit number C/025/005) currently in review at Utah Division of Oil, Gas and Mining.

14. List authorizations and pending applications filed for similar projects which may provide information to the authorizing agency. (Specify number, date, code, or name)

Alton Coal Development Lease By Application (UTU/081895).

15. Provide statement of need for project, including the economic feasibility and items such as: (a) cost of proposal (construction, operation, and maintenance); (b) estimated cost of next best alternative; and (c) expected public benefits.

See attached Plan of Development.

16. Describe probable effects on the population in the area, including the social and economic aspects, and the rural lifestyles.

An Environmental Assessment will be prepared discussing the impacts of the project based on the BLM ID checklist.

17. Describe likely environmental effects that the proposed project will have on: (a) air quality; (b) visual impact; (c) surface and ground water quality and quantity; (d) the control or structural change on any stream or other body of water; (e) existing noise levels; and (f) the surface of the land, including vegetation, permafrost, soil, and soil stability.

An Environmental Assessment will be prepared discussing the impacts of the project based on the BLM ID checklist.

18. Describe the probable effects that the proposed project will have on: (a) populations of fish, plantlife, wildlife, and marine life, including threatened and endangered species; and (b) marine mammals, including hunting, capturing, collecting, or killing these animals.

An Environmental Assessment will be prepared discussing the impacts of the project based on the BLM ID checklist.

19. State whether any hazardous material, as defined in this paragraph, will be used, produced, transported or stored on or within the right-of-way or any of the right-of-way facilities, or used in the construction, operation, maintenance or termination of the right-of-way or any of its facilities. "Hazardous material" means any substance, pollutant or contaminant that is listed as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601 et seq., and its regulations. The term hazardous substance as defined in the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 9601 et seq., and its regulations. The term hazardous materials also includes any nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq. The term does not include petroleum, including crude oil or any fraction thereof that is not otherwise specifically listed or designated as a hazardous substance under CERCLA Section 101(14), 42 U.S.C. 9601(14), nor does the term include natural gas.

It is not anticipated that hazardous materials will be used, produced, transported, or stored within the ROW, or any of the ROW facilities.

20. Name all the Department(s)/Agency(ies) where this application is being filed.

Bureau of Land Management
Kanab Field Office
318 North 100 East
Kanab, UT 84741

I HEREBY CERTIFY, That I am of legal age and authorized to do business in the State and that I have personally examined the information contained in the application and believe that the information submitted is correct to the best of my knowledge.

Signature of Applicant

Date 4-24-08

Title 18, U.S.C. Section 1001 and Title 43 U.S.C. Section 1212, make it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

(Continued on page 3)

INTEGRATED
(SP-299, page 2)

OCT 15 2009

Div. of Oil, Gas & Mining
APPLICATION FOR TRANSPORTATION AND UTILITY SYSTEMS AND FACILITIES ON FEDERAL LANDS

GENERAL INFORMATION
ALASKA NATIONAL INTEREST LANDS

This application will be used when applying for a right-of-way, permit, license, lease, or certificate for the use of Federal lands which lie within conservation system units and National Recreation or Conservation Areas as defined in the Alaska National Interest Lands Conservation Act. Conservation system units include the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, and National Forest Monuments.

Transportation and utility systems and facilities uses for which the application may be used are:

1. Canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other systems for the transportation of water.
2. Pipelines and other systems for the transportation of liquids other than water, including oil, natural gas, synthetic liquid and gaseous fuels, and any refined product produced therefrom.
3. Pipelines, slurry and emulsion systems, and conveyor belts for transportation of solid materials.
4. Systems for the transmission and distribution of electric energy.
5. Systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals, and other means of communications.
7. Roads, highways, railroads, tunnels, tramways, airports, landing strips, docks, and other systems of general transportation.

This application must be filed simultaneously with each Federal department or agency requiring authority to establish and operate your proposal.

In Alaska, the following agencies will help the applicant file an application and identify the other agencies the applicant should contact and possibly file with:

Department of Agriculture
Regional Forester, Forest Service (USFS)
Federal Office Building, P.O. Box 21628
Juneau, Alaska 99802-1628
Telephone: (907) 586-7847 (or a local Forest Service Office)

Department of the Interior
Bureau of Indian Affairs (BIA)
Juneau Area Office
9109 Mendenhall Mall Road, Suite 5, Federal Building Annex
Juneau, Alaska 99802
Telephone: (907) 586-7177

Bureau of Land Management (BLM)
222 West 7th Ave., Box 13
Anchorage, Alaska 99513-7599
Telephone: (907) 271-5477 (or a local BLM Office)

National Park Service (NPS)
Alaska Regional Office, 2525 Gambell St., Rm. 107
Anchorage, Alaska 99503-2892
Telephone: (907) 275-2585

U.S. Fish & Wildlife Service (FWS)
Office of the Regional Director
1111 East Tudor Road
Anchorage, Alaska 99503
Telephone: (907) 786-3440

Note: Filings with any interior agency may be filed with any office noted above or with the: Office of the Secretary of the Interior, Regional Environmental Officer, Box 120, 1675 C Street, Anchorage, Alaska 99513.

For supplemental, see page 4

Department of Transportation
Federal Aviation Administration:
Alaska Region AAI-4, 222 West 7th Ave., Box 14
Anchorage, Alaska 99513-7587
Telephone: (907) 271-5485

NOTE - The Department of Transportation has established the above central filing point for agencies within that Department. Affected agencies are: Federal Aviation Administration (FAA), Coast Guard (USCG), Federal Highway Administration (FHWA), Federal Railroad Administration (FRA).

OTHER THAN ALASKA NATIONAL INTEREST LANDS

Use of this form is not limited to National Interest Conservation Lands of Alaska.

Individual departments/agencies may authorize the use of this form by applicants for transportation and utility systems and facilities on other Federal lands outside those areas described above.

For proposals located outside of Alaska, applications will be filed at the local agency office or at a location specified by the responsible Federal agency.

SPECIFIC INSTRUCTIONS
(Items not listed are self-explanatory)

Item
7 Attach preliminary site and facility construction plans. The responsible agency will provide instructions whenever specific plans are required.
8 Generally, the map must show the section(s), township(s), and range(s) within which the project is to be located. Show the proposed location of the project on the map as accurately as possible. Some agencies require detailed plans, others require preliminary survey maps. The responsible agency will provide additional instructions.
9, 10, and 12 - The responsible agency will provide additional instructions.
13 Providing information on alternate routes and modes is as much detail as possible, discussing why certain routes or modes were rejected and why it is necessary to cross Federal lands will assist the agency(ies) in processing your application and reaching a decision. Include only reasonable alternate routes and modes as related to current technology and economics.

The responsible agency will provide instructions.
15 Generally, a simple statement of the purpose of the proposal will be sufficient. However, major proposals located in critical or sensitive areas may require a full analysis with additional specific information. The responsible agency will provide additional instructions.
16 through 19 - Providing this information in as much detail as possible will assist the Federal agency(ies) in processing the application and reaching a decision. When completing these items, you should use a sound judgment in furnishing relevant information. For example, if the project is not near a stream or other body of water, do not address this subject. The responsible agency will provide additional instructions.

Application must be signed by the applicant or applicant's authorized representative.

If additional space is needed to complete any item, please put the information on a separate sheet of paper and identify it as "Continuation of item."
### SUPPLEMENTAL

**NOTE:** The responsible agency(ies) will provide additional instructions.

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<td>a. Articles of Incorporation</td>
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<td>b. Corporation Bylaws</td>
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<td>c. A certification from the State showing the corporation is in good standing and is entitled to operate within the State.</td>
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<td>d. Copy of resolution authorizing filing</td>
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<td>e. The name and address of each shareholder owning 3 percent or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote and the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate.</td>
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<td>f. If application is for an oil or gas pipeline, describe any related right-of-way or temporary use permit applications, and identify previous applications</td>
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<td>g. If application is for an oil and gas pipeline, identify all Federal lands by agency impacted by proposal.</td>
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### II - PUBLIC CORPORATIONS

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<td>a. Copy of law forming corporation</td>
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<td>b. Proof of organization</td>
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<td>c. Copy of Bylaws</td>
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<td>d. Copy of resolution authorizing filing</td>
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<td>e. If application is for an oil or gas pipeline, provide information required by Item &quot;I-f&quot; and &quot;I-g&quot; above.</td>
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### III - PARTNERSHIP OR OTHER UNINCORPORATED ENTITY

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<td>c. Name and address of each participant, partner, association, or other</td>
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<td>d. If application is for an oil or gas pipeline, provide information required by Item &quot;I-f&quot; and &quot;I-g&quot; above.</td>
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* If the required information is already filed with the agency processing this application and is current, check block entitled "Filed." Provide the file identification information (e.g., number, date, code, name). If not on file or current, attach the requested information.

(Continued on page 5)
NOTICES

NOTE: This applies to the Department of the Interior/Bureau of Land Management (BLM).

The Privacy Act of 1974 provides that you be furnished with the following information in connection with the information provided by this application for an authorization.


PRINCIPAL PURPOSE: The primary uses of the records are to facilitate the (1) processing of claims or applications; (2) recordation of adjudicative actions; and (3) indexing of documentation in case files supporting administrative actions.

ROUTINE USES: BLM and the Department of the Interior (DOI) may disclose your information on this form: (1) to appropriate Federal agencies when concurrence or supporting information is required prior to granting or acquiring a right or interest in lands or resources; (2) to members or the public who have a need for the information that is maintained by BLM for public record; (3) to the U.S. Department of Justice, court, or other adjudicative body when DOI determines the information is necessary and relevant to litigation; (4) to appropriate Federal, State, local, or foreign agencies responsible for investigating, prosecuting violation, enforcing, or implementing this statute, regulation, or order; and (5) to a congressional office when you request the assistance of the Member of Congress in writing.

EFFECT OF NOT PROVIDING THE INFORMATION: Disclosing this information is necessary to receive or maintain a benefit. Not disclosing it may result in rejecting the application.

The Paperwork Reduction Act of 1995 requires us to inform you that:

The Federal agencies collect this information from applicants requesting right-of-way, permit, license, lease, or certifications for the use of Federal Lands.

Federal agencies use this information to evaluate your proposal.

No Federal agency may request or sponsor and you are not required to respond to a request for information which does not contain a currently valid OMB Control Number.

BURDEN HOURS STATEMENT: The public burden for this form is estimated at 25 hours per response including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of this form to: U.S. Department of the Interior, Bureau of Land Management (1004-0189), Bureau Information Collection Clearance Officer (WO-630) 1849 C Street, N.W., Mail Stop 401 LS, Washington, D.C. 20240.

A reproducible copy of this form may be obtained from the Bureau of Land Management, Land and Realty Group, 1620 L Street, N.W., Rm. 1000 LS, Washington, D.C. 20036.
COUNTY ROAD 136 REROUTE
ALTON, UTAH

PLAN OF DEVELOPMENT

Location:
County Road 136
Alton, Utah

For:
Alton Coal Development, LLC
463 N 100 W, Suite 1
Cedar City, UT 84720

By:
Boss Engineering & Surveying, LLC
1909 W. State Road, Suite 200
Pleasant Grove, UT 84062

April 09, 2008

INCORPORATED
OCT 15 2009
Div. of Oil, Gas & Mining
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ROW PLAN OF DEVELOPMENT

1. INTRODUCTION

This ROW Plan of Development proposes to relocate the existing County Road 136 to accommodate active mining in the Private Land areas. County Road 136 is a public roadway used by both travelers and local residence in the area. (See Figure 1)

Measures identified in this Plan apply to work within the project area defined as the right-of-way (ROW), access roads, all work and storage areas, and other areas used during construction of the project. This Plan was developed in consideration of the U.S. Bureau of Land Management (BLM) ROW Plans of Development and Grants.

The ROW Plan (Plan) identifies measures to be taken by Alton Coal Development, LLC (Alton Coal) and its contractors (Contractor) to ensure strict conformance to BLM regulations and sound engineering design.

2. PURPOSE

Alton Coal Development, LLC proposes to mine coal in the area. The Private land that is leased by Alton Coal Development, LLC will be the active mining area. This road relocation moves County Road 136 outside of the active mining area to the west onto Public land that will not be immediately permitted for mining. This relocation provides for the health and safety of the public by preventing the interaction of large mining equipment with public traffic. It also provides for maximum recovery of the coal resource by eliminating the need for a public road within the boundary of the proposed mining area. Relocation of this road within the mining boundary would result in a coal loss of approximately 600,000 tons and it would be necessary to have a crossing of public traffic with the mine equipment. Based on the size of the mine equipment, there is a limited observation range for the operators and interaction between the public and this equipment would result in unsafe conditions.

3. DESIGN CRITERIA

The 3.1 mile long roadway is designed to have a 24ft gravel road surface within a 66ft ROW. (See Figure 2) Due to some steep areas, the cut and fill slopes will daylight outside of the 66ft ROW in some areas of the project. These areas are shown in Figure 3.

The road grades vary from 0.5% to 8% max. The clearing width for the roadway varies from 30ft to 100ft, with cut/fill slope ratios of 2:1 and 3:1, respectively.
Corrugated Metal Pipe (CMP) will be used for drainage structures at all wash areas and low spots within the project limits as shown in Figure 3.

The proposed roadway surface consists of 1-inch Type II Road Base gravel as recommended by the Kane County Standards. Approximately 9,000 cubic yards of gravel will be needed to meet the 6 inch minimum thickness required by the county. The top 3 inches of the road surface will be treated with calcium chloride to control dust.

Detailed drawings, including plan and profile sheets, along with construction and materials specifications are included in Appendix A.

4. CONSTRUCTION OF ROW FACILITY

The construction of this roadway will commence immediately after approval is granted by the Utah Division of Oil, Gas & Mining to begin mining. Construction of the roadway would disturb approximately 27 acres of land, including approximately 25 acres for the roadway construction right-of-way, 2 acres of temporary use areas (TUA), equipment storage site, and topsoil stockpile areas.

Construction duration for the roadway is estimated to take place within 3-4 months. The approval for the mine is expected to be provided within the next seven months. The BLM land authorization is requested for 10 years or longer.

The roadway will be constructed in conformance with the Kane County Standards and Specifications, FHWA requirements and in accordance with the ASHHTO guidelines on constructing and maintaining gravel roadways.

4.1 Flagging & Staking of ROW

Prior to construction of the roadway, a licensed surveyor will stake the centerline and ROW limits. Construction staking will include the staking of the cut and fill areas as well as the clearing limits. Contractor will be responsible for verifying that the limits of authorized construction work areas are staked prior to construction.

Pre-construction surveys and literature review were conducted to identify sensitive resources along the project route. Resources identified include: archeological sites and areas of potential geologic instability. All efforts have been made to avoid archeological areas as much as possible. Mitigation for sensitive areas that cannot be avoided is addressed in the environmental compliance plans.
TOP 3" SCARIFIED & TREATED WITH LIQUID MgCl solution, THEN COMPACTED WITH PNEUMATIC ROLLER.

TO CATCH POINT (FILL SLOPE)

EXCAVATE & RECOMPACT ROADWAY TO 12' DEPTH

NOTES:
1. MOISTEN SCARIFIED SURFACE 0.75 GAL/SY PRIOR TO APPLYING LIQUID MAGNESIUM CHLORIDE SOLUTION.
2. MAGNESIUM CHLORIDE SOLUTION TO BE APPLIED SUCH THAT APPROXIMATELY 1.5 POUNDS OF DRY SOLIDS APPLIED PER SQUARE YARD.

TYPICAL ROADWAY SECTION

NOT TO SCALE
4.2 Clearing and Grading of the ROW

Construction equipment will include trucks, loaders, various sized dozers, shovels and backhoes, graders, generators, and compaction machines. Most of the equipment to be used during ROW restoration will consist of dozers, blades, and backhoes.

The existing topsoil in the proposed roadway area is approximately 8 inches deep. The total volume of topsoil that will be removed is approximately 10,000 cubic yards. This topsoil will be removed and stockpiled within the limits of the proposed 66ft ROW. (See Figure 3)

The topsoil will later be used for reclamation when the roadway is abandoned.

Woody vegetation (trees, stumps, and brush) will be disposed of by hauling the material to a nearby landfill and/or making it available to the public for use as fire wood.

4.3 Earthwork

The roadway base will be made of suitable native material re-compacted to 95% maximum dry density. The roadway surface will be made of 6 inch gravel that will be obtained from an authorized mineral material site or pit. The contractor will obtain necessary permits and certification for the mineral material source if needed.

The unsuitable materials (i.e. oversize rocks, weak soils) will be spread alongside the roadway within the undisturbed areas of the 66ft ROW as shown in Figure 3.

Silt fences will be built to alleviate and/or control erosion and water pollution from disturbed soils.

4.4 Stabilization, Rehabilitation & Revegetation

Cleanup and restoration of the surface along the right-of-way and any TUAs will be performed by removing any construction debris and by performing final grading to the finished contour. Steps will be taken to minimize erosion, restore the natural ground contour, and account for road settling. Restoration seeding will be performed in accordance with BLM requirements.

5. OPERATION AND MAINTENANCE OF THE FACILITY

Due to the fact that this is a county roadway, the county is responsible for operation and maintenance of the roadway post construction. Alton Coal will assist the county in maintaining the roadway if needed.

Hauling equipment and materials will be done in accordance with Utah state requirements. Existing road and the ROW will be used for access. Existing road that will be used in
conjunction with the ROW will be periodically maintained during construction. Maintenance will include blading throughout the construction period to keep road level and not rutted. Roadways will be maintained and kept open for public access throughout construction as prescribed by the respective authorizing agencies.

Alton Coal will be responsible for noxious weed control on project disturbed areas, temporary use right-of-way, and temporary use areas. Alton Coal will consult with the BLM Authorized Officer or field representative and local weed districts for acceptable weed control management techniques within the limits imposed in the grant stipulations.

6. TERMINATION AND ABANDONMENT

Prior to termination of the BLM Right-of-Way Grant, or any portion thereof, Alton Coal will contact the Authorized Officer to arrange for a pre-termination meeting and joint inspection of the right-of-way. This meeting and inspection will take place a minimum of 30 days prior to termination. The meeting and inspection will be held so that an agreement on an acceptable termination and rehabilitation plan can be reached. This plan will include, but not be limited to, abandonment and/or removal of facilities, drainage structures and/or surface material, re-contouring, replacing of topsoil, seeding, and monitoring. The Authorized Officer must approve the plan in writing. Alton Coal will relinquish all, or those specified portions, of the right-of-way in accordance with the termination plan.

7. MISCELLANEOUS INFORMATION

7.1 Waste Disposal

Alton Coal's Construction Inspectors will ensure that the Contractor implements the following waste disposal measures:

- No littering will be allowed on the right-of-way. Construction and operations sites will be maintained in a sanitary condition at all times and waste materials at these sites will be disposed of promptly at an appropriate waste disposal site. Waste is defined as all discarded matter including, but not limited to, human waste, discarded food, trash, garbage, refuse, oil drums, petroleum products, and equipment.

