

C/025/005 Incoming
cc. Jim
April
Pascella



DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO CA 95814-2922

REPLY TO
ATTENTION OF

September 28, 2010

Regulatory Division SPK-2009-01008

Chris McCourt
Alton Coal Development, LLC
463 North 100 West, Suite 1
Cedar City, Utah 84720

Dear Chris McCourt:

On June 26, 2007, a combined Regional General Permit (RGP) 40 and Stream Alteration authorization (Utah Permit Number 07-85-02SA) was issued for the temporary relocation of Lower Robinson Creek, Alton Coal Development, Coal Hollow Surface Mine Project. The proposed Lower Robinson Creek relocation segment is located in Section 19, Township 39 South, Range 5 West, Salt Lake Meridian, Latitude 37.3996 North, Longitude 112.4569 West, Kane County, Utah. The combined authorization expires on June 25, 2011.

On September 28, 2010, we completed our jurisdictional determination for the Coal Hollow Surface Mine Project and determined that approximately 0.11 acres of wetlands, directly abutting Lower Robinson Creek, are waters of the United States. Therefore, since RGP40 does not apply to wetlands, we are withdrawing your existing Corps authorization. We will request Utah re-issue Permit Number 07-85-02SA as "State Only" authorization and begin processing your August 26, 2010, Pre-Construction Notification to authorize the project under Nationwide Permit 21.

We appreciate your feedback. At your earliest convenience, please tell us how we are doing by completing the customer survey on our website under *Customer Service Survey*.

Please refer to identification number SPK-2009-01008 in any correspondence concerning this project. If you have any questions, please contact Karen Clementsen at 321 North Mall Drive, Suite L-101, St. George, UT 84790-7310, email Karen.L.Clements@usace.army.mil, or telephone 435-986-1961. For more information regarding our program, please visit our website at www.spk.usace.army.mil/regulatory.html.

Sincerely,

Patricia L. McQueary
Chief, St. George Regulatory Office

RECEIVED

OCT 04 2010

DIV OF OIL, GAS & MINING

Copy furnished:

Charles Williamson, State of Utah Division of Water Rights, PO Box 146300, Salt Lake City, Utah 84114-6300

✓ Darron Haddock, Utah Division of Oil, Gas and Mining, PO Box 145801, Salt Lake City, Utah 84114-5801

Keith Rigtrup, Bureau of Land Management, 176 East DL Sargent Drive, Cedar City, Utah 84721-9337

Dennis Wenger, Frontier Corporation USA, 221 N Spring Creek Parkway, Suite B, Providence, Utah 84332