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C/025/005 Incoming

State of Utah
DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

August 13, 2008

Denise A. Dragoo, Esq.
SNELL & WILMER L.L.P.
15 West South Temple, Suite 1200
Salt Lake City, Utah 84101-1547

Subject: Continuation of Technical Analysis for Alton Coal Development, LLC, Coal Hollow Mine, Application No. C/025/0005

Dear Ms. Dragoo:

I am writing on behalf of the Division of Oil, Gas and Mining to propose that we agree to a waiver of the time limit provided by Utah Code § 40-10-14(1) and R645-300-131.100 which require the Division to issue written findings modifying, granting or denying the permit application in whole or in part within 60 days of the informal conference concluded on June 20, 2008. We believe that an extension of this time limit for a decision on the above application will provide the most efficient means of completing review of the application and is in the best interest of all of the parties and the public.

On August 5, 2008, the Division requested supplemented information from Alton Coal Development, LLC, which it needs to further address specific requirements for the permit. Until the Division receives this information, it cannot make an accurate estimate of the additional time needed to make a final decision, but it is reasonable to expect that the time needed to evaluate this information and respond with a written decision will exceed the current 60-day deadline, set to expire on August 19, 2008.

As a consequence, it will not be possible to issue a decision approving the permit within the time constraints of the statute. Proceeding with a partial decision might impose on Alton Coal Development LLC the burden of filing an appeal and then either proceeding to appeal the partial actions, or stipulate to holding the appeal of the decision in abeyance pending complete evaluation of the application. It is proposed that we agree to a waiver of the deadline for making a decision provided for by Utah Code § 40-10-14(1) for such time as is necessary to complete the permit review, not to exceed the application review time limit of one year set forth at R645-300-131.114.

Notice of this waiver and extension will be provided to those persons who have responded with comments on the application as advertised or at the informal conference. The

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DIV. OF OIL, GAS & MINING

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UTAH DNR OIL, GAS & MINING

rights of any persons who may have an interest that they believe may be adversely affected by the subsequent decision will not be affected by a waiver of the time limits for a decision. Accordingly, the Division believes that an agreement to waive the time limits will be in the best interest of the public as well as permitting the Division to make a more efficient use of its resources to evaluate the application and reach a thoroughly reviewed decision on the application.

If Alton Coal Development, LLC, accepts this understanding for a waiver and extension of time for making a final decision on the permit application, will you please indicate your client's acceptance by signing below and returning an original of this letter to the Division. We understand that you are authorized by your client to sign the agreement on their behalf.

Sincerely yours,

John R. Baza
Director
Utah Division of Oil, Gas and Mining

Alton Coal Development, LLC, through its attorney of record, hereby agrees to waive the 60-day deadline for a decision on its application for a permit for the Coal Hollow Mine, Application No. C/025/005 in accordance with the conditions in this letter of agreement.

Denise Dragoo
Snell & Wilmer L.L.P.
Representing Alton Coal Development, LLC
Dated: August 18, 2008

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