- The Contractor will dispose of excess or unsuitable materials at commercial disposal sites, commercial recycling centers, and disposal sites approved by BLM.

- The Contractor will comply with the hazardous waste disposal requirements of BLM.

- Human wastes, temporarily located within self contained facilities (portable toilets), will be removed from the right-of-way and disposed of in accordance with applicable laws and regulations.
7.2 Safety Plan

Alton Coal and the Contractor will develop an Emergency Plan that will be followed by Alton Coal employees and the contractor in the event of an emergency at any roadway facility associated with this project. A Construction & Operations Emergency Plan will be written to be used during and after construction.

The Emergency Plan will address topics such as administrative issues, emergency planning, assignment of responsibilities, handling and evaluating emergency calls, responding to and controlling emergency situations, news media communications, restoration of service, obtaining and reporting emergency information, employee training, liaison with public officials, general public information program, location/inventory of roadway repair materials and equipment, and lists of emergency telephone numbers and key personnel.

This Emergency Plan will be updated and maintained in conformance with applicable DOT and State of Utah requirements.

7.3 Fire Prevention Plan

Construction Inspectors will ensure that the Contractor implements the following fire preventive measures:

- A closure order will be in effect for all areas under construction. All recreation activities, including hiking, camping, hunting, birding, horseback riding, etc., will be prohibited within the construction right-of-way. Alton Coal or the Contractor will post and sign the boundaries of the areas under construction in accordance with BLM specifications.

- No burning of brush or debris, and no campfires, lunch fires, or warming fires will be allowed on the right-of-way in accordance with the BLM fire restrictions.

- The Contractor will comply with any agency fire restrictions (e.g., welding, torch cutting, blasting).

- The Contractor will control fugitive dust in accordance with any applicable county, state, or federal permit requirements.

7.4 Temporary Use Permit (TUP)

In addition to the construction of the roadway and the 66 foot wide right-of-way, Alton Coal has identified temporary workspace areas where additional construction area width would be required for safe and efficient construction at road crossings, water body crossings, timber and boulder storage areas, steep sideslopes, at the bases or tops of steep ascent/descent areas, and at truck turnaround areas. The locations and sizes of the temporary workspaces identified by Alton Coal are depicted in the alignment sheets. Additional TUA will disturb approximately 4 acres.
Appendix A

Plan & Profile Sheets
Detail Sheets
EXHIBIT 2
In light of the discussions and correspondence between the Division of Oil, Gas and Mining and the Office of Surface Mining ("OSM") since the informal conference in this matter, I am writing to clarify Utah's policy with regard to the permitting of public roads which may be used for, or related to, coal mining and reclamation activities. Aside from the present disagreement regarding permitting road policy, the Utah Act and implementing regulations are approved by OSM and have been determined to be no less stringent than those of SMCRA. 30 U.S.C. § 1255.

Utah acknowledges that, under its approved definition of "affected area," there exists no blanket exemption from regulation for public roads. Utah recognizes, therefore, that some public roads may be subject to the permitting requirements of the Utah Act. Utah believes, however, that it is best suited to interpret its program, and to decide whether a particular road falls within the definition of "affected area." Since there is little substantive guidance in this area, the State will interpret its program by reference to such authorities as the court's decision In Re Permanent (Flannery) as well as conflicting IBLA decisions, such as Harman Mining and W. E. Carter.

Coal mining permits are required for all roads (public or private) that are constructed, reconstructed or used exclusively for coal mining and reclamation activities. Utah fully recognizes that the quantity of public use of a road is not the exclusive consideration to determine whether it is exempt from regulation. As a result, upon a finding by the State that a road is a bona-fide public road as defined by the approved regulations, Utah will rely on the definition of "surface coal mining operations" under U.C.A. § 40-10-3(18), 30 U.S.C. § 1291(28) and "affected area," U.A.C. Rule R645-100-
200 and 30 C.F.R. §701.5, to determine whether an exemption from regulation is in order. If the operator can demonstrate to the satisfaction of the Utah regulatory authority that a particular road is not included in the definition of "surface coal mining operations," as explained in the pertinent preambles to the publication of the implementing federal rules and as interpreted by the courts, then Utah will not regulate the road.

Thus, a public road which was not constructed, reconstructed or used exclusively for coal mining and reclamation activities; i.e., a multiple use, open access public road, may not be required to be permitted if a) it was properly acquired by the governmental entity (not deeded to avoid regulation), b) it is maintained with public funds or in exchange for taxes or fees, c) it was constructed in a manner similar to other public roads of the same classification, and d) impacts from mining are not significant under the definition of "affected area" and "surface coal mining operations."

Utah recognizes that arrangements sometimes exist between coal companies and the entities which govern public roads used by such companies, whereby maintenance of the road is done in part by the coal companies. Utah believes that such arrangements are not the most important focus of inquiry; rather, coal mining usage and the associated impacts of such usage are the critical area of focus. A public road maintained by a coal operator or permittee should be examined as to:

1. whether the maintenance is occasioned primarily by the environmental impacts of coal mining operations on the road;

2. whether the maintenance is routine and similar to that which would be performed by the county or land management authority absent the agreement of the permittee or operator to do it; and

3. whether the maintenance agreement with the public entity is an arm's-length arrangement, such that the essence of the requirement that maintenance be carried out with public funds is met.

For example, if a public land management agency stipulates that, as a condition of a special use permit, the permittee is responsible for maintenance of certain existing roads used by the operator, the fact that such roads are not maintained with public funds for the duration of the operation would not automatically subject those roads to regulation if the effect of mining use on them is relatively slight. Similarly, if state or local governments or public land management agencies require mine operators to construct road improvements or contribute road maintenance funds or services as a
prerequisite for granting the permits and approvals necessary for the mining operation, the stipulation does not, by itself, render all such existing roads subject to regulation under SMCRA.

Utah believes that it, as the regulatory authority, is in the best position to make such determinations, and will decide, based upon these factors, whether such roads are public and whether the coal mining usage and impacts fall within the Utah program definitions of "surface coal mining operations" and "affected area."

We believe that this clarification addresses all of OSM's concerns while allowing the state of Utah to exercise its discretion in interpreting and administering its approved regulatory program. I trust this clarification will provide the basis for OSM to determine that Utah's implementation of its regulatory program is no less effective than the federal program, and that OSM may find the inquiry of the Section 733 letter satisfactorily answered.

We look forward to resolution of this issue and a continuing productive partnership with OSM in implementing Utah's coal regulatory program.

Very truly yours,

James W. Carter
Director

cc:
R. Uram, Director
Office of Surface Mining
H:733RESOL-LTR
AMENDED GRANT OF EASEMENT AND ASSIGNMENT AGREEMENT FOR COUNTY ROAD K3900

THIS AMENDED GRANT OF EASEMENT AND ASSIGNMENT AGREEMENT FOR COUNTY ROAD K3900 (this "Agreement") is made and entered into as of the 26th day of November, 2008 (the "Effective Date"), by and between SINK VALLEY RANCH, LLC ("Grantor"), and ALTON COAL DEVELOPMENT, LLC, a Nevada limited liability company, ("Grantee" and "Assignor") and Kane County, a political subdivision of the State of Utah ("County" and "Assignee"). Grantor, Grantee and County are sometimes hereinafter referred to as a "Party" and collectively referred to as the "Parties."

RECITALS

A. Grantor owns that certain real property located in Kane County, Utah, described on Exhibit A to this Agreement (the "Sink Valley Ranch Property").

B. Grantee intends to conduct coal mining activities on certain portions of the Sink Valley Ranch Property and following mining of these lands, seeks to locate a right of way for County Road K3900 on the Sink Valley Ranch Property.

C. Grantee and Kane County ("County") have entered into an agreement regarding the relocation and replacement of County Road K3900 ("County Road K3900 Agreement").

D. By Grant of Easement for County Road K3900 dated October 30, 2008 ("Grant of Easement"), Grantee acquired an easement and right of way from Grantor on the Sink Valley Ranch Property for assignment to the County for relocation and replacement of County Road K3900.

E. The Grant of Easement burdens that certain portion of the Sink Valley Ranch Property more particularly described and depicted as either Option A or Option B on the maps and diagrams attached at Exhibit B to this Agreement (the "Easement Area").

F. The Parties seek to amend the Grant of Easement to clarify the extent of the easement and right of way ("Amended Grant of Easement") and to provide for assignment of the Amended Grant of Easement from Alton Coal Development, LLC, to the County.

AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

INCORPORATED

Oct 15 2009
Div. of Oil, Gas & Mining
1. Amendment of Grant of Easement. Grantor hereby amends the Grant of Easement to include a perpetual, exclusive easement and right of way 66 feet in width for County Road K3900 over, across, upon and within either Option A or Option B or any area within the outlying boundaries of either Option A or Option B within the Easement Area, for the purpose of constructing, owning, operating, maintaining, repairing and replacing County Road K3900.

2. Assignment to County. Grantee hereby assigns the Amended Grant of Easement to the County. Grantor consents to the assignment of the Amended Grant of Easement to the County for re-establishment, construction, ownership, operation and maintenance of County Road K3900.

3. Construction and Use Requirements as Provided by the County Road K3900 Agreement. The County Road K3900 within the Easement Area shall be constructed by the County in accordance with County specifications and shall be owned by County for County Road K3900 which shall be operated and maintained by County without any cost, expense or obligation on the part of Grantor. Further, County has agreed to provide Grantor and Grantee/Assignor with thirty (30) days written notice prior to commencing construction within the Easement Area.

4. Obstructions. Grantor, by the terms of said agreement, shall not construct any fence, wall, or other barrier or structure of any kind on the Easement Area which would prevent, obstruct or impair County’s use and enjoyment of the Easement Area and the operation of County Road K3900.

5. Term. The duration of this Agreement shall be perpetual unless all Parties mutually agree in writing to terminate this Agreement.

6. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

7. Notices. All notices, requests, demands or other communications hereunder shall be in writing and deemed given when delivered personally, when deposited to be sent via a nationally-recognized overnight courier keeping receipts of delivery, service prepaid or billed to sender, or on the day said communication is deposited with an overnight courier service, postage prepaid, addressed as follows:

To County: Kane County Commission
76 North Main Street
Kanab, Utah 84741

With a copy to: Jim Scarth, Esq.
Kane County Attorney
76 North Main Street
Kanab, Utah 84741

To Grantee: ALTON COAL DEVELOPMENT, LLC
463 North 100 West, Suite 1
Cedar City, Utah 84720
Attention: Chris McCourt

With a copy to: Denise A. Dragoo, Esq.
Snell & Wilmer L.L.P.
15 West South Temple, Suite 1200
Salt Lake City, Utah 84101

To Grantor: Sink Valley Ranch, LLC
c/o C. Burton Pugh, Manager
533 North 650 East
Lindon, Utah 84042-1567

or to such other address as either Party may from time to time designate by notice in writing to the other Party. Rejection, refusal to accept delivery or inability to deliver due to changed address of which no notice has been given shall be deemed receipt by the addressee.

8. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Utah, without giving effect to its choice of law principles.

9. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed as an original but all of which together shall constitute one and the same instrument.

10. Entire Agreement. This Agreement supersedes all prior understandings, representations and agreements between the Parties with regard to the subject matter hereof and there are no other understandings, representations, warranties or agreements between them.

11. Amendment. Neither this Agreement nor any provision hereof may be changed, amended, modified, waived or discharged orally or by any course of dealing, but only by an instrument in writing signed by the Party against which enforcement of the change, amendment, modification, waiver or discharge is sought.

12. Authority. Each party hereto hereby represents, warrants and covenants unto the other that this Agreement has been duly authorized, executed and delivered by such party and constitutes the valid, legal and binding agreements and obligations of such party enforceable against such party in accordance with the terms hereof.

13. No Joint Venture. Nothing in this Agreement shall be construed to make the Parties partners or joint venturers or render any of the Parties liable for the debts or obligations of the other.

14. Agreement to Run with the Land; Running of Benefits and Burdens. All provisions of this Agreement touch, concern and run with the Sink Valley Ranch Property and Easement Area and are binding upon and inure to the benefit of the successors and assigns of Grantor and Grantee.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives effective as of the Effective Date.
Grantor:
SINK VALLEY RANCH, LLC

By: ____________________________
   Its: General Manager

Grantee:
ALTON COAL DEVELOPMENT, LLC

By: ____________________________
   Its: Manager
STATE OF UTAH  
COUNTY OF IRON  

The foregoing instrument was acknowledged before me this 23 day of December, 2008, by Christopher McCourt, Manager of ALTON COAL DEVELOPMENT, LLC, a limited liability company.

NOTARY PUBLIC
Residing at:

My Commission Expires:

5.25.09

STATE OF UTAH  
COUNTY OF UTAH  

The foregoing instrument was acknowledged before me this 26 day of November, 2008, by C. Burton Pugh, General Manager of SINK VALLEY RANCH, LLC, a limited liability company.

NOTARY PUBLIC
Residing at: Pleasant Grove, UT

My Commission Expires:

August 12, 2012

ENTRY NO. 00142094
12/04/2008 04:40:56 PM B: 0360 P: 0657
Amended Easement PAGE 5 / 8
VERJEAN CARuso, KANE COUNTY RECORDER
FEE $ 29.00 BY CHRIS MCCOURT
EXHIBIT A

Legal Description of the Sink Valley Ranch Property

Tract 9-5-19-1:

TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M
Section 19: SW¼SE¼, E¼SE¼, SE¼NE¼

containing 160.0 acres, more or less

Tract 9-5-30-2:

TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M
Section 30: All of Section Lot #1 (NW¼ NW ¼); NE¼ NW¼; N¼ NE¼;
ALSO: BEGINNING 3.50 chains West of the East Quarter corner of Said Section 30, and
running South 34°34’ West 22.64 chains to the 1/16 section line; thence West 2.64
chains to the Southwest corner of NE¼ SE¼ of Said Section 30; thence North 40.00
chains; thence East 20.00 chains; thence South 14.69 chains; thence southwesterly to the
point of beginning

containing 217.64 acres, more or less
EXHIBIT B
Map of the Easement Area
Finding of No Significant Impact
And
Decision Record

Alton Road Relocation
UTU-83017

Location: Salt Lake Meridian, Kane County, Utah
Township 39 South, Range 5 West, Sections 18, 19, 30, 31;
Township 39 South, Range 6 West, Sections 24, 25.

Applicant/Address: Alton Coal Development, LLC
P.O. Box 463 North 100 West Suite 1
Cedar City, Utah 84720
FINDING OF NO SIGNIFICANT IMPACT
AND
DECISION RECORD
Alton Road Relocation
EA-UT-110-08-011
UTU-83017

FONSI: Based on the analysis of potential environmental impacts contained in the attached environmental assessment, and considering the significance criteria in 40 CFR 1508.27, I have determined that the action will not have a significant effect on the human environment. An environmental impact statement is therefore not required.

DECISION: It is my decision to authorize the Alton Road Relocation #UTU-83017 as described in the Proposed Action from EA-UT-110-08-011. This decision is contingent on meeting all stipulations and monitoring requirements listed below.

SUMMARY OF THE SELECTED ALTERNATIVE: BLM is proposing to temporarily relocate Alton Road to the west of its current location for the life of the proposed coal mining operations. Once the mine is closed, the temporary route is to be reclaimed and the existing route of Alton Road will be reconstructed. The proposed road relocation would be approximately 3.1 miles long, have a 24-foot gravel road surface, and fall within a 66-foot-wide ROW impacting approximately 31 acres. Kane County would be responsible for road construction.

Identification of issues(s) for the assessment was accomplished by considering any resources that could be affected by implementation of one of the alternatives. Issues identified and addressed in the EA are:

- Native American Religious Concerns
- Livestock Grazing
- Vegetation
- Fish and Wildlife
- Soils
- Recreation
- Visual Resources
- Geology and Mineral Resources
- Paleontology

Stipulations: This decision is contingent on meeting the following stipulations and monitoring requirements which includes those identified by BLM IDT specialists in Appendix A.

(1) Air Quality: Watering will occur during construction to keep the dust down.

(2) Cultural Resources: The road has been routed to avoid all known cultural resource sites. Additionally, if cultural or Native American resources are discovered during construction, operations will cease, and a BLM authorized officer should be notified immediately.

(3) Floodplains: The road will be engineered to not impact any floodplains.

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(4) Invasive/Non-native species: Construction equipment will be pressure washed before coming to the project area and appropriate measures will be taken to reseed and rehabilitate areas of disturbance to decrease the establishment of cheatgrass.

(5) Threatened, Endangered, or Candidate Wildlife Species: The project will occur outside of dates for wintering Bald Eagle use (November 15–March 15) if eagles are present.

(6) Water Quality: BMPs such as sediment control structures including silt fences, erosion control mulching, etc. will be implemented to avoid impacts to water quality.

(7) Livestock Grazing: Wherever the alignment crosses a maintained fence, a new cattle guard and gate will be constructed so that remaining portions of the allotments would still be useable.

(8) Vegetation: Stipulations will be in place to require reseeding and rehabilitation of impacted areas after the completion of the project.

(9) Fish and Wildlife: Post-use reclamation will include reseeding of the road to provide for the re-establishment of wildlife habitat. Construction will occur outside of sage-grouse leking and nesting dates.

(10) Soils: Measures will be taken to prevent soil loss and erosion to the extent possible. Reseeding with species suitable for the site to provide soil site stability will be required after project completion.

(11) Visual Resources: Following landform contours will somewhat mitigate contrast.

(12) Paleontology: Although surface inventory did not locate substantial resources on the surface, they could occur below the present land surface. Ground disturbing activities in bedrock of the Dakota and Tropic formations will be spot checked by a qualified paleontologist or their authorized agent for substantial resources, which if found, will be scientifically collected by a qualified paleontologist or their authorized agent and reposed at the Utah Museum of Natural History.

(13) Lands and Access: The ROW will be temporary and the road will be removed and reclaimed upon termination of the mine.

RATIONALE FOR THE DECISION: The decision to authorize this right-of-way has been made in consideration of the environmental impacts of the Proposed Action. Granting of rights-of-way is authorized under Title V, Section 501(1), of the Federal Land Policy and Management Act of 1976. The action is in conformance with the Kanab RMP signed October 31, 2008. Implementation of the Proposed Action will comply with all applicable federal and state laws, and local zoning and building ordinances during all phases of the project.

The proposed road relocation was selected to move Alton Road outside of the active mining area to the west onto land that would not be included in Alton Coal’s pending permit application package. This relocation provides for more recoverable coal as well as for the health and safety of the public by preventing the interaction of large mining equipment with public traffic.

Kane County will construct, operate, and maintain the road in conformity with the approved plan of development that shall be included as part of the right-of-way grant. All companies involved with any aspect of the project will comply with the terms and conditions of the ROW grant and its attached stipulations.
Potential resource conflicts, such as loss of vegetation, loss of AUMs, loss of sage grouse and mule deer habitat, and soil erosion were resolved through environmental commitments integral to the Proposed Action Alternative. These are fully described in the subject EA. These commitments and stipulations were developed during project planning involving all participants.

