

From: Kevin Lundmark
To: OGMCOAL
CC: April Abate; Jim Smith; Joe Helfrich; Priscilla Burton
Date: 5/18/2011 7:13 AM
Subject: Fwd: Citation # 10084
Attachments: Discharge to Robinson Creek.pdf

C0250005
email from Kirk Nicholes
re: NOV 10084 Abatement

>>> Kirk Nicholes <knicholes@altoncoal.com> 5/9/2011 1:21 PM >>>

Kevin,

This has been sent to Mike Herkimer. I believe this satisfies the requirements of the citation.

Thank You

Kirk Nicholes
Environmental Specialist
Alton Coal Development, LLC
463 N 100 W, Suite 1
Cedar City, Ut 84721
T 435-867-5331
M 435-691-1551



Alton Coal Development, LLC

463 North 100 West, Suite 1

Cedar City, Utah 84720

Phone (435) 867-5331 • Fax (435) 867-1192

May 9, 2011

Department of Environmental Quality
Division of Water Quality
Attn: Mike Herkimer
195 North 1950 West
Salt Lake City, UT 84114-4870
(Sent via E-mail)

Dear Mr. Herkimer,

The following is an accounting of the events that led up to the report of noncompliance that you and I discussed on the phone on May 3, 2011.

Coal Hollow Mine is new surface coal mine in Kane county Utah. Final permits were issued November 10, 2010. Construction began immediately with topsoil removal from the facilities area and portions of the Year 1 mining area of which topsoil was to be stockpiled for later reclamation, this also allowed for construction of sedimentary control structures (diversion ditches and ponds) and a temporary diversion that will allow for mining through a portion of Robinson Creek.

Robinson Creek is an Ephemeral stream which includes a small seep in the area just prior to the end point of the diversion (see Drawing 5-20, approved plan for the Coal Hollow Mine MRP). As Robinson Creek was a live stream channel, topsoil was left in place along the banks and bottom to allow the channel to continue to function naturally while the Temporary Diversion was being constructed. The Temporary Diversion was completed on January 26th thus making the Temporary Diversion the live stream channel. Due to the precipitation events received in December 2010 (see attached summary) removal of the topsoil from Robinson Creek was not possible due to the saturated conditions, nor was it necessary for mining to proceed, and it allowed the seeps to continue to function naturally satisfying downstream water rights users.

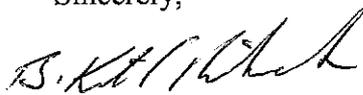
On March 2, 2011 Joe Helfrich with DOGM on a complete inspection issued Citation# 10079 (attached) for failure to protect topsoil. The action required was to remove the topsoil from both sides of Robinson Creek. Due to the saturated soil conditions and snow accumulation, a small D6 wide track and a smaller track-hoe was brought in to complete the topsoil removal. In order to prevent sediment from being discharged from the mine property, a small decant structure (approx. 5' earthen structure

with a 4" PVC pipe placed 1' below the top) was placed in the stream channel. There was an additional three straw bales below the decant structure prior to this water entering the undisturbed stream channel. This allowed the natural seep to continue to flow (satisfying downstream water users) sediment free.

On April 5th and 6th Joe Helfrich and April Abate completed a partial inspection at which time they requested that the water accumulating in the decant structure be pumped either to a UPDES's permitted pond or used for dust control until a sample could be collected and tested for the RCRA 8 metals. The water was pumped until the results were received on April 20th. On April 20th Kevin Lundmark along with other DOGM personnel visited the Coal Hollow Mine. In a phone conversation with Joe Helfrich on April 21st, he asked for the water to be pumped again. Since April 21st water from the seep has been pumped and used for dust control. On April 26th, April Abate called me informing me that DOGM was going to issue me another citation for discharging the natural seep without a discharge permit. On May 2, 2011 Coal Hollow mine received Citation # 10084 (attached).

