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# TECHNICAL MEMORANDUM

## Utah Coal Regulatory Program

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January 6, 2012

TO: Internal File

THRU: Daron Haddock, Coal Program Manager *DRAFT*

FROM: Priscilla Burton, Team Lead *pwb lm sbs*

RE: Draft Environmental Impact Statement, Alton Coal Development, LLC, Coal Hollow Mine, C/025/005, Task ID # 3949

### SUMMARY:

The U S Department of the Interior / Bureau of Land Management (BLM) has prepared a **DRAFT** environmental impact statement (DEIS) for the Alton Coal Tract Lease ByApplication (LBA). The LBA encompasses 3,581 acres. Two-thirds of these surface acres are federal, the remainder are split estate. The public lands are currently managed according to the guidelines laid out in the Kanab Field Office Resource Management Plan (KFO-RMP) dated 2008. The No-Action Alternative would continue the existing management policies of the KFO-RMP.

The following comments are related to suitability criteria, prime farmland and air quality topics in the DEIS. All Division comments will be compiled and submitted to the BLM during the public comment period, which has been extended to January 27, 2012. The Final EIS is expected in the fall of 2012.

### **Section 1-5 Decisions to be Made and Section 1.9.2.3 Reasonably Foreseeable Future Actions**

Appendix 6 of the DEIS is a copy of Appendix D from the Kanab 2008 RMP which describes the analysis of the larger Kanab Planning Area for the 20 unsuitability criteria defined in 43 CFR 3461. Section 1.8.1.1.2 summarizes the findings in Appendix D that are pertinent to the LBA and states that 43 CFR 3461.5 Criteria #2, #3, #9, #15, #16, #18, and #19 were deferred until an LBA was filed.

Section 1.5 page 1-6 states that the ROD will document special lease stipulations that would be attached to the lease. The Division review has noted the following references to lease stipulations within Section 1-5:

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Criteria #3 requires that a stipulation stating no mining activity may be conducted within 100 feet of the KFO Route 116 until a permit to move the road is approved. i.e. The requirements of R645-103-234 would apply, for approval of surface-mining operations within 100 feet of the outside line of the ROW for a public road.

Criteria #15, assumes that “a waiver, exception, or modification would be granted with respect to KFO RMP decisions concerning Greater Sage-grouse.” (Section 1.8.1, p. 1-10). For both “the Proposed Action and Alternative C, it is assumed that 1) mining would occur and that there would be an exemption, waiver, or modification of surface stipulations for Greater Sage-grouse (BLM 2008a: Appendix 3), and that 2) surface disturbance would be allowed within a 0.5-mile radius of a Greater Sage-grouse lek and within a 2.0-mile radius of a Greater Sage-grouse lek in brood-rearing habitat from March 15 to July 15. Without an exemption, waiver, or modification to surface stipulations, mining would not be permitted on most of the tract.” (Section 4.17.3)

Criteria #15 requires restrictions around pygmy rabbit habitat (Section 4.17)

Criteria #18 states that “High Quality Waters” to be protected on Kanab Creek are upstream of the tract and that both Robinson Creek and Kanab Creek are suitable for mining within the tract.

Criteria #19 discussion does not anticipate impacts to acreage identified as AVF, and states that if the BLM decides to offer the tract for competitive leasing and a lease is issued, a more detailed study of potential AVFs would be required as part of the permitting process under SMCRA and State of Utah coal mine permitting requirements.

Appendix D of the DEIS states that 101 acres within the Alton Town limits have been removed from leasing.

The Division review has noted the following references to lease stipulations within Chapter 4 of the DEIS:

- The successful bidder would be required to employ skyglow minimization measures for nighttime mining operations. (Section 4.2.1)
- Nine lease stipulations with regard to cultural resources. (Section 4.4.1)
- The successful bidder would follow internal protocol and BLM BMPs to reduce and mitigate fire risk. (Section 4.5.1)
- Invasive annual grasses such as cheatgrass would be suppressed (Section 4.5.4.2.1 and 4.5.4.3.1)
- Impacts to water would be repaired in accordance with federal lease terms and stipulations. (Section 4.3.6.1.2)