The No Action Alternative was not selected because public safety would be at a greater risk. It was determined that the road can be relocated with minimal impacts to the environment and is in the public interest.

Relevant issues were identified through the agency involvement process. During the preparation of this EA, the public was notified of the Proposed Action and a 30-day comment period was posted on the BLM's Utah Environmental Notification Bulletin Board on May 22, 2008 with a public scoping period through June 22, 2008 (30 days). Those individuals on the Kanab Field Office mailing list were sent a copy of the Notice of Intent and a public comment form. Two comments were received during this time. Due to the limited number of comments received, responses were not sent to commenters; instead the comments received have been addressed and responded to in the attached EA.

APPEALS: This decision shall take effect immediately on the date it is signed by the authorized officer, and shall remain in effect while any appeal is pending, unless the Interior Board of Land Appeals (IBLA) issues a stay. Any appeal of this decision must follow the procedures set forth in 43 CFR Part 4. Within 30 days of the decision, a notice of appeal must be filed in the office of the authorized officer at BLM Kanab Field Office, 318 North 100 East, Kanab, Utah 84741. If a statement of reasons for the appeal is not included with the notice, it must be filed with the IBLA, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, VA 22203 within 30 days after the notice of appeal is filed with the authorized officer.

If you wish to file a petition for stay pursuant to 43 CFR Part 4.21(b), the petition for stay should accompany your notice of appeal and should show sufficient justification based on the following four standards:

(1) The relative harm to the parties if the stay is granted or denied,

(2) The likelihood of the appellant's success on the merits,

(3) The likelihood of irreparable harm to the appellant or resources if the stay is not granted, and

(4) Whether the public interest favors granting the stay.

If a petition for stay is submitted with the notice of appeal, a copy of the notice of appeal and petition for stay must be served on each party named in the decision from which the appeal is taken, and must be served with the IBLA at the same time it is filed with the authorized officer.

A copy of the notice of appeal, any statement of reasons, and all pertinent documents must be served on each adverse party named in the decision from which the appeal is taken and on the Office of the Regional Solicitor, U.S. Department of the Interior, 6201 Federal Building, 125 South State Street, Salt Lake City, Utah 84138-1180, no later than 15 days after filing the document with the authorized officer and/or IBLA.

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Div. of Oil, Gas & Mining
United States Department of the Interior
Bureau of Land Management

Environmental Assessment (UT-110-08-011)
Case File # (UTU-83017)
November 2008

Alton Road Relocation Environmental Assessment

Location: Salt Lake Meridian, Kane County, Utah
Township 39 South, Range 5 West, Sections 18, 19, 30, 31;
Township 39 South, Range 6 West, Sections 24, 25.

Applicant/Address: Alton Coal Development, LLC
P.O. Box 463 North 100 West Suite 1
Cedar City, Utah 84720

U.S. Department of the Interior
Bureau of Land Management
Kanab Field Office
190 E. Center Street
Kanab, Utah 84741
Phone: 435-644-4300
FAX: 435-644-4350

Alton Road Relocation
Case File #UTU-83017
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CHAPTER 1: PURPOSE AND NEED

1.1 Introduction

This Environmental Assessment (EA) has been prepared to analyze and disclose the environmental consequences of the Alton Road re-route as proposed by Alton Coal Development, LLC (Alton Coal). The EA is a site-specific analysis of potential impacts that would result from the implementation of a proposed action or alternatives to the proposed action. The EA assists the Bureau of Land Management (BLM) in project planning and ensuring compliance with the National Environmental Policy Act (NEPA), and in making a determination as to whether any "significant" impacts could result from the analyzed actions. "Significance" is defined by NEPA and is found in regulation 40 CFR 1508.27. An EA provides evidence for determining whether to prepare an Environmental Impact Statement (EIS) or a statement of Finding of No Significant Impact (FONSI). If the decision maker determines that this project has "significant" impacts following the analysis in the EA, then an EIS would be prepared for the project. If not, a Decision Record may be signed for the EA approving the selected alternative, whether the proposed action or another alternative. A Decision Record, including a FONSI statement, documents the reasons why implementation of the selected alternative would not result in significant environmental impacts (effects) beyond those already addressed in the Kanab Field Office Resource Management Plan (RMP) October 2008.

1.2 Background

Alton Coal has a permit application package pending with the Utah Division of Oil, Gas, and Mining (DOGM) that, if approved, would permit coal surface mining operations on approximately 635 acres of private lands. Alton Coal has proposed the temporary relocation of Alton Road to accommodate active mining on the private lands through which the road currently passes. The estimated length of the re-route would be approximately 3.1 miles, all of which cross BLM-administered land. The width of the proposed right-of-way (ROW) requested for the project is 66 feet. Construction is anticipated to commence in spring 2009 depending on the timing of DOGM's final permitting decision. Figure 1 illustrates the location of the existing road in relation to the proposed road relocation: Township 39 South, Range 6 West, Sections 24 and 25; and Township 39 South, Range 5 West, Sections 18, 19, 30, and 31.

1.3 Need for the Proposed Action

The private land that is leased by Alton Coal would be the active mining area. This road relocation is needed to move Alton Road outside of the active mining area to the west onto land that would not be included in Alton Coal's pending permit application package. This relocation provides for more recoverable coal as well as for the health and safety of the public by preventing the interaction of large mining equipment with public traffic. Relocation of this road within the mining boundary is not ideal because it would result in crossing of public traffic with the mine equipment. Because of the size of the mine equipment, equipment operators have limited range of observation, and interaction between the public and this equipment would result in unsafe conditions.
Figure 1. Project location and proposed relocation map.

Alton Road Realignment
- ROW
- TUA
- Cut/Fill Slope Area

Basemap taken from the Alton, Utah USGS 7.5 minute series quadrangle.

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1.4 Purpose(s) of the Proposed Action

The Alton Coal Plan of Development proposes to temporarily relocate the existing Alton Road to accommodate active mining and safe public and mine-related travel in the private land areas. Alton Road is a public roadway used by both travelers and local residents in the area (see Figure 1). Measures identified in the Alton Coal Plan of Development apply to the projected work, which is defined as the ROW, access roads, all work and storage areas, and other areas used during construction of the project.

1.5 Conformance with BLM Land-use Plan(s)

The Proposed Action Alternative described below would be in conformance with all decisions in the Kanab RMP. That document states that, "although established corridors exist, this does not preclude the location of transportation and transmission facilities in other areas if environmental analysis indicates that the facilities are compatible with other resource values and objectives." Although the Proposed Action and alternative(s) are not specifically mentioned in the plan, they are consistent with its objectives, goals, and decisions as they relate to Lands and Realty Program goals and objectives.

The BLM is considering approval of road relocation consistent with the Kanab RMP for making public lands available for ROWs in order to provide access for more recoverable coal. Coal mining is recognized in the Kanab RMP as an appropriate use of public lands, and it provides management direction to support energy development as part of the National Energy Policy Act of 2005. The BLM will consider approval of the proposed road relocation in a manner that avoids or reduces impacts on resources and activities as identified in Appendix A, the Interdisciplinary Team Analysis Record Checklist (ID checklist), and prevents unnecessary or undue degradation of the public lands.

1.6 Relationship to Statutes, Regulations, or Other Plans

The Proposed Action would be consistent with federal regulations and state and local laws, and would be consistent with local management plans to the maximum extent possible. The following activity plans and documents also direct the Kanab Field Office management in the analysis area, including the selection of an alternative from this EA. This action is consistent with federal laws and regulations, including the granting of ROWs authorized by Title V of the Federal Land Policy and Management Act (43 U.S.C. 1761-1771). Other laws that must be considered are as follows:

- Migratory Bird Treaty Act, as amended through Public Law 107-136, Jan 24, 2002
- Endangered Species Act of 1973
- Bald Eagle Protection Act of 1940

The Proposed Action would also be consistent with the Standards for Rangeland Health of BLM Lands in Utah (BLM 1997), with applicable Native American Trust policies, and with state and...
local plans, programs, and policies to the extent practical within federal law, regulation, and policy.

1.7 Identification of Issues

The ID checklist (Appendix A) provides a brief description of the affected environment, including critical elements that could be impacted to a level requiring further analysis.

Resources identified in the ID checklist as "not present in project area" include Areas of Critical Environmental Concern, Environmental Justice (low income or minority populations), Prime and Unique Farmlands, Wild and Scenic Rivers, Wilderness, and Non-WSA Lands with Wilderness Characteristics.

Resources identified in the ID checklist as "present in project area but not impacted by the proposed project" are listed below. Resources not being impacted also include those for which mitigation measures or best management practices (BMPs) would be implemented as part of the proposed action to avoid impacts.

Air Quality: The ID checklist indicated that impacts to air quality would be minimal but that watering should occur during construction for dust abatement.

Cultural Resources: Cultural resource inventories have been completed (see reports U-05-MQ-1568-b-p and U-07-BL-0969-b). The Alton Road has been designed to avoid all known cultural resource sites, and no sites would be impacted.

Floodplains: The ID checklist indicates that engineering of the Alto Road should be done so that floodplains are not impacted.

Invasive, Non-native Species: The ID checklist indicates that equipment should be pressure washed before coming to the project area, and appropriate measures should be taken to reseed and rehabilitate areas of disturbance to decrease the likelihood of the establishment of cheatgrass (Bromus tectorum) and other non-native, invasive species.

Threatened, Endangered, or Candidate Plant Species: The ID checklist indicates that no Threatened, Endangered, or Candidate Plant Species are known to exist within the project area.

Threatened, Endangered or Candidate Wildlife Species: The ID checklist indicates that the area has limited use by Bald Eagles (Haliaeetus leucocephalus), but that the project should proceed outside of dates for eagle wintering use (November 15 to March 15) if eagles are present.

Wastes: There are no anticipated impacts relating to solid or hazardous wastes.

Water Quality (drinking/ground): No impacts to water quality would be anticipated with this action. Mitigation would need to take place as part of standard operating procedures to ensure water quality is not impacted.

Wetlands/Riparian Zones: The ID checklist indicates that a limited riparian area is crossed by the proposed road on BLM land.

Rangeland Health Standards and Guidelines: The ID checklist indicates that some loss of rangeland would occur as a result of this action; however, it is probably not enough to quantify it as an impact.
Woodland/Forestry: No significant impact to woodland/forestry is expected. Some removal of pinyon (P. edulis or P. monophylla) and juniper (Juniperus spp.) trees may take place, but this does not pose a great impact.

Lands/Access: Because this is only a temporary ROW and the Alton Road would be removed and reclaimed at the termination of the mine, no impacts to lands or access to public lands are anticipated.

Fuels/Fire Management: No impact to fuels and fire management is expected. The added road would serve as a fire break and provide quicker access to more areas for fire suppression.

Socioeconomics: Rerouting of the Alton Road would have no socioeconomic impact. Access would be maintained.

Resources identified in the checklist as "present and potentially impacted by the proposed project" are, Native American Religious Concerns, Livestock Grazing, Vegetation, Fish and Wildlife, Soils, Recreation, Visual Resources, Geology/Mineral Resources, and Paleontology. These resources are described in detail in Chapters 3 and 4.

1.7.1 Native American Religious Concerns
- Consultation regarding this road would be initiated, but because no sites would be impacted, no Tribal comments are anticipated.

1.7.2 Livestock Grazing
- The impact area would take in part of several grazing allotments, reducing the acreage available for livestock grazing, thereby reducing the number of Animal Unit Months (AUMs) available.

1.7.3 Vegetation
- Vegetation in the project area would be impacted, and stipulations would be included in the ROW grant requiring the reseeding and rehabilitation of impacted areas after the completion of the mining project.

1.7.4 Fish and Wildlife
- There is limited mule deer use in the area, however the proposed project lies within critical mule deer summer range. Greater sage-grouse (Centrocercus urophasianus; hereafter referred to as sage-grouse) have brooding habitat in the project area and a lek adjacent to area; Alton Road relocation has the potential to impact use by grouse in winter and during nesting and brooding. The lek is approximately 2,018 feet from the proposed ROW.

1.7.5 Soils
- Measures should be taken to prevent soil loss and soil erosion to the extent possible. Reseeding with species suitable for the site should be required after project completion to provide soil site stability.
1.7.6 Recreation
• Alton Road relocation would displace recreation along the existing alignment of Alton Road, and would move discordant sights and sounds closer to recreationists using the western portions of the project area.

1.7.7 Visual Resources
• The project area lies within Visual Resource Management (VRM) Class IV area, which allows major modification of the existing character of the landscape. The proposed project would temporarily introduce new contrasts in form, line, texture, and color to the landscape. Following landform contours would somewhat mitigate contrast.

1.7.8 Geology/Mineral Resources
• A gravel source would need to be identified and site-specific NEPA analysis performed if the gravel source is located on federal lands.

1.7.9 Paleontology
• Up to 70% of the proposed re-route is over Tropic and Dakota formation outcrops. These units have yielded highly significant fossils in the immediate area, including vertebrate microfossil sites (Dakota), plesiosaurs, articulated fish remains, and exceptionally well-preserved specimens of rare invertebrate fossils. Any ground disturbing activity could damage fossil resources or lead to loss of important contextual data.

1.8 Summary
This chapter has presented the purpose and need of the proposed project, as well as the relevant issues (i.e., those elements of the human environment that could be affected by the implementation of the proposed project). In order to meet the purpose and need of the proposed project in a way that resolves the issues, the BLM has analyzed the Proposed Action and No Action Alternative. These alternatives are presented in Chapter 2. The potential environmental impacts or consequences resulting from the implementation of each alternative are then analyzed in Chapter 4 for each of the identified issues.
CHAPTER 2: DESCRIPTION OF ALTERNATIVES, INCLUDING PROPOSED ACTION

2.1 Introduction

This EA discloses the environmental impacts of the Proposed Action and the No Action Alternative. The analysis of the No Action Alternative is considered and analyzed to provide a baseline for comparison of the impacts of the Proposed Action.

Alternative routes were considered, but they were eliminated from consideration and detailed analysis. Alternatives included variations in location and distance of the routes. These alternatives were eliminated from further analysis because of constraints, including impacts to environmentally sensitive areas, cultural resources, public safety, and topography. See Section 2.4 below.

2.2 Alternative A—Proposed Action

BLM is proposing to temporarily relocate Alton Road to the west of its current location for the life of the proposed coal mining operations. Once the mine is closed, the temporary route would be reclaimed and the existing route of Alton Road would be reconstructed. Appendix B shows the proposed alignment and describes in greater detail the activities associated with the proposed road relocation. The proposed road relocation would be approximately 3.1 miles long, have a 24-foot gravel road surface, and fall within a 66-foot-wide ROW. The 66-foot-wide ROW would fall 33 feet on either side of the centerline. Due to some steep areas, the cut and fill slopes would terminate outside of the 66-foot-wide ROW in some areas of the project for a total of 1.85 acres. The road grades vary from 0.5% minimum to 8% maximum with cut and fill slope ratios of 2:1 and 3:1, respectively. Kane County would be responsible for road construction and would likely put the project out for bid if the Proposed Action is approved.

2.2.1 Preconstruction Activities

Approximately 2 acres would be needed for each temporary use area for a total of 3.96 acres (Figure 1). No permanent structures or facilities are anticipated as part of the road relocation. It is anticipated that construction would take approximately 3 to 4 months and the road would be needed for approximately 5 to 10 years.

2.2.2 Design Criteria

The 3.1-mile-long roadway is designed to have a 24-foot gravel road surface within a 66-foot-wide ROW (Appendix B). Corrugated metal pipe would be used for drainage structures (culverts) at all wash areas and low spots within the project limits as shown in Appendix B. The proposed roadway surface consists of 1-inch, Type II road base gravel as recommended by the Kane County standards. Approximately 9,000 cubic yards of gravel would be needed to meet the 6-inch minimum thickness required by the county. The top 3 inches of the road surface would be treated with calcium chloride to control dust.

2.2.3 Construction of ROW Facility

The construction of this roadway would commence immediately after approval by the Utah DOGM to begin mining. Construction of the roadway would disturb approximately 31 acres of
land: approximately 25 acres for the roadway construction ROW, itself, 2 acres for cut and fill slopes, and 4 acres for temporary use areas, equipment storage sites, and topsoil stockpile areas.

2.2.3.1 Flagging and Staking of the ROW

Prior to construction of the roadway, a licensed surveyor would stake the centerline and ROW limits. Construction staking would include the staking of the cut and fill areas as well as the clearing limits.

2.2.3.2 Clearing and Grading of the ROW

Construction equipment would consist of trucks, loaders, dozers of various sizes, shovels and backhoes, graders, generators, and compaction machines. Most of the equipment to be used during the ROW restoration would consist of dozers, graders, and backhoes.

The existing topsoil in the proposed roadway area is approximately 8 inches deep. The total volume of topsoil that would be removed is approximately 10,000 cubic yards. This topsoil would be removed and stockpiled within the limits of the proposed 66-foot-wide ROW. The topsoil would later be used for reclamation when the roadway is discontinued.

2.2.3.3 Earthwork

The roadway base would be made of suitable, native material re-compacted to 95% maximum dry density. The roadway surface would be made of 6-inch gravel that would be obtained from an authorized mineral material site or pit. The unsuitable materials (i.e., oversized rocks and weak soils) would be spread alongside the roadway within the undisturbed areas of the 66-foot-wide ROW as shown in Appendix B. Silt fences would be built to alleviate and/or control erosion and water pollution from disturbed soils.

2.2.3.4 Temporary Use Areas

In addition to the construction of the roadway and the 66-foot-wide ROW, Alton Coal has identified two temporary workspace areas (2 acres each) where additional construction area width would be required for safe and efficient construction at road crossings, water body crossings, timber and boulder storage areas, steep sideslopes, the bases or tops of steep ascent/descent areas, and truck turnaround areas. The locations and sizes of the temporary workspaces identified by Alton Coal are depicted in the alignment sheets. The temporary use areas would disturb approximately 4 total acres.

2.2.3.5 Stabilization, Rehabilitation, and Revegetation

Cleanup and restoration of the surface along the ROW and any temporary use areas would be accomplished through the removal of any construction debris and final grading to the finished contour. Steps would be taken to minimize erosion, to restore the natural ground contour, and to account for road settling. Restoration seeding would be performed in accordance with BLM requirements in the ROW grant.

2.2.4 Operation and Maintenance of the Facility

Because the proposed road relocation would be maintained by the county, Alton Coal would assist the county in maintaining the proposed roadway if needed. The hauling of equipment and

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materials would be done in accordance with Utah state requirements. The existing road and ROW would be used for access as a haul route. Approximately 3,500 feet of the existing road are located on public lands and would remain open and maintained by the county. The existing road on private lands would be closed to public access. The existing road that would be used in conjunction with the proposed ROW would be periodically maintained during construction by blading in order to keep the road level and not rutted.