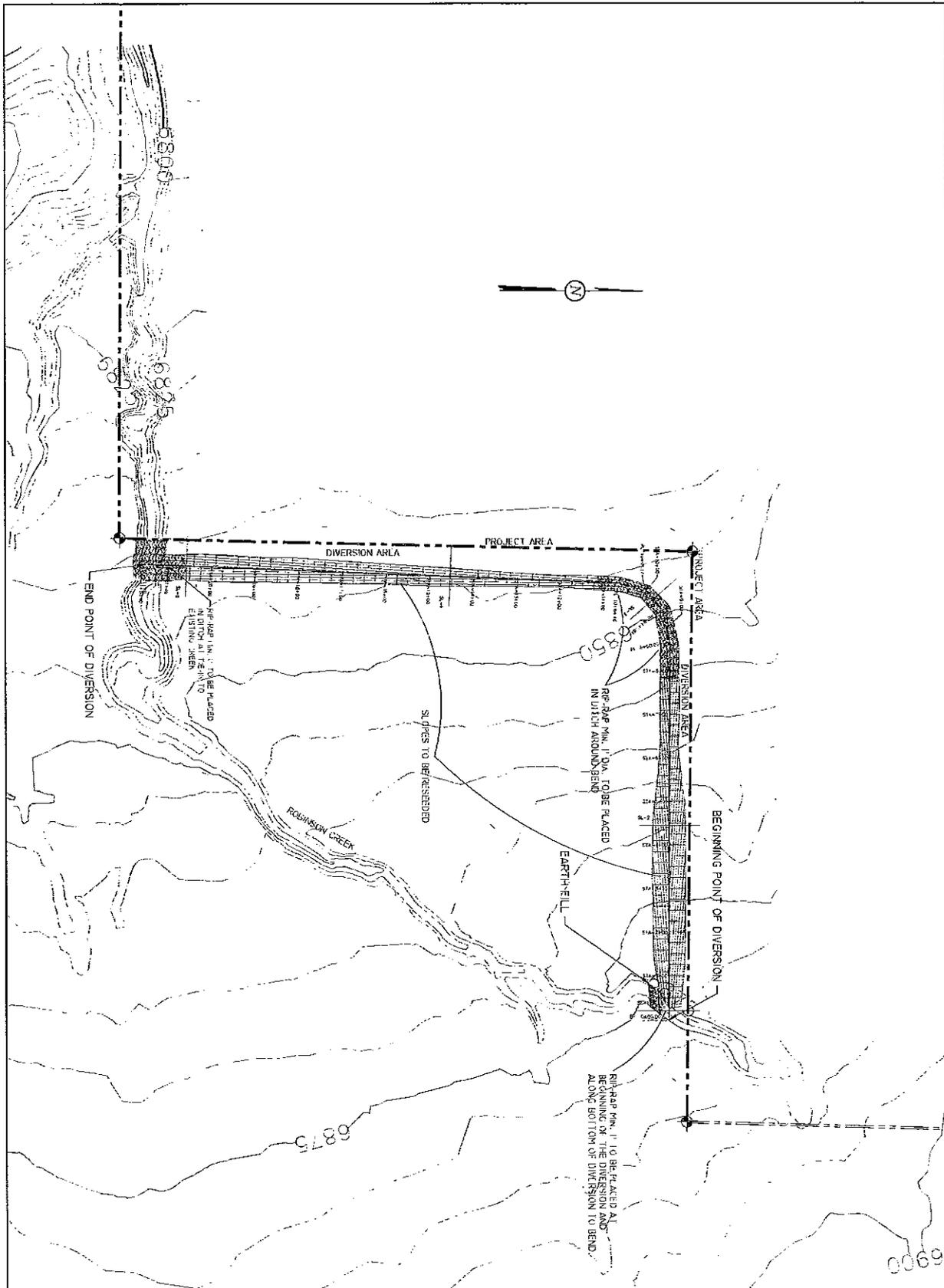
If you have any questions or concerns, please do not hesitate to contact me at (435) 867-5331.

