

0107

e/025/005 Incoming
cc: John
Dana
Steve
Daron
Priscilla

RECEIVED
JUN 05 2008
DIV. OF OIL, GAS & MINING



southern
utah
wilderness
alliance

VIA ELECTRONIC MAIL AND FIRST CLASS U.S. MAIL

June 2, 2008

John Baza – Director
Daron Haddock – Permit Supervisor
Utah Division of Oil, Gas and Mining
1594 West North Temple
P.O. Box 145801
Salt Lake City, Utah 84114

Re: Southern Utah Wilderness Alliance Response to Alton Coal Development's Challenge to the Timeliness of SUWA's Comments and SUWA Request for Informal Conference

Dear Director Baza and Mr. Haddock:

On behalf of the Southern Utah Wilderness Alliance, the Southern Utah C.O.A.L.M.I.N.E. Coalition (SUCC), Natural Resources Defense Council, National Parks and Conservation Association, the Sierra Club Southern Utah Wilderness Alliance (collectively referred to as "SUWA"), this letter responds to arguments by counsel for Alton Coal Development (Alton) set forth in a May 27, 2008 letter to the Division which asserts that SUWA's comments were not timely submitted to the Division and should not be considered. In a May 22, 2008 e-mail, Alton made the same request to the Division.

Contrary to these claims, SUWA's comments – filed on May 22, 2008 – met the explicit comment deadline set forth by Mary Ann Wright in written correspondence to federal, state and local governments, as well as interest groups such as the Utah Mining Association and United Mine Workers. See E-mail from Daron Haddock, DOGM to Stephen Bloch, SUWA (March 31, 2008) and excerpted attachments (attached hereto). Alton's claims that this comment deadline only applied to governmental agencies is flatly contradicted by the Division's letters to the Utah Mining Association and United Mine Workers. SUWA also notes that it was not alone in taking the Division's stated comment period deadline date of May 22nd at face value. Many local residents submitted comments both for and against the proposal to the Division in the week between May 16 and May 22.

Because SUWA's comments were timely submitted to the Division, SUWA's request that the Division conduct an informal conference is also properly before you. We understand that the

Division may have already taken steps to arrange for such a conference and respectfully reiterate our request that we be permitted to participate in the conference.¹

I look forward to hearing from you shortly whether the Division will consider SUWA's comments as timely filed and the Division's plans for holding an informal conference.

Sincerely,

/s/ Stephen Bloch 

Stephen Bloch
Staff Attorney

cc: Steven Alder, Assistant Utah Attorney General

¹We note that the Rules require notice of such an informal conference at least two weeks before the conference takes place: "The date, time, and location of the informal conference will be sent to the applicant and other parties to the conference and advertised by the Division in a newspaper of general circulation in the locality of the proposed coal mining and reclamation operation at least two weeks before the scheduled conference." Utah Admin. R645-300-123.220 (emphasis added).

0099

OK C/025/005 Incoming

Snell & Wilmer
LLP
LAW OFFICES

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Suite 1200
Gateway Tower West
Salt Lake City, UT 84101
801.257.1900
801.257.1800 (Fax)
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Denise A. Dragoo
ddragoo@swlaw.com
(801) 257-1998

DENVER
LAS VEGAS
ORANGE COUNTY
PHOENIX
SALT LAKE CITY
TUCSON

May 27, 2008

Mr. Daron Haddock
Utah Division of Oil, Gas and Mining
1594 West North Temple
Salt Lake City, Utah 84114

RE: Alton Coal Development, LLC – Coal Hollow Mine, C/025/0005

Dear Mr. Haddock:

On behalf of Alton Coal Development, LLC (“Alton Coal”), and in addition to the objection filed with Director John R. Baza on Friday, May 23, 2008, we continue to object to the Southern Utah Wilderness Alliance’s (“SUWA’s”) untimely comments and request for informal conference on the pending Coal Hollow Mine Permit Application No. C/025/0005. The public comment period on the legal notice for the permit application ended on Friday, May 16, 2008. SUWA’s comments and request for an informal conference were stamped “Received” by the Utah Division of Oil, Gas & Mining (“Division”) on May 22, 2008. Pursuant to R645-300-123.100 and 130, SUWA must have submitted comments and sought the informal conference within the public comment period, i.e., no later than Friday, May 16, 2008.