2.2.5 Termination and Abandonment

Prior to termination of the BLM ROW grant, or any portion thereof, Alton Coal would contact the Authorized Officer to arrange for a pre-termination meeting and joint inspection of the proposed ROW. This meeting and inspection would take place a minimum of 30 days prior to termination. The meeting and inspection would be held so that an agreement on an acceptable termination and rehabilitation plan can be reached. This plan would include, but not be limited to, the abandonment and/or removal of facilities, drainage structures, and/or surface material; re-contouring; replacing of topsoil; seeding; and monitoring. The Authorized Officer must approve the plan in writing. Alton Coal would relinquish all, or those specified portions, of the proposed ROW in accordance with the termination plan.

2.3 Alternative B—No Action

NEPA requires a No Action Alternative, which is defined in the Council on Environmental Quality's regulations as a continuation of present conditions (40 CFR §1502.14). The analysis of the No Action Alternative provides important baseline information for the decision maker and the public.

The No Action Alternative would deny a ROW for the road. With this alternative, the BLM would not approve a ROW for the road and the applicant would not be allowed to place the road on public lands. The BLM has an obligation to allow utility and transportation development if the environmental consequences are not irreversible or severe. If the ROW grant is not approved, the applicant can (and generally would) submit a new ROW application that corrects the flaws in the original. The ROW process is designed to overcome the No Action Alternative by not accepting the ROW application as complete, until such problems are solved or mitigated in the application. If the No Action Alternative were selected, Alton Coal would have to use the existing road. However, the current road would not be suitable because of various safety issues.

2.4 Other Action Alternatives and Alternatives Considered but Eliminated from Further Analysis

Alton Coal considered alternative routes, but they were eliminated from consideration and detailed analysis. Additional alternatives included variations in location and distance of the routes. These alternatives were eliminated from further analysis because alternative routes would have resulted in greater impacts to cultural and environmental resources in the area.

One alternative route location was located several hundred feet east of the currently proposed route and crossed the private mine area. Though this route was over 3,000 feet shorter in length, it impacted several archaeological sites that could not be avoided.

Another alternative route considered was close to the currently proposed route, but it also impacted archaeological sites and would have required a significant amount of fill to cross.
Lower Robinson Creek. Ultimately this alignment was adjusted farther to the west to take advantage of the natural topography so that the road would be lower in elevation when it crossed Lower Robinson Creek and therefore would minimize the impact to the area. This alignment was also modified to specifically avoid each archeological site, and, after modifications it became the Proposed Action.

The other alternative eliminated proposed that the road be kept within the Surface Mining Control and Reclamation Act permit boundary, which is the only private property Alton Coal has lease rights to in the immediate area. The re-route in this situation would begin immediately south of Lower Robinson Creek. This route would turn east along the creek for approximately 2,000 feet and would then proceed along the eastern edge of the planned mining pits. The pits are planned to extend close to the property boundary along this eastern edge, but, with the addition of this road, Alton Coal would lose an area of coal at least 166 feet wide by approximately 1 mile in length. The width of this block of coal is based on the restrictions on mining activity within 100 feet of a public road ROW (per Surface Mining Control and Reclamation Act) and the 66-foot-wide ROW for the road.

In addition to the coal loss, public safety would be of substantial concern. The road re-route would have to cross an active mine haul road at least once in order to proceed along the east side of the pits. This crossing would be dangerous and most likely would require fulltime crossing guards to control public traffic through this area. The active mine haul road would have large equipment trafficking regularly across it. Because of the equipment size, the operators of this equipment have a limited observation range from the cab and cannot stop quickly.
CHAPTER 3: AFFECTED ENVIRONMENT

3.1 Introduction

The affected environment of the Proposed Action and No Action Alternative was considered and analyzed by a BLM interdisciplinary team as documented in the ID checklist (Appendix A). The ID checklist indicates which resources of concern are present in the project area and which would be impacted to a degree that requires detailed analysis. Critical Elements of the Human Environment are those elements that are subject to the requirements specified in statute, regulation, or executive order, and must be considered in all EAs (BLM 2005). Section 3.3 describes the resources that were identified as those that would be potentially impacted by the Proposed Action.

3.2 General Setting

The proposed re-route of the Alton Road is located to the southeast of Alton, Utah, which has a population of 134 (USCB 2000). The site is approximately 7,000 feet above sea level and is in the Colorado Plateau Semi-Desert physiographic province (Bailey 1995). Ranching and grazing are the primary land uses in the area. The two dominant vegetation types are pinyon-juniper woodland and mixed mountain shrubland. The road traverses habitat for mule deer (Odocoileus hemionus), sage-grouse, and elk (Cervus canadensis) (BLM 2008).

The average maximum temperature is 60.2°F and the average minimum temperature is 31.0°F. The average precipitation is 16.4 inches per year, and the average total snowfall is 83.3 inches per year (WRCC 2008).

3.3 Critical Elements of the Human Environment and Other Resources Brought Forward for Analysis

3.3.1 Native American Religious Concerns

Many Native American tribes maintain that they are descendents of the peoples who once occupied the area managed by the Kanab Field Office, including the Southern Paiute, Navajo, Hopi, Ute, and Zuni tribes. Because of this traditional connection, many of these tribes hold a deep interest in the area's resources and the uses of those resources.

General areas, specific species, and/or specific sites could be important to contemporary Native American tribes for their traditional uses or for their sacred or religious/spiritual associations. Archaeological remains of prior Native American cultures, especially burials, rock art, and habitations, are often religiously or spiritually significant to current tribes. In addition, the physical resources of the area can be important for both traditional uses (e.g., continuing traditional gathering of ceremonial or subsistence vegetation and use of areas for ceremonial purposes) and for association with use by prior Native American cultures (e.g., springs and water sources or concentrations of other important resources). These areas and sites are generally not known or discussed outside of the affected community, but they may be present in the decision area.

According to the Kanab RMP, consultation would be required to identify and protect specific sites or areas. Consultation for this project was initiated by the BLM in September 2008 and completed on October 30, 2008.
3.3.2 Livestock Grazing

Grazing allotments encompass 30.46 acres within the boundaries of the project area (see Table 3-1 and Figure 2). There are five grazing allotments that fall within the project area and one area that has no allotted AUMs. The allotments that fall within the boundaries are Alton, Isolated Tracts, Robinson Creek, Syler Knoll, and Upper Sink Valley.

Table 3-1. Grazing Allotments

<table>
<thead>
<tr>
<th>Allotment</th>
<th>Total Acres in Allotment</th>
<th>Acres of Allotments in Project Area</th>
<th>Percent of Total Allotment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alton</td>
<td>156</td>
<td>7.87</td>
<td>5.04%</td>
</tr>
<tr>
<td>Isolated Tracts</td>
<td>1,813</td>
<td>0.65</td>
<td>0.04%</td>
</tr>
<tr>
<td>Robinson Creek</td>
<td>515</td>
<td>6.69</td>
<td>1.30%</td>
</tr>
<tr>
<td>Syler Knoll</td>
<td>496</td>
<td>9.24</td>
<td>1.86%</td>
</tr>
<tr>
<td>Upper Sink Valley</td>
<td>6,279</td>
<td>4.71</td>
<td>0.08%</td>
</tr>
<tr>
<td>Un-allotted</td>
<td>N/A</td>
<td>1.30</td>
<td>N/A</td>
</tr>
<tr>
<td>Total</td>
<td>9,259</td>
<td>30.46</td>
<td>8.32%</td>
</tr>
</tbody>
</table>

3.3.3 Vegetation

Alton Road occurs in the semiarid foothills of the Colorado Plateau Semi-Desert physiographic province (Bailey 1995). Vegetation communities and the acres of each vegetation type found in the project area are listed in Table 3-2 and Figure 3.

Table 3-2. Vegetation Types

<table>
<thead>
<tr>
<th>Vegetation Type</th>
<th>Acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pinyon-juniper/Mountain Brush</td>
<td>1.79</td>
</tr>
<tr>
<td>Pinyon-juniper/Sagebrush</td>
<td>5.07</td>
</tr>
<tr>
<td>Rabbitbrush</td>
<td>0.51</td>
</tr>
<tr>
<td>Riparian</td>
<td>0.06</td>
</tr>
<tr>
<td>Sagebrush/Grass</td>
<td>6.66</td>
</tr>
<tr>
<td>Sagebrush/Grass (treated)</td>
<td>15.94</td>
</tr>
<tr>
<td>Other (road and pastureland)</td>
<td>0.43</td>
</tr>
<tr>
<td>Total</td>
<td>30.46</td>
</tr>
</tbody>
</table>
Figure 2. Grazing allotments.

*Grazing data comes from the BLM. Base map taken from the Alton, Utah USGS 7.5 minute series quadrange.
Figure 3. Vegetation types.

Vegetation data was developed by SWCA, in support of the Alton Coal EIS. Base map taken from the Alton, Utah USGS 7.5 minute series quadrangle.
Pastureland and other roads are also found in the project area. Mean annual precipitation in the Town of Alton was approximately 16 inches from 1928 to 2006, and mean annual temperature for this same time period was 60.2°F (WRCC 2005). The Colorado Plateau ecoregion receives most of its precipitation in the form of snow during the winter months; summers are generally hot and dry (WRCC 2005). These climate conditions encourage the growth of plant species that are physiologically adapted to withstand drought and heat.

Vegetation within the project area is managed by the BLM in accordance with the Kanab RMP Record of Decision signed October 31, 2008 (BLM 2008). Specifically, the area's vegetation is managed with the goal of improving wildlife habitat, increasing forage production for livestock grazing, providing watershed protection, and reducing soil loss.

3.3.4 Fish and Wildlife

Sage-grouse are found in scattered populations throughout Utah, with the exception of most of the Colorado Plateau in the southeastern portion of the state (UDWR 2002). The sage-grouse is an herbivore and insectivore that is dependent on sagebrush habitat (Artemisia species, especially A. tridentata). Sage-grouse require an understory of grasses and forbs and associated wet meadow areas (Bosworth 2003). Occupied habitat areas have declined approximately 60% from historic levels (BLM 2008). Sage-grouse population declines are currently attributed to habitat loss, habitat fragmentation, and reduced habitat quality.

One of the greatest threats to sage-grouse is the direct loss of the sagebrush steppe environment due to pinyon-juniper encroachment, mineral development, and invasive plants (UDWR 2005a). A sage-grouse lek is located adjacent to public lands near the southern end of the project area (Figure 4). Changes in function of the sagebrush steppe, including disrupted fire regimes and the lack of herbaceous understory, reduce the usable values of the existing habitat (UDWR 2005a). There are currently 145,900 acres of sagebrush steppe in the Kanab Field Office management area which represents 26% of this area.

Crucial summer mule deer habitat is located in the western portions of Kane County and throughout Garfield County (Figure 4). Mule deer are migratory animals, moving seasonally between summer and winter ranges. Mule deer usually summer at high elevations and winter at low elevations. Loss and degradation of lower elevation winter range can limit mule deer populations (UDWR 2005a). Loss of winter range is a limiting factor on the western portions of the project area (UDWR 2005c, UDWR 2005d). Throughout the remainder of the decision area, habitat decline is threatening the health of the mule deer herds (UDWR 2005e, UDWR 2006b, UDWR 2005f, UDWR 2005g). The cause of habitat decline is generally associated with decadent sagebrush steppe and encroaching pinyon-juniper communities.
Figure 4. Wildlife habitat.

[Diagram showing wildlife habitat areas including Sage-grouse Brooding Habitat and Mule Deer Crucial Summer Habitat.]

Wildlife data comes from Utah DWR, 7/1/2006. Base map taken from the Alton, Utah USGS 7.5 minute series quadrangle.

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3.3.5 Soils

NRCS soils data are currently unavailable for the area; however, data are in the process of being gathered and should be available in approximately winter of 2009. Soils information included in the Mine Permit Application for the Alton Coal Project, July 1987 (UII 1987) was used to determine soil mapping units, soils series, and soil characteristics for the project area. Soils in this area vary widely in their characteristics. Commonly, individual soils on the landscape merge into one another as their characteristics gradually change. Dominant soil types in the project area and their acreages are listed in Table 3-3 and Figure 5.

Table 3-3. Soil Types

<table>
<thead>
<tr>
<th>Soil Type</th>
<th>Slope</th>
<th>Depth</th>
<th>Soil Type</th>
<th>Acres in Project Area</th>
<th>Percent of Project Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>16B</td>
<td>5%–9%</td>
<td>20&quot;–40&quot;</td>
<td>Rolling uplands</td>
<td>8.43</td>
<td>27.7%</td>
</tr>
<tr>
<td>16C</td>
<td>10%–19%</td>
<td>20&quot;–40&quot;</td>
<td>Rolling uplands</td>
<td>10.50</td>
<td>34.5%</td>
</tr>
<tr>
<td>16pB</td>
<td>5%–9%</td>
<td>40&quot;–60&quot;</td>
<td>Low ridges, uplands</td>
<td>5.00</td>
<td>16.4%</td>
</tr>
<tr>
<td>81A</td>
<td>0%–5%</td>
<td>72+&quot;</td>
<td>Alluvial valley</td>
<td>1.52</td>
<td>5.0%</td>
</tr>
<tr>
<td>S16D</td>
<td>20%–29%</td>
<td>10&quot;–20&quot;</td>
<td>Upland sideslopes</td>
<td>5.01</td>
<td>16.4%</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td>30.46</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

3.3.6 Recreation

Southwest Utah offers a variety of recreation opportunities in varying terrain, including mountains, desert, forests, canyons, rivers, and lakes. Major tourist attractions are Bryce Canyon National Park, the Dixie National Forest, the Grand Staircase-Escalante National Monument, and two scenic highways. A number of developed and semi-developed campgrounds, day use areas, and trailheads exist for recreational use in the general area.

BLM lands within the project area limit OHV use to designated trails. The BLM manages lands within the study area for the following recreation activities: OHV touring; hunting; fishing; photography; picnicking; hiking; backpacking; camping; viewing nature, wildlife, and geologic features; and participating in competitive events. No recreational trails or facilities are located on BLM lands within the project area.

The Kanab RMP estimates participation in 65 types of recreation activities within their field office, and that during the past several years, participation in some recreational activities has substantially increased in the KFO. More recreationists participate in OHV riding than in any other form of recreation use. Big game hunting also receives comparatively high levels of use, both in the number of participants and the number of visitor days. (BLM 2008).
Figure 5. Soil types.

3.3.7 Visual Resources

Visual resources are composed of landform (topography and soils), vegetation, bodies of water (lakes, streams, and rivers), and human-made structures (roads, buildings, and modifications of the land, vegetation, and water). These elements of the landscape can be described in terms of their form, line, color, and texture. Normally, the more variety of these elements there is in a landscape, the more interesting or scenic the landscape becomes, if the elements exist in harmony with each other. The BLM manages landscapes for varying levels of protection and modification, giving consideration to other resources values and uses and the scenic quality of the landscape.

The current VRM inventory identifies the existing scenic values in the decision area. The inventory includes an evaluation of scenic quality, analysis of sensitivity, and delineation of distance zones. Based on these three factors, BLM-administered lands are placed into one of four VRM inventory classes. The inventory classes represent the relative value of the visual resources. Class I and Class II resources are the most sensitive, Class III resources are moderately sensitive, and Class IV resources are the least sensitive (Table 3-4).

Table 3-4. VRM Inventory Class Definitions

<table>
<thead>
<tr>
<th>Classification</th>
<th>Classification Objective</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>To preserve the existing character of the landscape. The level of change to the characteristic landscape should be very low and must not attract attention.</td>
</tr>
<tr>
<td>II</td>
<td>To retain the existing character of the landscape. The level of change to the characteristic landscape should be low.</td>
</tr>
<tr>
<td>III</td>
<td>To partially retain the existing character of the landscape. The level of change to the characteristic landscape should be moderate.</td>
</tr>
<tr>
<td>IV</td>
<td>To provide for management activities that require major modification of the existing character of the landscape. The level of change to the characteristic landscape can be high.</td>
</tr>
</tbody>
</table>

Source: BLM Handbook H-8410-1, Visual Resources Inventory

The proposed road relocation would occur solely in Visual Resource Class IV, as prescribed by the Kanab RMP.

3.3.8 Geology/Mineral Resources

The geology of the project area primarily consists of Cretaceous-age strata of the Dakota Formation, Tropic Shale, and Straight Cliffs Formation. Younger Tertiary deposits of sand and gravel mantle the landscape and cap some of the knolls. In some localities Dakota Formation coal deposits have burned, resulting in the baking of the surrounding rock and creating a hard "clinker" type deposit known as burnt shale.
3.3.9 Paleontology

The Proposed Action is sited entirely over outcrops of the Late Cretaceous Dakota Formation, Tropic Shale, and Holocene alluvium. Although the Holocene units have no fossil potential, the bedrock units have high potential to yield significant vertebrate fossil resources, and both have the highest Potential Fossil Yield Classification (PFYC) rating of five. A paleontological survey was conducted on February 8, 2006 to identify resources in the area. No significant resources were identified in this survey, but potential exists, particularly in the Tropic Shale, for significant subsurface resources to be present.
CHAPTER 4: ENVIRONMENTAL IMPACTS

4.1 Introduction
This chapter analyzes the impacts of the Proposed Action to those resources described in Chapter 3, Affected Environment. It should be noted that the road relocation would be temporary and would be moved to its original location after mining is completed.

4.2 Direct/Indirect Impacts

4.2.1 Alternative A—Proposed Action

4.2.1.1 Native American Religious Concerns
Past Native American consultation efforts, as well as the consultation efforts associated with the preparation of the Kanab RMP, have not identified specific areas or resources of Native American religious concern in the project area. These types of resources include traditional cultural properties, treaty-based subsistence use areas, traditional use areas, and rights of access. Sources of water, specifically springs, are potential areas of Native American religious concern. In addition, contemporary Native American tribes are sensitive to disturbance and loss of archaeological sites, because many tribes maintain that these sites are evidence of their ancestors and could therefore be religiously or spiritually significant.

Although no cultural resource areas fall within the project area, prehistoric cultural resource sites could be identified during road construction near the proposed road relocation. Native American consultation did not result in any concern from the tribes. Table 5-1 provides details regarding the tribes' responses. If sites are discovered during construction, activities would cease and the tribes would be notified.

4.2.1.2 Livestock Grazing

Issue: Impact of forage loss on levels of livestock grazing (AUMs)

The impact area would fall within five different grazing allotments and a small portion of land that is not assigned to any specific allotment. Impacts to livestock consist of surface disturbance associated with road construction that would remove 30.46 acres of vegetation. That amounts to approximately three AUMs of total forage for all of the allotments. Table 4-1 illustrates the acres of impact to each of the allotments from the Proposed Action.