Sincerely,



B. Kirk Nicholes

Environmental Specialist



LEGEND:

PERMIT BOUNDARY

FEDERAL COAL OWNERSHIP

FOUND SECTION CORNER

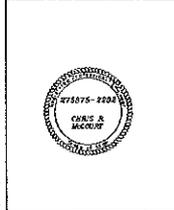
DRAWN BY: J. STANSFIELD C. MCCOJRT	CHECKED BY: GG
DRAWING: 5 20	DATE: 4/20/07
JOB NUMBER: 1400	SHEET
	SCALE: 1" = 100'

REVISIONS	
DATE:	BY:
9/16/08	CRM

**ROBINSON CREEK
TEMPORARY
DIVERSION
PLAN VIEW**

COAL HOLLOW
PROJECT
ALTON, UTAH

DRAWING: 5-20



463 North 100 West, Suite 1
Cedar City, Utah 84720
Phone: 435/857-5331
Fax: 435/857-1182



Citation for Non-Compliance
Utah Coal Regulatory Program
 1594 West North Temple, Salt Lake City, UT 84114
 Phone: (801) 538-5340 Fax: (801) 359-3940

Citation #: 10079
Permit Number: C0250005
Date Issued: 03/09/2011

NOTICE OF VIOLATION **CESSATION ORDER (CO)** **FAILURE TO ABATE CO**

Permittee Name: ALTON COAL DEVELOPMENT LLC	Inspector Number and ID: 1 JHELFRIC
Mine Name: COAL HOLLOW	Date and Time of Inspection: 03/02/2011
Certified Return Receipt Number: 7005 0390 0000 7507 4917	Date and Time of Service: 03/09/2011

Nature of condition, practice, or violation:
 Failure to protect topsoil.

Provisions of Act, regulations, or permit violated:
 Chapter 10 Title 40 of the Utah Code Annotated 1953. Section 40-10-17(2)(e)
 R645-301-234.230

This order requires Cessation of ALL mining activities. (Check box if appropriate.)

<input type="checkbox"/> Condition, practice, or violation is creating an imminent danger to health or safety of the public.	<input type="checkbox"/> Permittee is/has been conducting mining activities without a Permit.
<input type="checkbox"/> Condition, practice, or violation is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources.	<input type="checkbox"/> Permittee has failed to abate Violation(s) included in <input type="checkbox"/> Notice of Violation or <input type="checkbox"/> Cessation Order within time for abatement originally fixed or subsequently extended.

This order requires Cessation of PORTION(S) of mining activities.

Mining activities to be ceased immediately: Yes No **Abatement Times (if applicable).**

None

Action(s) required: Yes No

Remove the topsoil from both sides of Robinson creek that are currently undisturbed. Place that topsoil and the topsoil that is temporarily stockpiled between Robinson creek and the Robinson creek diversion in the approved topsoil location. Provide adequate protection. Protection measures shall include at a minimum a protective berm, silt fence or straw bales around the base of each stockpile and seeding as prescribed by the Division by 5:00 PM Monday March 14th. The permittee shall notify the Division if the in place or stockpiled topsoil is too wet to remove and stockpile. In place protection measures shall be employed by 5:00 PM Monday March 14th. The Division will set a new date for permanent stockpiling.

Kirk Nicholes
 (Print) Permittee Representative

JOE HELFRICH
 (Print) DOGM Representative

[Signature]
 Permittee Representative's Signature - Date

[Signature]
 DOGM Representative's Signature - Date

SEE REVERSE SIDE Of This Form For Instructions And Additional Information

IMPORTANT – READ CAREFULLY

Pursuant to the Utah Coal Mined Land Reclamation Act, Utah Code Ann. § 40-10-1 et. seq. (Act), the undersigned authorized representative of the Division of Oil, Gas, and Mining (DOG M) has conducted an inspection and found that a Notice of Violation or Cessation Order must be issued.

This order shall remain in effect until it is modified, terminated or vacated by written notice of an authorized representative of DOGM.

1. PENALTIES.

Proposed assessment. DOGM assesses fines based upon a proposed recommendation by an assessment officer. If there is additional information you wish DOGM to consider regarding the cessation order and proposed fine, please submit that to DOGM within *15 days of the date this notice or order is served on you or your agent*. Such information will be used by the assessment officer in determining facts surrounding the violation(s) and amount of penalty. Once DOGM has determined the proper penalty, it will serve the proposed assessment on you or your agent, no later than 30 days of the issuance of this notice or order. See Utah Admin. Code R645-401-600 et. seq.

The penalty will be final unless you or your agent file, within 15 days of receipt of the proposed assessment, a written request for an informal hearing before the assessment officer.

Assessment. For each violation included in this notice, a penalty of up to \$5,000 may be assessed for each separate day the violation continues.