We understand that, consistent with R645-300-121.300, the Division provides certain governmental agencies until May 22, 2008 to provide comment. However, SUWA is not one of these governmental agencies and should not be singled out by the Division as the only member of the public to receive special treatment by being allowed to file comments after the public comment period has closed. The Division does not have discretion to allow SUWA to submit untimely comments, to request an informal conference or to participate in an informal conference when its comments and request were untimely. R645-300-123.100 and .300 specifically provide that a request for an informal conference “will... be filed with the Division no later than 30 days after the last publication of the newspaper advertisement required under R645-300-121.”

In sum, we request that the Division disregard SUWA’s untimely comments and requests. In the event that the Division holds an informal conference, SUWA should not be allowed to participate because they have failed to comply with the requirements of the Utah Coal Program. We appreciate your consideration in this matter. Please contact me if you have further questions.

Very truly yours,



Denise A. Dragoo

RECEIVED
MAY 28 2008

UTAH DIVISION OF OIL, GAS & MINING

DAD:jmc:8811849
cc: John R. Baza (via e-mail)
Chris McCourt (via e-mail)
Dana Dean (via e-mail)
Priscilla Burton (via e-mail)
Steve Alder, Esq. (via e-mail)

*AK Incoming
C/025/0005*

0089

From: "Chris McCourt" <CMcCourt@altoncoal.com>
To: "Daron Haddock" <daronhaddock@utah.gov>, "Dana Dean" <DANADEAN@utah.gov>...
CC: "Dragoo, Denise" <ddragoo@swlaw.com>
Date: 5/22/2008 1:51 PM
Subject: Alton Coal Development, LLC - C/025/0005

Darren,

Thank you for forwarding on the comments for the Coal Hollow Project. Alton Coal Development, LLC would like to formally request that any comments received after Friday, May 16th at 5:00 P.M. be categorized as untimely by the Division and not considered as part of the public comment period for permit application C/025/0005. This request is based on R645-300-122.

Sincerely,

Chris McCourt

From: Daron Haddock [mailto:daronhaddock@utah.gov]
Sent: Thursday, May 22, 2008 1:15 PM
To: Chris McCourt; Dana Dean; OGMCOAL@utah.gov; Priscilla Burton
Subject: Fwd: Do NOT Approve the Alton Coal Mine

forwarded email

Steve Bloch

From: Daron Haddock [daronhaddock@utah.gov]
Sent: Monday, March 31, 2008 3:12 PM
To: Steve Bloch; Mary Ann Wright
Cc: Angela Nance; Priscilla Burton
Subject: RE: Alton coal mine - administrative completeness?

Steve,

Sorry, I wasn't aware of the communications you have had with Pam. Now that she has retired, I have been trying to get up to speed on many of the projects she had previously worked on. I have attached a copy of the letter we sent out to the various agencies on March 19, 2008, notifying them that the Coal Hollow application is determined to be administratively complete. It asks for comments to be submitted to the Division by May 22, 2008. I hope this provides the information you need.

Sincerely,
Daron R. Haddock
Coal Program Manager

>>> Mary Ann Wright 3/31/2008 1:29 PM >>>
Yes we will be sure!

Mary Ann Wright
Associate Director, Mining
Utah Division of Oil, Gas and Mining
801-538-5306

>>> "Steve Bloch" <steve@suwa.org> 03/31/2008 1:25 PM >>>

Thanks, Mary Ann. Are we on your short list to receive this notice? I assume so given my interaction with Pam, but wanted to make sure.

From: Mary Ann Wright [mailto:maryannwright@utah.gov]
Sent: Monday, March 31, 2008 1:19 PM
To: Steve Bloch
Cc: Daron Haddock
Subject: Re: Alton coal mine - administrative completeness?

Steve-

6/2/2008

We just did find it administratively complete. Notices are going out now. Daron Haddock is now in charge of the Coal Program.

Mary Ann Wright

Associate Director, Mining

Utah Division of Oil, Gas and Mining

801-538-5306

>>> "Steve Bloch" <steve@suwa.org> 03/31/2008 12:25 PM >>>

Mary Ann -

Has the Division issued any findings re: the administrative completeness of the proposed Alton coal mine? Pam and I had been corresponding about the mine before she left and I had a reminder pop-up that you all were to have issued a finding by this time. Thanks in advance.