<table>
<thead>
<tr>
<th>Allotment</th>
<th>ROW/Permanent</th>
<th>Temporary Use Areas</th>
<th>Cut/Fill Slope</th>
<th>Percent of Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alton</td>
<td>5.90</td>
<td>1.97</td>
<td>0</td>
<td>26%</td>
</tr>
<tr>
<td>Isolated Tracts</td>
<td>0.65</td>
<td>0</td>
<td>0</td>
<td>2%</td>
</tr>
<tr>
<td>Robinson's Creek</td>
<td>4.72</td>
<td>1.97</td>
<td>0</td>
<td>22%</td>
</tr>
<tr>
<td>Syler Knoll</td>
<td>7.40</td>
<td>0</td>
<td>1.84</td>
<td>30%</td>
</tr>
<tr>
<td>Upper Sink Valley</td>
<td>4.71</td>
<td>0</td>
<td>0</td>
<td>15%</td>
</tr>
<tr>
<td>Un-allotted</td>
<td>1.29</td>
<td>0</td>
<td>0.01</td>
<td>4%</td>
</tr>
</tbody>
</table>
The greatest amount of impact would occur on the Syler Knoll, Alton, and Robinson's Creek allotments, which account for 78% of the proposed road relocation. In general terms, an AUM is the amount of forage needed to sustain one cow and her calf for one month. Assuming AUMs are calculated at 10 acres of vegetation per AUM, the removal of 30.46 acres of vegetation would result in a loss of approximately three AUMs due to the road relocation (BLM 2006).

### 4.2.1.3 Vegetation

**Issue: Impact of acres of vegetation lost**

Impacts to vegetation in the project area would occur from surface disturbance related to the proposed road construction. Table 4-2 shows the acres of impacts, resulting from the Proposed Action, that would occur under each vegetation type.

<table>
<thead>
<tr>
<th>Vegetation Type</th>
<th>ROW/Permanent</th>
<th>Temporary Use Areas</th>
<th>Cut/Fill Slope</th>
<th>Percent of Project Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pinyon-juniper/Mountain Brush</td>
<td>1.65</td>
<td>0</td>
<td>0.14</td>
<td>5.88%</td>
</tr>
<tr>
<td>Pinyon-juniper/Sagebrush</td>
<td>3.36</td>
<td>0</td>
<td>1.71</td>
<td>16.64%</td>
</tr>
<tr>
<td>Rabbitbrush</td>
<td>0.51</td>
<td>0</td>
<td>0</td>
<td>1.67%</td>
</tr>
<tr>
<td>Riparian</td>
<td>0.06</td>
<td>0</td>
<td>0</td>
<td>0.20%</td>
</tr>
<tr>
<td>Sagebrush/Grass</td>
<td>4.69</td>
<td>1.97</td>
<td>0</td>
<td>21.86%</td>
</tr>
<tr>
<td>Sagebrush/Grass (treated)</td>
<td>13.97</td>
<td>1.97</td>
<td>0</td>
<td>52.33%</td>
</tr>
<tr>
<td>Other (pastureland and road)</td>
<td>0.43</td>
<td>0</td>
<td>0</td>
<td>1.41%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>24.67</strong></td>
<td><strong>3.94</strong></td>
<td><strong>1.85</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

Sagebrush/grass (including treated areas) and pinyon-juniper/sagebrush have the highest acreage and would therefore receive the greatest impact from vegetation removal for construction. A limited amount of riparian area would also be crossed by the proposed road at Lower Robinson Creek. To minimize impacts, reseeding and rehabilitation of the impacted area would be required after the completion of the project.

### 4.2.1.4 Fish and Wildlife

**Issue: Impacts of habitat loss on sage-grouse brooding and mule deer**

Because sagebrush steppe is the main habitat type for sage-grouse brooding habitat and mule deer crucial summer habitat, acres of impact to this type of vegetation have been used to analyze impacts resulting from the Proposed Action. Surface disturbance from the Proposed Action would result in the direct removal of vegetation and therefore lead to a decrease in habitat used by sage-grouse and mule deer. Impacts from surface disturbance to sage-grouse include 26.16 acres and for mule deer 30.46 acres. With 145,900 acres available for sage-grouse habitat in the Kanab Field Office, the acres of habitat disturbance would constitute approximately 0.02% to both species. Although the acres of physical disturbance is small, the lek is also known for its...
the most isolated leks in the Kanab Field Office. For this reason, there is potential to affect sage-grouse breeding and brood rearing habitat beyond these acres due to the change in traffic patterns and use from where the road is now.

Table 4-3. Acres of Impact to Wildlife Habitat under the Proposed Action

<table>
<thead>
<tr>
<th>Wildlife Species</th>
<th>Row/Permanent</th>
<th>Temporary Use Areas</th>
<th>Cut/Fill Slope</th>
<th>Total</th>
<th>Acres in KFO</th>
<th>Percent of Acres Impacted by Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sage-grouse Brooding Habitat</td>
<td>20.37</td>
<td>3.95</td>
<td>1.85</td>
<td>26.16</td>
<td>145,900</td>
<td>.02%</td>
</tr>
<tr>
<td>Mule Deer Crucial Summer Habitat</td>
<td>24.67</td>
<td>3.95</td>
<td>1.85</td>
<td>30.46</td>
<td>145,900</td>
<td>.02%</td>
</tr>
</tbody>
</table>

4.2.1.5 Soils

Issue: Impacts to soil composition from surface disturbance

Reclamation-limiting factors (i.e., factors that prevent soils from being fully reclaimed following surface disturbance) are found in each of the project area’s soils. In reclamation-limited soils, one or more factors make site reclamation difficult in semiarid environments; these factors are alkalinity, drouthy soils, salinity, sodium adsorption, and rooting depth. Alkalinity refers to higher (i.e., more basic) soil pH, which generally limits plants’ ability to become established. Drouthy soils have low water-holding capacities due to their porosity. Salinity refers to the amount of salt within soils that can be dissolved in surface waters. The sodium adsorption ratio refers to the amount of sodium that can be held by soils and influence nutrient uptake. Rooting depth risk refers to shallow soils where there is a risk of poor reclamation success due to a shallow rooting depth in the rooting zone.

Reclamation-limited soils are difficult to reclaim or restore. Once they are disturbed, the impact is usually long lasting (BLM 1993). Using the above-listed, reclamation-limiting factors, the reclamation-limiting features of each soil feature risk was classified as high, moderate, or low. Table 4-4 indicates the limiting factors for each of the soil types found in the project area and that is used to define the soil types.

Table 4-4. Soil Reclamation Factors

<table>
<thead>
<tr>
<th>Soil Code</th>
<th>Acres in Project Area</th>
<th>Percent of Project Area</th>
<th>Alkalinity Risk</th>
<th>Drouthy Soil Risk</th>
<th>Salinity Risk</th>
<th>Excess Sodium Risk</th>
<th>Rooting Depth Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>16B</td>
<td>8.43</td>
<td>27.7%</td>
<td>Low</td>
<td>Low</td>
<td>Low</td>
<td>Low</td>
<td>High</td>
</tr>
<tr>
<td>16C</td>
<td>10.50</td>
<td>34.5%</td>
<td>Low</td>
<td>Low</td>
<td>Low</td>
<td>Low</td>
<td>High</td>
</tr>
<tr>
<td>16pB</td>
<td>5.00</td>
<td>16.4%</td>
<td>Low</td>
<td>Low</td>
<td>Low</td>
<td>Low</td>
<td>High</td>
</tr>
<tr>
<td>81A</td>
<td>1.52</td>
<td>5.0%</td>
<td>Low</td>
<td>Moderate</td>
<td>Low</td>
<td>Low</td>
<td>High</td>
</tr>
<tr>
<td>S16D</td>
<td>5.01</td>
<td>16.4%</td>
<td>Low</td>
<td>High</td>
<td>Low</td>
<td>Low</td>
<td>High</td>
</tr>
</tbody>
</table>

INTEGRATED

OCT 15 2009
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Div. of Oil, Gas & Mining
Some soil loss would occur from surface disturbance during road construction activities. Soil would be cleared and disturbed during grading and gravel placement. Soil types 16B and 16C have the highest acreage but the reclamation risk factors are all low except for rooting depth risk which is high for both soil types. Soil types S16D and 81A are less widespread in the project area but would likely result in greater impacts due to high and moderate droughty soil risk, respectively.

4.2.1.6 Recreation

**Issue: Impacts to visitor use from road relocation**

Impacts to recreation from the Proposed Action would be minimal. The current road location does not provide much public access to the east of the road alignment. Most of the access to public lands lies to the west and the new alignment would still allow access to these public lands. Recreationists would be exposed to activities associated with road development and mining operations to the north and east, including more traffic and more noise. Impacts of surface disturbance to mule deer habitat would occur on 30.46 acres, thereby impacting hunters seeking hunting activities in and adjacent to these areas by limiting the number of mule deer using these areas.

4.2.1.7 Visual Resources

**Issue: Changes to the landscape from new road construction**

The proposed road lies completely within a VRM Class IV area, which allows major modification of the existing character of the landscape. Because the entire road relocation lies within a VRM Class IV area, the road relocation is consistent with the VRM goals and objectives of the Kanab RMP.

New road construction would change the landscape and introduce new contrasts to form, line, and texture. Changes to the landscape include visually intrusive color, line, and form contrasts that would be created by the presence of construction vehicles and equipment, and from exposed-soil surface disturbances in the middle and foreground. Color contrast-related and line contrast-related visual impacts would also be produced temporarily in the ROW. A moderate to strong edge effect would be created between exposed soil and the surrounding vegetation, particularly noticeable from middle ground slopes. Alton Coal would follow landform contours to mitigate contrast.

4.2.1.8 Geology/Mineral Resources

**Issue: Use of federal gravel resources from obtaining road base on federal land**

Impacts to geology and minerals would result if up to 9,000 cubic yards of gravel, road base or burnt shale were used from federal lands in the project area, thereby making the resource unavailable for future use. At this time the exact source of the material is unknown, although, if materials were to come from federal lands, new material pits would need to be identified and processed for use on the project. Because Kane County would be responsible for road
construction, if the Proposed Action is approved, the county would likely put the project out for bid, and the source of material determined at that time.

4.2.1.9 Paleontology

Issue: Disturbance to paleontological resources from surface-disturbing activities exposing paleontology

Up to 70% of the proposed re-route is over Tropic Shale and Dakota Formation outcrops. These units have yielded highly significant fossils in the immediate area, including vertebrate microfossils (in the Dakota Formation), plesiosaurs, articulated fish remains, and exceptionally well-preserved specimens of rare invertebrate fossils. Potential impacts to paleontological resources from the surface-disturbing activities outlined in the Proposed Action would include resource damage and loss of important contextual data during construction and grading.

4.2.2 Mitigation Measures:

The proposed road relocation would move the existing road to a new location outside of the proposed mine. This would be a temporary relocation for the duration of the mine and is contingent on the mine being approved by DOGM. The road would be replaced in the same location when the mining is completed.

The following mitigation measures would be implemented for the following resources as part of the road relocation:

1. Air Quality: Watering would occur during construction to keep the dust down.
2. Cultural Resources: The road has been routed to avoid all known cultural resource sites. Additionally, if cultural or Native American resources are discovered during construction, operations would cease, and a BLM authorized officer would be notified immediately.
3. Floodplains: The road would be engineered to not impact any floodplains.
4. Invasive/Non-native species: Construction equipment would be pressure washed before coming to the project area and appropriate measures would be taken to reseed and rehabilitate areas of disturbance to decrease the establishment of cheatgrass.
5. Threatened, Endangered, or Candidate Wildlife Species: The project would occur outside of dates for wintering Bald Eagle use (November 15–March 15) if eagles are present.
6. Water Quality: BMPs such as sediment control structures including silt fences, erosion control mulching, etc. would be implemented to avoid impacts to water quality.
7. Livestock Grazing: Wherever the alignment crosses a maintained fence, a new cattle guard and gate would be constructed so that remaining portions of the allotments would still be useable.
8. Vegetation: Stipulations would be in place to require reseeding and rehabilitation of impacted areas after the completion of the project.
9. Fish and Wildlife: Post-use reclamation would include reseeding of the road to provide for the re-establishment of wildlife habitat. Construction should occur outside of sage-grouse lekking and nesting dates.

10. Soils: Measures would be taken to prevent soil loss and erosion to the extent possible. Reseeding with species suitable for the site to provide soil site stability would be required after project completion.


12. Paleontology: Although surface inventory did not locate substantial resources on the surface, they could occur below the present land surface. Ground disturbing activities in bedrock of the Dakota and Tropic formations should be spot checked by a qualified paleontologist or their authorized agent for substantial resources, which if found, should be scientifically collected by a qualified paleontologist or their authorized agent and reposited at the Utah Museum of Natural History.

13. Lands and Access: The ROW would be temporary and the road would be removed and reclaimed upon termination of the mine.

In addition to the above listed mitigation measures, Alton Coal has prepared a Waste Disposal Plan, Safety Plan, and a Fire Prevention Plan which can be found in Appendix B, the Plan of Development.

Roadways would be maintained and kept open for public access throughout construction, as prescribed by the respective authorizing agencies. Alton Coal would be responsible for noxious weed control on project disturbed areas, temporary use ROW, and temporary use areas. Alton Coal would consult with the BLM Authorized Officer or field representative and local weed control agents for acceptable weed control management techniques within the limits imposed in the grant stipulations.

4.2.3 Residual Impacts:

Even after mitigation measures have been implemented, some impacts would still occur as a result of the Proposed Action. These impacts are discussed as part of the Chapter 4 analysis and BMPs would be implemented to make impacts as minimal as possible. Because the road relocation would be temporary, it is anticipated that the area would be reclaimed when private mining activities are complete.

4.2.4 Monitoring and/or Compliance:

Monitoring would occur during construction to ensure BMPs and mitigation measures proposed in this EA are followed.

4.2.5 Alternative B--No Action:

Under the No Action Alternative, current trends and conditions would continue in the area. The Proposed Action would be denied and the road would not be relocated on public land placing public safety at risk.

Under the No Action Alternative, there would be no impacts to the resources analyzed in Chapters 3 and 4 on federal lands because the Proposed Action would be denied and no impacts.
would occur as a function of road relocation. Although the road would likely be re-routed on private lands, an exact route has not been determined and therefore specific impacts cannot be analyzed. No impacts would result on federal lands to livestock grazing, vegetation, fish and wildlife, soils, recreation, visual resources, geology and minerals, and paleontology.

Impacts would result, however, to public health and safety because public traffic would interact with large mining equipment. Relocation of this road within the mining boundary under no action would be necessary therefore resulting in a crossing of public traffic with the mine equipment. Based on the size of the mine equipment, there is a limited observation range for the operators and interaction between the public and this equipment would result in unsafe conditions.

4.3 Cumulative Impacts Analysis:

"Cumulative impacts" are those impacts resulting from the incremental impact of an action when added to other past, present, or reasonably foreseeable actions regardless of what agency or person undertakes such other actions. The area that has been defined as the Cumulative Impacts Area of Analysis (CIAA) in this EA includes the western portion of Kane County.

4.3.1 Past and Present Actions:

Past or ongoing actions that affect the same components of the environment as the Proposed Action include proposed milling activities in and adjacent to the project area. Because the local area is dominated by desert and semi-desert habitats, agricultural use, rangeland use, and OHV use are common resulting in surface disturbance and vegetation removal.

In order to identify cumulative impacts as a result of the road relocation, it is assumed that recent and proposed surface-disturbing activities in the western portion of Kane County, would be most likely to result in a cumulative impact to the area. The following general types of projects were identified as having the greatest likelihood of generating potential cumulative impacts:

- Agriculture and grazing
- Recreation
- Local minerals and energy projects

4.3.2 Reasonably Foreseeable Action Scenario

The following reasonably foreseeable action scenario identifies reasonably foreseeable future actions that would cumulatively affect the same resources in the cumulative impact area as the Proposed Action and alternatives. The activities used have been identified in the Kanab RMP and would occur in the western portion of Kane County.

Continued surface-disturbing activities are foreseeable actions anticipated in western Kane County and have been identified in the Kanab RMP. These activities are driven by the BLM's multiple-use mandate and would occur unless another legislative action intercedes. The potential cumulative impacts of these land uses are then inherent and are not clearly identifiable because these uses are historically connected to the condition of the land.

Coal Mine Development of Private Coal Resources in the Alton Area
Alton Coal has applied for a mining permit on private lands in the CIAA. The road relocation is a result of this proposed activity and therefore the mining is a reasonably foreseeable action adjacent to the project area.

**Coal Mine Development of Federal Coal Resources in the Alton Area**

A Lease By Application has been filed to mine federal coal near the Town of Alton, Utah. An EIS is currently underway to analyze the impacts of mining federal lands near the proposed project area.

**Expansion of U.S. Highway 89**

U.S. Highway 89 is anticipated to be widened over the next 20 years. The widening of the highway would allow for an increase in traffic volume. In addition, portions of the highway would be developed into a four-lane divided highway.

**4.3.3 Cumulative Impacts**

Cumulative Impacts resulting from the No Action Alternative would include an increased risk to public safety on portions of the existing Alton Road. If the road is not relocated, general public traffic and coal trucks would be traveling the same route increasing the potential for accidents. Cumulative impacts of the Proposed Action would include increased surface disturbance in the identified CIAA resulting in vegetation removal thereby impacting habitat, grazing, and recreation.
CHAPTER 5: CONSULTATION AND COORDINATION

5.1 Introduction

The issue identification section of Chapter 1 identifies those issues analyzed in detail in Chapter 4. Appendix A provides the rationale for issues that were considered but not analyzed further. The issues were identified through the public involvement and agency involvement process described in Sections 5.2 and 5.3 below.

5.2 Persons, Groups, and Agencies Consulted

During the preparation of this EA, the public was notified of the Proposed Action and a 30-day comment period was posted on the BLM's Utah Environmental Notification Bulletin Board on May 22, 2008 with a public scoping period through June 22, 2008 (30 days). Those individuals on the Kanab Field Office mailing list were sent a copy of the Notice of Intent and a public comment form.

Table 5-1 lists those persons, agencies, and organizations that were consulted on various resources for preparation of this EA.