If you fail to abate any violation within the time set for abatement or for meeting any interim step, you will be assessed an additional minimum penalty of \$750 for each day of continuing violation beyond the time set for abatement. You will be issued a Cessation Order requiring cessation of surface coal mining operations or the portion of the operations relevant to the violation.

2. INFORMAL PUBLIC HEARING.

On the reverse side of this page, an authorized representative has made a finding as to whether or not this notice requires cessation of mining. If this order or notice requires cessation of mining, expressly or in practical effect, you may request that an informal public hearing be held at or near the mine site. If you wish an informal public hearing be held, please contact an authorized representative from DOGM. See Utah Admin. Code R645-400-350 et seq. Once an informal public hearing is scheduled, you will be notified of the date, time, and location of the hearing.

If this notice requires cessation of mining, it will expire within 30 days from the date you are notified unless an informal public hearing is held or waived, or the condition, practice, or violation is abated within the 30-day period.

3. FORMAL REVIEW AND TEMPORARY RELIEF.

You may appeal this notice or order to the Board of Oil, Gas, and Mining by submitting an application for hearing within 30 days of receipt of this notice or order. See Utah Admin. Code R645-300-164.300. Please submit the application for hearing to:

Secretary
Board of Oil, Gas, and Mining
1594 West North Temple, Suite 1210
PO Box 145801
Salt Lake City, Utah 84114-5801

If applying for a formal board hearing, you may submit with your petition for review a request for *“temporary relief”* from this notice. Procedures for obtaining a formal board hearing are contained in the Board’s Rules of Practice and Procedure and in Utah Admin. Code R645-401-800 et. seq.

4. EFFECT ON PERMIT.

The permit may be suspended or revoked if it is determined that a pattern of violations of the Act, regulations or permit conditions exists, and that the violations were caused by an unwarranted or willful failure to comply.

For further information, consult Utah Code Ann. § 40-10-20 through 40-10-23 and Utah Admin. Code R645-400-300 et. seq. and R645-401 et. seq., or contact the Division of Oil, Gas, and Mining at (801) 538-5340.



Citation for Non-Compliance
Utah Coal Regulatory Program
 1594 West North Temple, Salt Lake City, UT 84114
 Phone: (801) 538-5340 Fax: (801) 359-3940

Citation #: 10084
Permit Number: C0250005
Date Issued: 05/02/2011

NOTICE OF VIOLATION **CESSATION ORDER (CO)** **FAILURE TO ABATE CO**

Permittee Name: ALTON COAL DEVELOPMENT LLC	Inspector Number and ID: 63 KLUNDMAR
Mine Name: COAL HOLLOW	Date and Time of Inspection: 04/20/2011 9:30 am
Certified Return Receipt Number: 7005 0390 0000 7507 4948	Date and Time of Service:

Nature of condition, practice, or violation:
 Water was being discharged from a 4-inch PVC pipe draining an ad-hoc impoundment created in the former natural Lower Robinson Creek channel. Operator began discharging upon receipt of RCRA 8 analysis of water samples. Operator did not consult with the Division prior to discharging the impounded water. This outfall location is not a permitted outfall under the Coal Hollow UPDES Permit #UTG040027.

Provisions of Act, regulations, or permit violated:
 [R645-301.751]: Water Quality Standards and Effluent Limitations

 UPDES Permit #UTG040027, Page 4. Discharge from any outfall location other than those specifically designated in the UPDES permit is not authorized and a violation of the Utah Water Quality Act and may be subject to penalties under the Act.

This order requires Cessation of ALL mining activities. (Check box if appropriate.)

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This order requires Cessation of PORTION(S) of mining activities.

Mining activities to be ceased immediately: Yes No **Abatement Times (if applicable).**

Action(s) required: Yes No
 Operator is required to terminate all discharge activity from non-UPDES permitted outfalls and report this noncompliance incident to Division of Water Quality in accordance with Section II.J. of UPDES Permit # UTG040027.

<u>R. Kirk Nicholas</u> (Print) Permittee Representative	<u>KEVIN LUNDMARK</u> (Print) DOGM Representative
<u>R. Kirk Nicholas</u> 5/9/11 Permittee Representative's Signature - Date	<u>Kevin Lundmark</u> DOGM Representative's Signature - Date

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