Steve

Stephen Bloch
Staff Attorney
Southern Utah Wilderness Alliance
425 East 100 South
Salt Lake City, Utah 84111
801 486 3161 x.3981
Fax: 801 486 4233

steve@suwa.org

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6/2/2008

by telephone and return the message to us at the above address.

March 19, 2008

David A. Litvin, President
Utah Mining Association
136 South Main Street, Suite 709
Salt Lake City, Utah 84101

Subject: Agency Notification of Determination of Administrative Completeness for Coal Hollow Permit Application, Alton Coal Development, LLC, Coal Hollow, C/025/0005, Task ID #2910, Outgoing File

Dear Mr. Litvin:

The Utah Division of Oil Gas and Mining has determined that the Alton Coal Development, LLC permit application for the Coal Hollow Mine is administratively complete. In compliance with the Utah Coal Mining Rules R645-300-121.300, R645-300-121.310, R645-300-121.320, and the Utah Coal Mining Act (UCA Section 40-10-1 et seq.), notice is hereby given to all local, state and federal agencies having a jurisdiction or an interest in the area of the operations that this application is available for public review.

Alton Coal Development intends to conduct surface coal mining on the 635.64-acre tract of land to mine privately held coal leases (fee coal). This proposed permit area is located in Kane County, T.39 S., R.5 W., Sections 19, 20, 29 and 30, approximately 3 miles south of Alton on County Rd. #136 (R645-300-121.300 *et seq.*). A map is attached for your information.

This permit renewal application is available for public review at:

Public Information Center
Division of Oil, Gas, and Mining
1594 West North Temple, Suite 1210
Salt Lake City, Utah 84114-5801

County Recorder's Office
Kane County Courthouse
76 North Main
Kanab, Utah 84741

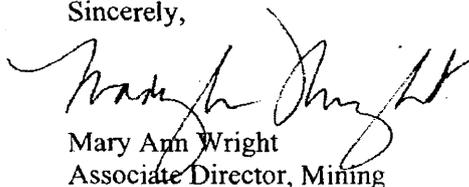
Please send your comments by May 22, 2008 to:

Coal Regulatory Program
Division of Oil, Gas & Mining
Box 145801
Salt Lake City, Utah 84114-5801

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Administrative Completeness
C/025/0005
March 19, 2008

If you have any questions please call me (801) 538-5306 or Priscilla Burton
(435) 613-3733.

Sincerely,



Mary Ann Wright
Associate Director, Mining

PWB/an
Enclosure
cc: Price Field Office
O:\025005.COL\FINAL\WG2910\agencynotification2910.doc

March 19, 2008

Bob Butero, Director
United Mine Workers of America
6526 West 44th Ave.
Wheat Ridge, Colorado 80033-4736

Subject: Agency Notification of Determination of Administrative Completeness for Coal Hollow Permit Application, Alton Coal Development, LLC, Coal Hollow, C/025/0005, Task ID #2910, Outgoing File

Dear Mr. Butero:

The Utah Division of Oil Gas and Mining has determined that the Alton Coal Development, LLC permit application for the Coal Hollow Mine is administratively complete. In compliance with the Utah Coal Mining Rules R645-300-121.300, R645-300-121.310, R645-300-121.320, and the Utah Coal Mining Act (UCA Section 40-10-1 et seq.), notice is hereby given to all local, state and federal agencies having a jurisdiction or an interest in the area of the operations that this application is available for public review.

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76 North Main
Kanab, Utah 84741

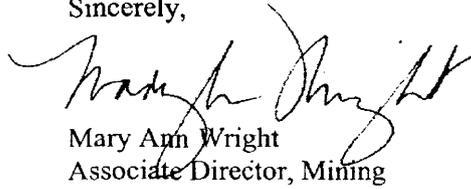
Please send your comments by May 22, 2008 to:

Coal Regulatory Program
Division of Oil, Gas & Mining
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Salt Lake City, Utah 84114-5801

Page 2
Administrative Completeness
C/025/0005
March 19, 2008

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(435) 613-3733.

Sincerely,



Mary Ann Wright
Associate Director, Mining

PWB/an
Enclosure
cc: Price Field Office
O:\025005.COL\FINAL\WG2910\agencynotification2910.doc