Table 5-1. All Persons, Agencies, and Organizations Consulted for Purposes of this EA

<table>
<thead>
<tr>
<th>Name</th>
<th>Purpose and Authorities for Consultation or Coordination</th>
<th>Findings and Conclusions</th>
</tr>
</thead>
<tbody>
<tr>
<td>U.S. Fish and Wildlife Service (USFWS)</td>
<td>Information on consultation, under Section 7 of the Endangered Species Act (16 USC 1531)</td>
<td>Because no impact would occur to listed species or migratory birds, no USFWS consultation was required.</td>
</tr>
<tr>
<td>Utah State Historic Preservation Office (SHPO)</td>
<td>Consultation for undertakings, as required by Section 106 of the National Historic Preservation Act (16 USC 470)</td>
<td>Because no cultural resource sites will be impacted, SHPO will be informed of this project in the Kanab Field Office quarterly report, as per the National Cultural Programmatic Agreement. No specific comments are anticipated from SHPO. This project is located in an area previously covered by cultural resource inventories, and no project-specific report will be prepared. Instead, the earlier reports will be referenced where necessary.</td>
</tr>
</tbody>
</table>
Table 5-1. All Persons, Agencies, and Organizations Consulted for Purposes of this EA

<table>
<thead>
<tr>
<th>Name</th>
<th>Purpose and Authorities for Consultation or Coordination</th>
<th>Findings and Conclusions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kaibab Band of the Southern Paiute Tribe</td>
<td>Consultation as required by the American Indian Religious Freedom Act of 1978 (42 USC 1531) and the National Historic Preservation Act (16 USC 1531)</td>
<td>A letter informing the Tribes of this project was sent on 5 August, 2008. The Navajo responded with a letter on 18 September indicating that they had no concerns with this project. The Hopi responded in a letter of 25 August asking for clarification regarding this project, and following clarification responded in a letter of 27 October that they had no further concerns regarding this project. The Kaibab Paiute did not respond to this project in particular, but this project was discussed in a field visit to a different (nearby) project on 25 August. The Kaibab Paiute indicated at that time that they had no concerns with the road realignment project. The Ute and Zuni did not respond with any concerns regarding the Proposed Action.</td>
</tr>
<tr>
<td>Hopi</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Navajo</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Zuni</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ute</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Utah Division of Wildlife Resources (UDWR)</td>
<td>Consult with UDWR as the agency with expertise on impacts on game species.</td>
<td>Data and analysis regarding big game species incorporated into Chapters 3 and 4.</td>
</tr>
</tbody>
</table>

5.3 Summary of Public Participation

Two letters were received (Appendix C): one from Stephen Bloch of the Southern Utah Wilderness Alliance, and one from John Harja with the State of Utah.

5.3.1 Response to Public Comment

Due to the limited number of comments received, responses were not sent to commenters; instead the comments received in the letters have been responded to in Table 5-2 and through analysis in Chapter 4 of this EA.

Table 5-2. Response to Comments

<table>
<thead>
<tr>
<th>Name of Commenter</th>
<th>Organization</th>
<th>Summary of Concerns</th>
<th>Response</th>
</tr>
</thead>
</table>
| Stephen Bloch     | Southern Utah Wilderness Alliance    | Relationship of road relocation to proposed federal coal development.               | This would be a temporary relocation for the duration of a private mine not associated with the proposed federal mine for which a separate EIS is being prepared. The private mine is contingent on the mine being approved by the State of Utah, and the temporary road ROW would be reclaimed and the road would be

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<table>
<thead>
<tr>
<th>Name of Commenter</th>
<th>Organization</th>
<th>Summary of Concerns</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commellter</td>
<td></td>
<td>replaced in the original alignment and location when the mining is completed.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Also see Section 4.3.2, Reasonably Foreseeable Action Scenario.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Request a smaller ROW grant and a more direct route to U.S. Highway 89.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>A direct route to U.S. Highway 89 is not applicable to the purpose and need for this project. Please see Section 2.4, Other Action Alternatives and Alternatives Considered but Eliminated from Further Analysis.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Impacts to water bodies and alluvial valley floor from coal dust.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Please see Appendix A, in which it was determined no impacts would result to air quality. Fugitive dust would be mitigated through watering, thereby preventing deposition of particulates into water bodies.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Describe where the 9,000 cubic yards of gravel would come from and analyze impacts if it would be obtained from federal lands.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Please see Section 4.2.1.8, Geology and Mineral Resources.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Analyze impacts of chemical suppressants used for dust control on archeological and biological resources.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Due to the limited amount of dust, it is not anticipated that the levels of chemical suppressants would impact any other resources.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Analyze paving the road.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Because the road is a temporary ROW, paving would not be a reasonable alternative.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Conduct Class III cultural resources survey of the entire ROW.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Cultural resource surveys have been conducted. Please see Appendix A.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Consult with Native American tribes on potential effects to archeological sites.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Consultation has occurred. Please see Section 4.2.1.1, Native American Religious Concerns.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Analyze dust impacts and plume visibility from Bryce Canyon National Park and U.S. Highway 89.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Impacts to air quality would be minimal. Watering should occur during construction to keep the dust down. No comments or concerns were expressed from Bryce Canyon National Park or the National Park Service.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>The BLM should independently analyze environmental information provided by SWCA.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>The BLM is the ultimate decision maker and has provided to SWCA information used for this analysis.</td>
<td></td>
</tr>
</tbody>
</table>
### Table 5-2. Response to Comments

<table>
<thead>
<tr>
<th>Name of Commenter</th>
<th>Organization</th>
<th>Summary of Concerns</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>John Harja</td>
<td>State of Utah</td>
<td>Consider water quality, fish and wildlife, including but not limited to sage-grouse.</td>
<td>Impacts to sage-grouse and mule deer have been analyzed in Section 4.2.1.4, Fish and Wildlife. It was determined in Appendix A that impacts would not occur to other wildlife species.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Discuss cumulative impacts of the Proposed Action</td>
<td>Please see Section 4.3, Cumulative Impacts Analysis.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>If any &quot;non-permitted&quot; rock-crushing plants, asphalt plants, or concrete batch plants are located at the site, a permit would be required for operation of the equipment.</td>
<td>The road is a temporary ROW. No permanent facilities would be located at the site. Please see Appendix B, Plan of Development.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Watering and/or chemical stabilizing methods providing vegetative or synthetic cover or windbreaks must be used to minimize dust.</td>
<td>Please see Section 2.2.2, Design Criteria. The top 3 inches of the road surface would be treated with calcium chloride to control dust.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Provide protection for sage-grouse lek found near Alton, including off-site habitat improvements, or an attempt to develop a new lek, as well as avoiding construction during brood-rearing season from March 1 to June 1.</td>
<td>Impacts to sage-grouse can be found in Section 4.2.1.4, Fish and Wildlife. BMPs would be used to minimize impacts to sage-grouse.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Analyze impacts to Paunsaugut deer herd.</td>
<td>Please see Section 4.2.1.4, Fish and Wildlife.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Coordinate with Utah Partners for Conservation Development (UPCD) to achieve off-site mitigation for impacts to sage-grouse and mule deer habitats.</td>
<td>The BLM is currently in contact with the Color Country sage-grouse Local Working Group for mitigation recommendations. The BLM is also part of the Southern Region UPCD, and would approach UPCD when specific mitigation projects arise and where funding would be needed.</td>
</tr>
</tbody>
</table>

### 5.4 List of Preparers

BLM staff specialists who determined the affected resources and contributed to the analysis in this EA are listed in Table 5-3. Other, non-BLM, specialists who contributed to this analysis are listed in Table 5-4.
### Table 5-3. BLM Preparers

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Responsible for the Following Section(s) of this Document</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alan Titus</td>
<td>Paleontologist</td>
<td>Paleontology</td>
</tr>
<tr>
<td>Carson Gubler</td>
<td>Range Specialist</td>
<td>Air Quality, Floodplains, Invasive, Non-native Species, Threatened, Endangered or Candidate Plant Species, Water Quality (drinking/ground), Rangeland Health Standards and Guidelines, Fuels/Fire Management</td>
</tr>
<tr>
<td>Doug Powell</td>
<td>Geologist</td>
<td>Wastes (hazardous or solid), Geology/Mineral Resources</td>
</tr>
<tr>
<td>Hugh Wolfe</td>
<td>Realty Specialist</td>
<td>Lands/Access - Project Lead</td>
</tr>
<tr>
<td>John Reese</td>
<td>Range Specialist</td>
<td>Farmlands (Prime or Unique), Livestock Grazing, Woodland/Forestry, Vegetation, Soils</td>
</tr>
<tr>
<td>Keith Rigtrup</td>
<td>Planner</td>
<td>Environmental Justice, Socioeconomics</td>
</tr>
<tr>
<td>Lisa Church</td>
<td>Wildlife Biologist</td>
<td>Threatened, Endangered or Candidate Wildlife Species, Wetlands/Riparian Zones, Fish and Wildlife</td>
</tr>
<tr>
<td>Matt Zweifel</td>
<td>Archeologist</td>
<td>Cultural Resources, Native American Religious Concerns</td>
</tr>
<tr>
<td>Tom Christensen</td>
<td>Recreation Planner and</td>
<td>Areas of Critical Environmental Concern, Wild and Scenic Rivers, Wilderness, Recreation, Visual Resources, Wilderness characteristics</td>
</tr>
<tr>
<td>Kari Chalker</td>
<td>Technical Editor</td>
<td>Technical Edit of Draft Document</td>
</tr>
</tbody>
</table>

### Table 5-4. Non-BLM Preparers

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Responsible for the Following Section(s) of this Document</th>
</tr>
</thead>
<tbody>
<tr>
<td>Elisha Wardle</td>
<td>SWCA Project Manager</td>
<td>Project Oversight and Document Author</td>
</tr>
<tr>
<td>Ben Gaddis</td>
<td>SWCA Assistant Project Manager</td>
<td>Document Author and QA/QC</td>
</tr>
<tr>
<td>Steve Knox</td>
<td>SWCA Quality Control</td>
<td>Document Review and QA/QC</td>
</tr>
<tr>
<td>Megan Nelson</td>
<td>SWCA Environmental Technician</td>
<td>Document Author</td>
</tr>
<tr>
<td>Kari Chalker</td>
<td>SWCA Technical Editor</td>
<td>Technical Edit of Draft Document</td>
</tr>
</tbody>
</table>
CHAPTER 6: REFERENCES

6.1 References Cited


INTERDISCIPLINARY TEAM ANALYSIS RECORD CHECKLIST

Project Title: Alton Road, Temporary Alignment

NEPA Log Number: UT-110-08-011

File/Serial Number: UTU-83017

Project Leader: Hugh Wolfe, Realty

Project Description: Relocation of the Existing County Road 136 to accommodate mining on private lands just south of Alton. This proposed right-of-way moves the existing road to a new location outside of the mine proposed on patented minerals and surface estate. This would be a temporary relocation for the length of the mine and is contingent on the mine being approved by the state of Utah. The road would be replaced in the same location when the mining is completed.

FOR EA/CXs: NP: not present; NI: resource/use present but not impacted; PI: potentially impacted
FOR DNAs only: NC: no change (anticipated resource impacts not changed from those analyzed in the NEPA document on which the DNA is based)

STAFF REVIEW OF PROPOSAL:

<table>
<thead>
<tr>
<th>NP/NI/PI</th>
<th>Resource</th>
<th>Date Reviewed</th>
<th>Signature</th>
<th>Review Comments (required for all NIs and PIs. PIs require further analysis.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>NP</td>
<td>Air Quality (Carson)</td>
<td>5/12/2008</td>
<td>/s/ C. Gubler</td>
<td>Impacts to air quality would be minimal. Watering should occur during construction to keep the dust down.</td>
</tr>
<tr>
<td>NP</td>
<td>Areas of Critical Environmental Concern (Tom C.)</td>
<td>5/8/08</td>
<td>/s/ T. Christensen</td>
<td>No ACECs within 20 miles of site</td>
</tr>
<tr>
<td>NI</td>
<td>Cultural Resources (Matt Z.)</td>
<td>3/4/08</td>
<td>/s/ M. Zweifel</td>
<td>Cultural resource inventories have been completed (see reports U-05-MQ-1568-h.p and U-07-BL-0969-b). The road has been designed to avoid all known cultural resource sites, and no sites will be impacted.</td>
</tr>
<tr>
<td>NP</td>
<td>Environmental Justice (Keith)</td>
<td>6/9/08</td>
<td>/s/ K. Rigtrup</td>
<td>No low income or minority populations in the project area.</td>
</tr>
<tr>
<td>NP</td>
<td>Farmlands (Prime or Unique) (John)</td>
<td>5/7/08</td>
<td>/s/ J. Reese</td>
<td></td>
</tr>
<tr>
<td>NI</td>
<td>Floodplains (Carson)</td>
<td>5/12/2008</td>
<td>/s/ C. Gubler</td>
<td>Engineering of the road should be done so that Floodplains are not impacted.</td>
</tr>
<tr>
<td>NI</td>
<td>Invasive, Non-native Species (Carson)</td>
<td>5/12/2008</td>
<td>/s/ C. Gubler</td>
<td>Equipment should be pressure washed before coming to the project, and appropriate measures should be taken to seed and rehab areas of disturbance to decrease the likelihood of cheat grass getting established.</td>
</tr>
<tr>
<td>PI</td>
<td>Native American Religious Concerns (Matt Z.)</td>
<td>8/4/08</td>
<td>/s/ M. Zweifel</td>
<td>Consultation regarding this road will be initiated, but because no sites will be impacted, no Tribal comments are anticipated.</td>
</tr>
<tr>
<td>NI</td>
<td>Threatened, Endangered or Candidate Plant Species (Carson)</td>
<td>5/15/2008</td>
<td>/s/ C. Gubler</td>
<td>No Threatened, Endangered or Candidate Plant Species are known to exist within the project area.</td>
</tr>
<tr>
<td>NI</td>
<td>Threatened, Endangered or Candidate Wildlife Species (Lisa)</td>
<td>5/28/08</td>
<td>/s/ L. Church</td>
<td>Limited use by Bald Eagles, proceed with project outside of dates for wintering use. Nov 15-March 15 if eagles are present.</td>
</tr>
</tbody>
</table>

INCORPORATED

OCT 15 2009

Div. of Oil, Gas & Mining
**OTHER RESOURCES / CONCERNS**

<table>
<thead>
<tr>
<th>Resource</th>
<th>Date Reviewed</th>
<th>Signature</th>
<th>Review Comments (required for all NIs and Pls. Pls require further analysis.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wastes (hazardous or solid) (Doug)</td>
<td>6/09/2008</td>
<td>/s/ Doug Powell</td>
<td>No anticipated impacts relating to solid or hazardous wastes.</td>
</tr>
<tr>
<td>Water Quality (drinking/ground) (Carson)</td>
<td>5/15/2008</td>
<td>/s/ C. Gubler</td>
<td>No impacts to Water quality would be anticipated with this action. Mitigation would need to take place as part of standard operating procedures to ensure water quality is not impacted.</td>
</tr>
<tr>
<td>Wetlands/Riparian Zones (Lisa)</td>
<td>5/28/08</td>
<td>/s/ L. Church</td>
<td>Limited riparian area goes under road limited on BLM would be addressed in cumulative effects.</td>
</tr>
<tr>
<td>Wild and Scenic Rivers (Tom C.)</td>
<td>5/8/08</td>
<td>/s/ T. Christensen</td>
<td>No WSRs in Kane County</td>
</tr>
<tr>
<td>Wilderness (Tom C.)</td>
<td>5/8/08</td>
<td>/s/ T. Christensen</td>
<td>No wilderness or WSAs within 15 miles of site</td>
</tr>
<tr>
<td>Rangeland Health Standards and Guidelines (Carson)</td>
<td>5/15/2008</td>
<td>/s/ C. Gubler</td>
<td>Some loss of Rangeland would occur as a result of this action however it is probably not enough to quantify it as an impact.</td>
</tr>
<tr>
<td>Livestock Grazing (John)</td>
<td>5/7/08</td>
<td>/s/ J. Reese</td>
<td>The impact area will take in part of several grazing allotments, depending on mitigation measures the mine has in store for livestock grazing (if any) a new fence may need to be constructed so that remaining portions of the allotments will still be useable.</td>
</tr>
<tr>
<td>Woodland / Forestry (John)</td>
<td>5/7/08</td>
<td>/s/ J. Reese</td>
<td>No significant impact to woodland/forestry is expected. Some removal of Pinyon and Juniper trees may take place, but doesn’t pose a great impact.</td>
</tr>
<tr>
<td>Vegetation (John)</td>
<td>5/7/08</td>
<td>/s/ J. Reese</td>
<td>Vegetation in the project will be impacted and stipulations should be in place to require re-seeding and rehabilitation of impacted area after the completion of the project.</td>
</tr>
<tr>
<td>Fish and Wildlife (Lisa)</td>
<td>5/23/08</td>
<td>/s/ L. Church</td>
<td>Limited mule deer use, Sage grouse brooding in the area, and elk adjacent to area, relocation has the potential to impact use by grouse in winter and during nesting and brooding.</td>
</tr>
<tr>
<td>Soil (John)</td>
<td>5/7/08</td>
<td>/s/ J. Reese</td>
<td>Measures should be taken to prevent soil loss and erosion to the extent possible. Re-seeding with species suitable for the site to provide soil site stability should be required after project completion.</td>
</tr>
<tr>
<td>Recreation (Tom C.)</td>
<td>5/8/08</td>
<td>/s/ T. Christensen</td>
<td>Relocation would displace recreation along ROW route itself, and would move discordant sights and sounds closer to recreationists using the western portions of the project area.</td>
</tr>
<tr>
<td>Visual Resources (Tom C.)</td>
<td>5/8/08</td>
<td>/s/ T. Christensen</td>
<td>Site lies within VRM class IV area, which allows major modification of the existing character of the landscape. Project would introduce new contrasts to form, line, texture and color. Following landform contours would somewhat mitigate contrast.</td>
</tr>
<tr>
<td>Geology / Mineral Resources (Doug)</td>
<td>6/09/2008</td>
<td>/s/ Doug Powell</td>
<td>A gravel source will need to be identified and NEPA analysis performed if located on Federal lands.</td>
</tr>
<tr>
<td>Paleontology (Alan)</td>
<td>5/02/2008</td>
<td>/s/ Alan Titus</td>
<td>Up to 70% of the proposed re-route is over Tropic and Dakota formation outcrops. These units have yielded highly significant fossils in the immediate area including vertebrate microfossil sites (Dakota), plesiosaurs, articulated fish remains, and exceptionally well-preserved specimens of rare invertebrate fossils. Inventory will be required.</td>
</tr>
<tr>
<td>Lands / Access (Hugh)</td>
<td>5/15/2008</td>
<td>/s/ Hugh Wolfe</td>
<td>As this is only a temporary right-of-way and the road will be removed and reclaimed at the termination of the mine there are no concerns anticipated to Lands or Access to public lands.</td>
</tr>
<tr>
<td>Fuels / Fire Management (Carson)</td>
<td>5/15/2008</td>
<td>/s/ C. Gubler</td>
<td>No impact to Fuels and Fire management is expected, the added road would serve as a fire break and provide quicker access to wilderness area.</td>
</tr>
<tr>
<td>Resource</td>
<td>Date Reviewed</td>
<td>Signature</td>
<td>Review Comments</td>
</tr>
<tr>
<td>----------------------------------</td>
<td>---------------</td>
<td>------------</td>
<td>---------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Socio-economics (Keith)</td>
<td>6/9/09</td>
<td>/s K. Rigup</td>
<td>Re-routing of the road would have no socio-economic impact, access would be maintained.</td>
</tr>
<tr>
<td>Wilderness characteristics (Tom C.)</td>
<td>5/8/08</td>
<td>/s T. Christensen</td>
<td>No non-WSA lands with wilderness characteristics within 5 to 10 miles of site</td>
</tr>
</tbody>
</table>

**FINAL REVIEW:**

<table>
<thead>
<tr>
<th>Reviewer Title</th>
<th>Date</th>
<th>Signature</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>NEPA Coordinator (Dennis)</td>
<td>12/18/2008</td>
<td>Dennis Pope</td>
<td>Completed final review of analysis</td>
</tr>
<tr>
<td>Manager ( )</td>
<td>12/18/08</td>
<td>[Signature]</td>
<td>Discussed with HW. on 12/18/08</td>
</tr>
</tbody>
</table>

**NOTE:** Review Comments should include information explaining how the specialist came to their conclusion - how does he/she know the element/resource is not present (site visit and date of visit, familiarity with location, etc.). For all 'NIs' give a brief explanation as to why that element/resource would not be impacted.

* The list of Other Resources / Concerns to be considered may vary by individual field office. Note: Native American Trust Responsibilities should be considered for FO's with Indian Mineral interests.

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OCT 15 2009

Div. of Oil, Gas & Mining
APPENDIX 1-8

County Road K3993, Robinson Creek Road Agreement

Alton Coal Development, LLC and Kane County Agreement
(Kane County Road K3993 Restricted Access and Mine Escort)
RESOLUTION 2009-17

AGREEMENT

AN AGREEMENT PROVIDING FOR A PUBLIC SAFETY ESCORT ALONG THE ROBINSON CREEK ROAD WITHIN THE COAL HOLLOW MINE

THIS AGREEMENT ("Agreement") is made and entered into this 7-13 day of 2009 ("Effective Date"), by and between Kane County, a body corporate and politic, having an address of 76 North Main Street, Kanab, Utah 84741 ("County"), and Alton Coal Development, LLC ("Alton Coal"), having an address of 463 North 100 West, Suite 1, Cedar City, Utah 84720 (collectively referred to herein as the "Parties").

RECITALS

WHEREAS, Alton Coal has applied with the Utah Division of Oil, Gas & Mining ("Division") for a permit to conduct coal mining operations at the Coal Hollow Mine under application number C/025/0005. The Mine will be developed on private lands located in Kane County, Utah, approximately 4 miles south of the Town of Alton within Sections 20, 29 and 30, Township 39 South, Range 5 West, SLB&M ("Mine Permit Area"); and

WHEREAS, a portion of Kane County Road K3993 ("Robinson Creek Road"), is located within the Mine Permit Area; and

WHEREAS, Robinson Creek Road is part of the county road system within the sole jurisdiction, maintenance and control of Kane County pursuant to Utah Code Ann. § 72-3-105; and

WHEREAS, the public's health, safety and welfare must be assured regarding public travel along the portion of Robinson Creek Road located within the Mine Permit Area; and
WHEREAS, on March 25, 2009, the Division published a public notice regarding Robinson Creek Road in the *Southern Utah News* pursuant to Utah Administrative Code R645-103-234; and

WHEREAS, this Agreement confirms the responsibilities of Kane County and Alton Coal with respect to the conditions of restricted public access to the Robinson Creek Road.

**AGREEMENT**

NOW, THEREFORE, for and in consideration of the premises, the mutual covenants and agreements of the Parties hereto, the Parties hereto agree as follows:

I. **PUBLIC ROAD CLASSIFICATION**

Robinson Creek Road is a Class D public road and is part of the County road system within the sole jurisdiction, maintenance and control of Kane County pursuant to Utah Code Ann. § 72-3-105.

II. **PUBLIC SAFETY ESCORT TO BE PROVIDED ALONG THE PORTION OF THE ROBINSON CREEK ROAD WITHIN THE COAL HOLLOW MINING BOUNDARY**

A. In the interest of public health and safety, upon approval of Mine Permit C/025/0005, Alton Coal agrees to provide an escort for the public travelling the portion of the Robinson Creek Road located within the Mine Permit Area as follows:

1. Alton Coal is authorized by the County to place and maintain gates at each end of the Robinson Creek Road where the road enters the Coal Hollow Mine boundary. See Utah Code Ann. § 72-7-106. Alton Coal agrees to place and maintain the gates for the duration of this agreement.
2. Alton Coal agrees to provide and maintain communication devices, i.e., a landline or a radio, at each gate for the purpose of providing public communication with mine personnel.

3. Alton Coal agrees to place and maintain signage at each gate advising public travelers along the Robinson Creek Road, where it enters the Coal Hollow Mine, to contact mine personnel through the provided communication devices for a safety escort through the Coal Hollow Mine.

4. Alton Coal agrees to provide safety orientation information at each gate related to public travel through the Coal Hollow Mine.

5. Alton Coal will provide a public safety escort along the Robinson Creek Road through the Coal Hollow Mine as expeditiously as possible. Except as provided in paragraph number nine (9) below, an escort will be provided within thirty (30) minutes of a request for a safety escort.

6. The County authorizes the gates to be secured to the extent necessary to facilitate a timely public safety escort. The gates shall not make travel along Robinson Creek Road restrictive beyond the stipulated response time to provide a safety escort. See Utah Code Ann. § 72-7-106, 5(b).

7. Alton Coal agrees to provide escort personnel twenty-four (24) hours a day, seven (7) days a week during the entire period mining operations affect the safety of public travel along the Robinson Creek Road, otherwise public travel along the Robinson Creek Road shall not be restricted.
8. Alton Coal agrees to provide the public with additional contact information facilitating a pre-arranged escort further reducing travel delays.

9. Access along Robinson Creek Roads through the Coal Hollow Mine may occasionally be delayed beyond thirty (30) minutes, but only when necessary to ensure health and safety of the public when activities such as blasting or road construction immediately and directly affect safe travel along the road.

10. The County authorizes Alton Coal to make minor realignments and surface changes to the Robinson Creek Road as necessary to facilitate mine operations without the need for additional county permitting so long as the public’s use of the road is not restricted by the realignment or surface changes.

11. At the end of the mining operation, Alton Coal will return the Robinson Creek Road to its original alignment and condition or to an alignment and condition acceptable to the County.

III. MISCELLANEOUS PROVISIONS

A. The Parties understand and agree that the Robinson Creek Road is a county road and that the public escort provisions set forth herein shall not be deemed to abandon or vacate the county road, user rights-of-way, or the R.S. 2477 right-of-way under Utah Code Ann. § 72-5-105.

B. The Parties agree that the public safety escort provisions set forth herein do not convey jurisdiction, authority or responsibility to Alton Coal regarding the construction, maintenance or operation of Robinson Creek Road beyond the terms of this Agreement.

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OCT 15 2009

Div. of Oil, Gas & Mining
road will remain a Class D road within the county network under the sole authority of Kane County pursuant to Utah Code Ann. § 72-3-105.

C. This Agreement, together with its attached exhibits, constitutes the entire Agreement between the Parties and supersedes and replaces any and all prior negotiations, representations, warranties, understandings or contracts between the Parties. This Agreement may be modified by written, mutual agreement of the parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date first above written.

ALTON COAL, LLC

BY:  

ITS Manager

KANE COUNTY

Commissioner Daniel W. Hulet

Commissioner Mark W. Habbeshaw

Commissioner Doug Heaton

INCORPORATED

OCT 15 2009

Div. of Oil, Gas & Mining
APPENDIX 1-9

Kane County Planning and Zoning
Conditional Use Permits

Conditional Use Permits for Land Parcels 9-5-19-1, 9-5-20-2, 9-5-29-3, 9-5-30-2 and 9-5-30-1
Conditional Use Permit Application

Fee  $175.00

Property information and location
(All lines applicable to this site must be filled in)

Section 19, 20, 29, 30 Township 39 South  Range 5 West
Parcel # 9-5-19-1, 9-5-20-2, 9-5-29-3, 9-5-30-2

You MUST include a parcel map obtained from the Kane County Recorder's Office with this application!

Property Owner(s) Information
Name(s): Sink Valley Ranch, LLC - C/O C. Burton Pugh

Address per tax rolls: 533 North 650 East

City/County: Lindon  State: Utah  Zip: 84042

Office/home phone: (801) 785-6220  Fax phone: 

Mobile phone:  Message phone: 

E-mail address: burtpugh@comcast.net

A copy of the deed, offer or tax notice MUST be included to demonstrate ownership

CUP#  (for office use only)  Fee: $175.00  Receipt #

Is this an amendment?  □ Yes  ☑ No

This application MUST be submitted no later than 14 days before the scheduled Planning Commission Meeting!

ATTACH A LOCATION MAP, SITE AND BUILDING PLAN, AND DETAILED DESCRIPTION OF PROPOSED USE

INCORPORATED

OCT 15 2009

Div. of Oil, Gas & Mining
Agent for the property owner(s) information

Name(s): Alton Coal Development, LLC

Address per tax rolls: 463 North 100 West, Suite 1

City/County: Cedar City  State: Utah  Zip: 84721

Office/home phone: (435) 867-5331  Fax phone: (435) 867-1192

Mobile phone: (435) 233-0528  Message phone: (435) 867-5331

E-mail address: cmccourt@altoncoal.com

Notarized affidavit by owner that agent has authority to act on their behalf

There shall be no presumption of approval of any aspect of the process. Each application for a Conditional Use Permit shall have all required submittals before it is accepted as a complete application.

APPLICATION IS HEREBY MADE TO THE PLANNING COMMISSION REQUESTING THAT:

a conditional use permit be issued to allow surface coal mining, and all support activities including coal sizing, stockpiling etc. These operations will require construction of support buildings and structures as shown on the attached drawings 5-3, 5-4 and 5-5. These activities are expected to occur for approximately 5 years. See attached mine plans for details related to required operations to effectively and safely extract coal from the specified parcels.

Total acreage of parcel: 733.68 (all)  Area occupied by this use: -400 acres

Current zoning designation: Agric.  Current use of land: Grazing

I (We) understand that the Planning Commission shall not authorize a Conditional Use Permit unless the evidence presented is such as to establish that such use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, and the proposed use will comply with the regulations and conditions specified in the Kane County Land Use Ordinance for such use.

Date signed: 

Signature of owner(s) or agent(s):
Planning and Zoning Commission Action

☐ Approve

☐ Deny

Planning & Zoning Chairman

Requiring turn-lane improvements at street intersections when:
(i) an unsafe condition would be created by the development without the improvements; or
(ii) the projected increase in traffic generated by the new or expanded use will lower the level of service.
Conditional Use Permit Application

Fee  $175.00

Property information and location
(All lines applicable to this site must be filed in)

Section 30
Township 39 South
Range 5 West
Parcel # 9-5-30-1

You MUST include a parcel map obtained from the Kane County Recorder's Office with this application!

Property Owner(s) Information

Name(s): Richard L. Dame

Address per tax rolls: 1620 Georgia Avenue

City/County: Boulder City  State: NV  Zip: 89005

Office/home phone: (702) 293-4773  Fax phone: ------

Mobile phone: (435) 691-2911  Message phone: ------

E-mail address: RLDame@cox.net

A copy of the deed, offer or tax notice MUST be included to demonstrate ownership

CUP# ____________

(for office use only)

Fee: $175.00  Receipt #

Is this an amendment?  □ Yes  ☑ No

This application MUST be submitted no later than 14 days before the scheduled Planning Commission Meeting!

ATTACH A LOCATION MAP, SITE AND BUILDING PLAN, AND DETAILED DESCRIPTION OF PROPOSED USE
Agent for the property owner(s) information

Name(s): Alton Coal Development, LLC

Address per tax rolls: 463 North 100 West, Suite 1

City/County: Cedar City State: UT Zip: 84721

Office/home phone: (435) 867-5331 Fax phone: (435) 867-1192

Mobile phone: (435) 233-0528 Message phone: (435) 867-5331

E-mail address: cmccourt@altoncoal.com

Notarized affidavit by owner that agent has authority to act on their behalf

There shall be no presumption of approval of any aspect of the process. Each application for a Conditional Use Permit shall have all required submittals before it is accepted as a complete application.

APPLICATION IS HEREBY MADE TO THE PLANNING COMMISSION REQUESTING THAT:

- A conditional use permit be issued to allow surface coal mining and reclamation activities. This parcel will not require any structures except for one sediment control pond. See attached mine plans for details related to the proposed operations.

Total acreage of parcel: 61.96 Area occupied by this use: 61.96 acres

Current zoning designation: Agric. Current use of land: Grazing

I (We) understand that the Planning Commission shall not authorize a Conditional Use Permit unless the evidence presented is such as to establish that such use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, and the proposed use will comply with the regulations and conditions specified in the Kane County Land Use Ordinance for such use.

Date signed: 

Signature of owner(s) or agent(s):

INCORPORATED

OCT 15 2009

Div. of Oil, Gas & Mining
Planning and Zoning Commission Action

☐ Approve

☐ Deny

Planning & Zoning Chairman:

Requiring turn-lane improvements at street intersections when:
(i) an unsafe condition would be created by the development without the improvements; or
(ii) the projected increase in traffic generated by the new or expanded use will lower the level of service.
<table>
<thead>
<tr>
<th>Permit Number</th>
<th>MSHA Number</th>
<th>MSHA Violation Number</th>
<th>Date of Issuance</th>
<th>Issued to</th>
<th>Agency</th>
<th>State</th>
<th>Brief Description of NOV</th>
<th>Action taken to Abate NOV</th>
<th>Current Status of NOV</th>
</tr>
</thead>
<tbody>
<tr>
<td>C250005</td>
<td>42-02519</td>
<td>21162</td>
<td>1/20/2016</td>
<td>K.Nicholes</td>
<td>UDOGM</td>
<td>Utah</td>
<td>Failed to install drainage from the sump in pit 10 to its discharge point in Pond 3 according to the design found in Appendix 5-13.</td>
<td>Installed two pipes from Pit 10 Sump to Pond 3, that terminate under water.</td>
<td>Terminated</td>
</tr>
<tr>
<td>C250005</td>
<td>42-02519</td>
<td>21163</td>
<td>1/20/2016</td>
<td>K.Nicholes</td>
<td>UDOGM</td>
<td>Utah</td>
<td>Failure to have rough backfilling and grading follow coal removal by not more than 60 days. Mining ceased in HWT 2 with Panel 4E in July 2015.</td>
<td>Submitted plans that were reviewed and approved May 27, 2016 to backfill HWT 2.</td>
<td>Terminated</td>
</tr>
<tr>
<td>C250005</td>
<td>42-02519</td>
<td>21164</td>
<td>1/20/2016</td>
<td>K.Nicholes</td>
<td>UDOGM</td>
<td>Utah</td>
<td>Failure to provide a plan for reclaimation of the final Pit 10.</td>
<td>Submitted an amendment for a plan to backfill Pit 10 utilizing material from a designated borrow area.</td>
<td>Terminated</td>
</tr>
<tr>
<td>C250005</td>
<td>42-02519</td>
<td>21165</td>
<td>3/9/2016</td>
<td>K.Nicholes</td>
<td>UDOGM</td>
<td>Utah</td>
<td>1. Failure to provide accurate, certified underground (UG) mine surface facilities map showing buildings; utility corridors; coal and non-coal waste disposal locations; and coal loading locations. 2. Failure to provide accurate certified map of UG mine water diversions, collection, conveyance and treatment structures.</td>
<td>Provided drawing 5-3B showing UG facilities. Made changes to Chapter 5 Text.</td>
<td>Terminated</td>
</tr>
<tr>
<td>C250005</td>
<td>42-02519</td>
<td>21166</td>
<td>3/9/2016</td>
<td>K.Nicholes</td>
<td>UDOGM</td>
<td>Utah</td>
<td>Failure to correct structural weakness in pond 001 and 002.</td>
<td>Replaced gaskets for oil skimmer on the primary discharge culvert.</td>
<td>Terminated</td>
</tr>
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<td>C250005</td>
<td>42-02519</td>
<td>21167</td>
<td>3/9/2016</td>
<td>K.Nicholes</td>
<td>UDOGM</td>
<td>Utah</td>
<td>1. Failure to install adequate sediment control measures on the fill slopes surrounding the underground mine (UG). 2. Failure to install adequate sediment control within Pit 10 for the UG mine surface facility.</td>
<td>Provided drawings and supporting text for drainage in Pit 10.</td>
<td>Terminated</td>
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<tr>
<td>C250005</td>
<td>42-02519</td>
<td>21174</td>
<td>4/6/2016</td>
<td>K.Nicholes</td>
<td>UDOGM</td>
<td>Utah</td>
<td>Failure to follow the approved plan in Area 1, MRP, Vol 3, Chapter 5, pages 5-13 and page 5-21. Page 5-13: County road to be completed prior to mining activity so that public is routed around the mine. Page 5-21: construction of haul roads, pond 5 and pond 6, subsoil pile, topsoil pile and spoil pile all ditches and culverts completed prior to mining in Pit 1 or development of Pit 1.</td>
<td>Completed County bypass road.</td>
<td>Terminated</td>
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<tr>
<td>C250005</td>
<td>42-02519</td>
<td>21183</td>
<td>6/3/2016</td>
<td>K.Nicholes</td>
<td>UDOGM</td>
<td>Utah</td>
<td>Over excavation of excess spoil pile area.</td>
<td>An amendment to the MRP to include reclamation of the highwall left from over excavation of the excess spoils pile was submitted and approved.</td>
<td>Terminated</td>
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<td>C250005</td>
<td>42-02519</td>
<td>21185</td>
<td>9/7/2016</td>
<td>K.Nicholes</td>
<td>UDOGM</td>
<td>Utah</td>
<td>Maintenance of ASCA-1 NPL.</td>
<td>Made repairs to ASCA-1</td>
<td>Terminated</td>
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<td>C250005</td>
<td>42-02519</td>
<td>21191</td>
<td>12/8/2016</td>
<td>K.Nicholes</td>
<td>UDOGM</td>
<td>Utah</td>
<td>Failure to protect topsoil NPL.</td>
<td>Removed topsoil from top of highwall and reconstructed berm.</td>
<td>Terminated</td>
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<tr>
<td>C250005</td>
<td>42-02519</td>
<td>21193</td>
<td>3/15/2017</td>
<td>K.Nicholes</td>
<td>UDOGM</td>
<td>Utah</td>
<td>Failure to store oil &amp; grease in a controlled manner in a designated area of the permit area.</td>
<td>Removed unauthorized oil storage tank.</td>
<td>Terminated</td>
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<td>C250005</td>
<td>42-02519</td>
<td>21194</td>
<td>3/15/2017</td>
<td>K.Nicholes</td>
<td>UDOGM</td>
<td>Utah</td>
<td>Failure to maintain siltation structures and diversions at the underground facilities.</td>
<td>Submitted amendment to MRP to enlarge sump and dike in Pit 10.</td>
<td>Terminated</td>
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Coal Energy Group 2, LLC
Wildcat Loadout

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<th>Violation Number</th>
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<th>Issuing Agency</th>
<th>State</th>
<th>Current Status of NOV</th>
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INCORPORATED
MAR 04 2019
Div. of Oil, Gas & Mining
Coal Energy Group 3, LLC
Kinney #2 Mine

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<th>Permit Number</th>
<th>MSHA Number</th>
<th>Violation Number</th>
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<th>Issuing Agency</th>
<th>State</th>
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<td>NO VIOLATIONS IN PRECEDING 3 YEARS</td>
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Appendix 1-11

North Private Lease
County Road 136 (K3900) Relocation
Grant of Easement, Permit and Design
GRANT OF EASEMENT
FOR COUNTY ROAD K3900

THIS GRANT OF EASEMENT FOR COUNTY ROAD K3900 (also referred to as County Road 136) (this "Agreement") is made and entered into as of the day of __, 2015 (the "Effective Date"), by and between HEATON BROTHERS, LLC, ("Grantor" or "Heaton Brothers"), and ALTON COAL DEVELOPMENT, LLC, a Nevada limited liability company, ("Alton" or "Grantor") and Kane County, a political subdivision of the State of Utah ("County" or "Grantee"). Grantor, Grantee, Alton and County are sometimes hereinafter referred to as a "Party" and collectively referred to as the "Parties."

RECITALS

A. County Road K3900 currently intersects the Coal Hollow Mine North Private Lease Area crossing lands owned by Heaton Brothers, LLC ("Heaton Brothers Property") and leased by Alton ("North Private Lease Area," described at Exhibit A to this Agreement).

B. Approximately 0.6 miles of County Road will be temporarily relocated to allow for Alton’s mining operations. This relocated section begins approximately 0.8 miles south of the Town of Alton and will reconnect with the original road approximately 1.4 miles south of the Town. The proposed relocation of the County road is within the North East Quarter, Section 13, Township 39 South, Range 6 West, SLB&M, Kane County, more particularly described on Exhibit B to this Agreement (the "Temporary Relocation Easement Area").

C. Alton intends to conduct coal mining activities on certain portions of the Heaton Brothers Property and following mining of these lands, seeks to replace the right of way for County Road K3900 across the Heaton Brothers Property within an area described at Exhibit C to this Agreement (the "Replacement Easement Area").

D. Alton and Kane County ("County") have entered into an agreement regarding the relocation and replacement of County Road K3900 ("County Road K3900 Agreement").

E. This Agreement seeks to grant an easement and right of way from Grantors on the North Private Lease Area and the Alton lease area to the County for temporary relocation and replacement of County Road K3900.

F. The Temporary Relocation Easement Area and the Replacement Easement Area burden certain portions of the North Private Lease Area more particularly described on Exhibits B and C and depicted on the maps and diagrams attached at Exhibit D to this Agreement (jointly referred to as the "Easement Areas").
G. Following mining and upon replacement of County Road K3900 within the Replacement Easement, and removal of the County Road 3900 from the Temporary Relocation Easement Area, the County intends to reconvey the Temporary Relocation Easement Area to Grantors.

AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Grant of Temporary Relocation Easement.** Grantors hereby grant to the County a temporary, exclusive easement and right of way 66 feet in width for County Road K3900 over, across, upon and within any area within the outlying boundaries within the Easement Area, for the purpose of constructing, owning, operating, maintaining, repairing and relocating County Road K3900 (Temporary Relocation Easement Area).

2. **Grant of Replacement Easement.** Grantors hereby grant to the County a perpetual, exclusive easement and right of way 66 feet in width for County Road K3900 over, across, upon and within any area within the outlying boundaries within the Easement Area, for the purpose of constructing, owning, operating, maintaining, repairing and replacing County Road K3900 (Replacement Easement Area).

3. **Construction and Use Requirements as Provided by the County Road K3900 Agreement.** The County Road K3900 within the Easement Area shall be constructed in accordance with County specifications and shall be owned by the County, and operated and maintained by County without any cost, expense or obligation on the part of Grantors. Further, the parties agreed to provide each other with written notice prior to commencing construction within the Easement Areas.

4. **Obstructions.** Grantors, by the terms of said agreement, shall not construct any fence, wall, or other barrier or structure of any kind on the Easement Areas which would prevent, obstruct or impair County's use and enjoyment of the Easement Areas and the operation of County Road K3900.

5. **Term.** The duration of this Agreement shall be perpetual unless all Parties mutually agree in writing to terminate this Agreement.

6. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

7. **Notices.** All notices, requests, demands or other communications hereunder shall be in writing and deemed given when delivered personally, when deposited to be sent via a nationally-recognized overnight courier keeping receipts of delivery, service prepaid or billed to sender, or on the day said communication is deposited with an overnight courier service, postage prepaid, addressed as follows:

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FEB 02 2016
or to such other address as either Party may from time to time designate by notice in writing to the other Party. Rejection, refusal to accept delivery or inability to deliver due to changed address of which no notice has been given shall be deemed receipt by the addressee.

8. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Utah, without giving effect to its choice of law principles.

9. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed as an original but all of which together shall constitute one and the same instrument.

10. **Entire Agreement.** This Agreement supersedes all prior understandings, representations and agreements between the Parties with regard to the subject matter hereof and there are no other understandings, representations, warranties or agreements between them.

11. **Amendment.** Neither this Agreement nor any provision hereof may be changed, amended, modified, waived or discharged orally or by any course of dealing, but only by an instrument in writing signed by the Party against which enforcement of the change, amendment, modification, waiver or discharge is sought.

12. **Authority.** Each party hereto hereby represents, warrants and covenants unto the other that this Agreement has been duly authorized, executed and delivered by such party and constitutes the valid, legal and binding agreements and obligations of such party enforceable against such party in accordance with the terms hereof.
13. No Joint Venture. Nothing in this Agreement shall be construed to make the Parties partners or joint venturers or render any of the Parties liable for the debts or obligations of the other.

14. Agreement to Run with the Land: Running of Benefits and Burdens. All provisions of this Agreement touch, concern and run with the Heaton Brothers, LLC properties, tracts 9-6-13-1 and 9-6-13-2 and Easement Area and are binding upon and inure to the benefit of the successors and assigns of Grantor and Grantee.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives effective as of the Effective Date.

Grantor:

HEATON BROTHERS, LLC

By: ________________________________
   Its: President

Grantor:

ALTON COAL DEVELOPMENT, LLC

By: ________________________________
   Its: General Manager

Grantee:

KANE COUNTY

By: ________________________________
   Chairman, Kane County Commission
STATE OF UTAH  
COUNTY OF IRON  

The foregoing instrument was acknowledged before me this 18 day of Sept., 2015, by Larry W. Johnson, Manager of ALTON COAL DEVELOPMENT, LLC, a limited liability company.

Sherrie Prisbrey  
NOTARY PUBLIC  
Residing at: Cedar City Ut.  

My Commission Expires:  
9/26/2015  

STATE OF UTAH  
COUNTY OF UTAH  

The foregoing instrument was acknowledged before me this 18 day of Sept., 2015, by Ronald W. Heaton, President/Manager of HEATON BROTHERS, LLC, a limited liability company.

Sherrie Prisbrey  
NOTARY PUBLIC  
Residing at: Cedar City Ut.  

My Commission Expires:  
9/26/2015  

INCORPORATED  
FEB 02 2016  
Div. of Oil, Gas & Mining
STATE OF UTAH  
COUNTY OF KANE,

The foregoing instrument was acknowledged before me this 21st day of September 2015, by Douglas K. Heath, Chairman of KANE COUNTY COMMISSION.

My Commission Expires: 12/31/18

Karl Carlson  
NOTARY PUBLIC  
Residing at: 76 N Main Kane, UT 84752  

INTEGRATED

FEB 12 2016
D.v. Oil, Gas & Mining
EXHIBIT A

Legal Description of the North Private Lease Area

The following described lands located in Kane County, Utah within Sec. 12 & 13, T39S, R6W and within Sec. 7 & 18, T39S, R5W:

Beginning at S 58° 16' 29" W a distance of 1,920.87' from Section Corner 7-18-12-13, T39S, R5 R6W; thence N 89° 29' 27" W a distance of 823.81'; thence S 00° 00' 38" E a distance of 1313.93'; thence S 65° 46' 32" E a distance of 479.40'; thence S 89° 44' 30" E a distance of 1861.86'; thence S 54° 58' 33" E a distance of 226.53'; thence S 89° 45' 07" E a distance of 1235.50'; thence N 00° 41' 09" E a distance of 1322.97'; thence N 89° 30' 20" E a distance of 241.42'; thence N 00° 51' 49" E a distance of 1323.52'; thence N 89° 22' 59" W a distance of 249.30'; thence N 89° 56' 02" W a distance of 2923.34'; thence S 00° 24' 59" W a distance of 2326.09'; which is the point of beginning, having an area of

12,877,780.47 square feet, or 295.633 acres
HEATON BROTHERS, LLC LEASE AREA DESCRIPTION:

BEGINNING AT A POINT N52°09'23"E 4413.80 FEET FROM THE WEST QUARTER CORNER SECTION 13 TOWNSHIP 39 SOUTH RANGE 6 WEST SALT LAKE BASE AND MERIDIAN SAID POINT BEING THE CENTERLINE OF A PROPOSED BY PASS ROAD EASEMENT AND THE CENTERLINE OF AN EXISTING COUNTY ROAD; RUNNING THENCE ALONG THE BYPASS ROAD CENTERLINE THE FOLLOWING COURSES: S14°39'53"W 89.62 FEET TO THE PC OF A CURVE TO THE RIGHT; CURVE DATA: TANGENT 16.90' CHORD 33.75' COURSE N17°53'22"E RADIUS 300.00' DELTA 6°26'58" THENCE ALONG SAID CURVE 33.77 FEET TO THE PT; THENCE S21°06'51"W 192.60 FEET TO THE PC OF A CURVE TO THE RIGHT CURVE DATA: TANGENT 16.78' CHORD 127.38' COURSE N33°22'18"E RADIUS 300.00' DELTA 24°30'54" THENCE ALONG SAID CURVE 128.36 FEET TO THE PT; THENCE S45°37'44"W 469.48 FEET TO THE PC OF A CURVE TO THE LEFT; CURVE DATA: TANGENT 60.63' CHORD 118.85' COURSE S34°12'15"W RADIUS 300.00' DELTA 22°50'59" THENCE ALONG SAID CURVE 119.64 FEET TO THE PT; THENCE S22°46'45"W 228.51 FEET TO THE PC OF A CURVE TO THE LEFT; CURVE DATA: TANGENT 60.15' CHORD 117.95' COURSE S11°26'31"W RADIUS 300.00' DELTA 22°40'28" THENCE ALONG SAID CURVE 118.72 FEET TO THE PT; THENCE S62°33'35"E 256.42 FEET TO THE SOUTH LINE OF THE HEATON BROTHERS PROPERTY AND THE POINT OF ENDING.

ALTON COAL, LLC NORTH PRIVATE PERMIT LEASE AREA DESCRIPTION:

BEGINNING AT A POINT N65°11'15"E 3082.87 FEET FROM THE WEST QUARTER CORNER SECTION 13 TOWNSHIP 39 SOUTH RANGE 6 WEST SALT LAKE BASE AND MERIDIAN SAID POINT BEING THE CENTERLINE OF A PROPOSED BY PASS ROAD EASEMENT AND THE NORTH LINE OF THE NORTH PRIVATE PERMIT LEASE AREA PROPERTY; RUNNING THENCE ALONG SAID CENTERLINE THE FOLLOWING COURSES: S00°06'16"W 870.32 FEET TO THE PC OF A CURVE TO THE LEFT; CURVE DATA: TANGENT 398.58' CHORD 564.68' COURSE S44°47'37"E RADIUS 400' DELTA 89°47'48" THENCE ALONG SAID CURVE 626.90 FEET TO THE PT; THENCE S89°41'31"E 1877.24 FEET TO THE PC OF A CURVE TO THE RIGHT CURVE DATA: TANGENT 72.39' CHORD 140.74; COURSE S76°07'33"E RADIUS 300' DELTA 27°07'56" THENCE ALONG SAID CURVE 142.06 FEET TO THE PT; THENCE S62°33'35"E 76.59 FEET TO THE SOUTH LINE OF THE NORTH PRIVATE PERMIT LEASE AREA PROPERTY AND THE POINT OF ENDING.
EXHIBIT C

Legal Description of the Replacement Easement Area

BEGINNING AT A POINT N52°09'23"E 4413.80 FEET FROM THE WEST QUARTER CORNER SECTION 13 TOWNSHIP 39 SOUTH RANGE 6 WEST SALT LAKE BASE AND MERIDIAN SAID POINT BEING THE CENTERLINE OF THE REPLACEMENT ROAD EASEMENT AND THE CENTERLINE OF AN EXISTING COUNTY ROAD; RUNNING THENCE: S14°35'54"W 108.41 FEET; THENCE S11°35'34"W 111.22 FEET; THENCE S02°19'40"E 321.46 FEET; THENCE S13°27'08"E 444.10 FEET; THENCE S21°28'04"E 166.43 FEET; THENCE S42°42'54"E 323.24 FEET; THENCE S55°58'34"E 441.32 FEET; THENCE S52°00'18"E 312.75 FEET; THENCE S41°32'11"E 367.14 FEET; THENCE S31°48'12"E 407.12 FEET; THENCE S42°55'54"E 293.06 FEET; THENCE S55°10'16"E 217.66 FEET; THENCE S60°36'13"E 207.50 FEET TO THE SOUTH LINE OF THE NORTH PRIVATE PERMIT LEASE AREA PROPERTY AND THE POINT OF ENDING.
EXHIBIT D
Map of Easement Areas

ALTON COAL LEASE BOUNDARY

Portion of existing road to be temporarily replaced

Temporary Relocation of County Road

200 Acres
Heaton Brothers, LLC
9-6-13-2

ALTON COAL LEASE BOUNDARY

120 Acres
Alton Coal Lease
9-6-13-1

INCORPORATED
FEB 02 2016

Div. of Oil, Gas & Mining
**Kane County GIS / Transportation Department**

**Excavation Permit Application**

**76 North Main St. – Kanab, UT 84741**

(435) 644-1968 – FAX (435) 644-2052

www.kancgal@kanab.net

---

**Permit #: 12215**

**Applicant:** Alton Coal Development, LLC  
Mailing Address: 463 North 100 West

**Phone #:** 435-467-5331  
City: Cedar City, Utah  
Zip: 84721

**Project Address:** 2060 South Alton Rd, SE of Alton Town

**Contractor:** Alton Coal Development, LLC  
Phone: 435-467-5334

**Liability Insurance Carrier:** American Mining Insurance Company

**Policy #:** AGL2521539-10

**Date Work to Begin:** April 2015  
**Date of Completion:** August 2015

---

**COUNTY ROAD RIGHT-OF-WAY EXCAVATION**

(Refer to Standard Specifications and Drawing Details For Design and Construction)

**TYPE OF WORK:** Check all that apply:

- Gas
- Electric
- Water
- Cable T.V.
- Sanitary Sewer
- Storm Drain/Culvert, Curb & Gutter

**Project Controls:**

- Cessation of Work
- Completion, Curb & Gutter

---

**ASPHALT CUTS ARE NOT ALLOWED OCTOBER 1 - MAY 1 - IS ASPHALT CUT REQUIRED? NO**

---

If YES, please explain in detail why other alternatives are infeasible or impractical:

---

**Roads treated with any type of dust suppressant will be replaced by permit holder upon excavation completion.**

---

<table>
<thead>
<tr>
<th>SIZE OF EXCAVATION</th>
<th>SIZE OF ASPHALT CUT</th>
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<tr>
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<td>Ft X Ft</td>
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**EXCAVATION / DIRECT BURIAL PERMIT FEE**

- $25 per Excavation (Up to 100 Ft in Length)
- $25 x = $25
- $5 per Additional 100 Ft
- $5 x = $5

**Driveway Culvert Installation**

- (5$ Per Driveway Opening) Minimum size: 12" culvert / Pipe
- $25 x = $25

**TOTAL FEES DUE:**

$NC

---

**BOND REQUIREMENTS**

- **Asphalt Roadway:**
  - Completion Bond (Up to 100 Ft in Length)
  - $500 per Additional 100 Ft
  - X $500 = $500
  - $25 per Foot of Asphalt Cut
  - X $25 = $25

- **Gravel Roadway:**
  - Completion Bond (Up to 100 Ft in Length)
  - $250 per Additional 100 Ft
  - X $250 = $250

**Driveway Culvert Bond per access -**

- (Driveway bond reissues after final inspection, excluding paved roads)

**TOTAL BONDS DUE:**

$NC

---

**SUBMITTAL REQUIREMENTS:**

- 1. Completed Application
- 2. Completion Bond [ ] Cash, [ ] Performance, [ ] Surety, [ ] Letter of Credit, [ ] Other
- 3. Permit Fee
- 4. Detail Drawing of Work
- 5. Traffic Control Plan - Per MUTCD

By signing this application, the Applicant agrees to comply with all State and Federal Laws and Kane County Standard Specifications for Design and Construction.

**Applicant’s Signature:** [Signature]  
**Date:** 1-22-15  
**GIS / Transportation Director:** [Signature]  
**Date:** 1-22-15

---

**FEB 02 2016**

This permit is issued only as permission to excavate in the public right-of-way. It is not a grant of easement or other similar interest. Permittee shall acquire easements from affected owners as required.

**Approval Date:** February 25, 2008  
**Review Date:** Two years from approval.

---

**INTEGRATED**

---

**INTEGRATED**
COAL BYPASS ROAD

LOCATED IN SECTION 13, T 39 S, R 6 W, SL&M
KANE COUNTY, UTAH
AUGUST 2014
January 28, 2016

Mr. Larry Johnson

It is our understanding that Alton Coal needs to open up coal fields north of the existing mine area and as agreed with Kane County Commissioners Alton Coal will be moving a section of two Kane County Roads K3100 & K3900 to allow this new mining activity. Coal ore transportation will be allowed from this new site southerly to the existing mine facilities on the current Kane County Road K3900. The intersection of K3100 will be pushed back south to the property line and will be a typical engineered intersection to allow traffic patterns for east and west access onto the re-routed K3900.

Kane County Commission and myself have discussed this issue thoroughly and have concluded due to the additional width of this roadway, 32 plus feet and the fact that it is only approximately 1.6 miles of gravel road that Alton Coal will be able to operate up to the agreed 12 foot width construction type trucks with typical traffic pattern operation in order to relocate this coal ore to the existing processing facilities.

By mutual agreement the coal trucks will be allowed to travel this short route with the understanding that their top speed will be limited to 25 mph, even though the road is posted slightly higher Kane County concurs that due to the larger size and weight of the trucks a slower limit set by your company will help with all public safety issues that may be of concern. The duration will not be long term but is yet undefined by Alton Coal and Kane County. Kane County’s number one priority is that no public access will be impaired; we are 100% confident in dealing with Alton Coal that this will be strictly adhered too.

Sincerely,

Louis Pratt
Kane County GIS / Transportation Director