- Eighteen wildlife stipulations and eleven sage grouse specific stipulations were noted in Section 4.17.1.2 to “help reduce the severity of impacts to wildlife and special status species.”
- Special lease stipulations to minimize adverse impacts to raptor species (Bald Eagle, Burrowing Owl, Ferruginous Hawk, Golden Eagle, Northern Goshawk, and Short-eared Owl), especially during the breeding season, by providing spatial and seasonal buffers of both occupied and unoccupied nests. (Section 4.17.6.4.2.5)
- Special lease stipulations to minimize adverse impacts on special status bird species (Black Swift, Lewis’ Woodpecker, Long-billed Curlew, and Three-toed Woodpecker), especially during the breeding season, by requiring surveys for and avoidance of nest sites. (Section 4.17.6.4.2.6).
- Permit stipulations to minimize soil erosion and degradation of water quality and quantity. (Section 4.18.3.22.)

### **1.7 Relationship to Policies, Plans, and Programs**

For federal lands, the State’s **written** concurrence on suitability is required by 43 CFR 3420.1-7 and is also required for determinations of unsuitability, see 43 CFR 3461.2-2. DEIS Section 1-7 refers to the Utah Public Lands Policy and Coordination Office position in support of coal leasing, without providing a reference to document the suitability of fee lands.

The DEIS recognizes in Section 1-5 (p. 1-6) that in accordance with R645-103-300, the State of Utah is responsible for determining unsuitability non-federal lands and non-Indian lands, which comprise 1,296 acres of the LBA (Table 1-1, p. 1-2) and for the private fee coal on approximately 378 acres of private, surface-owned land adjacent to the tract to the north (see Maps 1.1 and 1.2).

In support of suitability of these lands, the DEIS might reference the Informal Conference Finding and Order Cause No. C/025/005 was signed on July 28, 2008 (outgoing document 0024.pdf).

### **3.1.2 Supplemental Authorities and Other Resources, Values, and Uses Brought Forward for Analysis**

Table 3.1 in Section 3.1.2 states that Prime Farmland was not brought forward for analysis. However, it is not noted whether the NRCS was consulted on the existence of Prime Farmland within the tract. Prime Farmland is defined by SMCRA as those lands which are defined by the Secretary of Agriculture in 7 CFR 657 and which have historically been used for cropland. Section 3.4.1.1 of the DEIS indicates that over 20% of the land is agricultural. Prior to obtaining a mining permit from the State of Utah, the prime farmland status must be determined for all permit applications, in accordance with R645-301-221. The designation of

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prime farmland does not preclude mining, but it does involve additional requirements during permitting, operations and reclamation. In fairness to the potential bidders, all agricultural lands in the LBA should be surveyed in accordance with the requirements of R645-302-313.100 and R645-302-313.200 and the results included in the DEIS.

### **Section 3.3.1 Climate and Weather**

Section 3.3.1 states that data recorded at the Cedar City Station, approximately 43 miles northwest of the tract, were considered representative of the tract's location and used for the air dispersion modeling found in Appendix K. Since obtaining a permit in 2009, Alton Coal Resources has established several weather stations at the Coal Hollow mine site. These stations are monitored and analyzed regularly. Data have been provided to the UDAQ. The DEIS should be updated to comment upon this site specific air quality information.

Section 3.3.3.1 page 3-18 should be updated to states that the Coal Hollow mine received a Utah mining permit in November 2009. The DEIS states that the Coal Hollow mine would not be in operation during the operation of the tract. This statement is not correct, as the preferred reclamation scenario for the Coal Hollow Mine is to delay reclamation of the final pits and incorporate adjacent leases into the mining plan (See 0250005 Mining and Reclamation Plan, Map 5-35).

### **Section 3.13 Soils**

The DEIS soil description relies upon the 1987 Utah International Inc. soil report in the Permit Application Package (PAP) 025/0003. The report is cited in its entirety as UII, 1987. As the UII PAP covers many volumes, the DEIS should cite the specific chapter conveying the information concerning soils.

Very comprehensive soil surveys were completed by Alton Coal Resources in 2007 and 2008 for the permit area (025/0005 MRP Chapter 2 Appendices). This area is similar to the adjacent LBA. These more recent soil surveys follow the standards of the National Cooperative Soil Survey. A comparison of the soil data acquired in 2008 by vegetation type may be a useful tool for interpolating the soil types expected to be found within the LBA. Further specific factors used to determine "sensitivity" as described in Section 3.13.1, Table 3.25 and Table 3.26 might be related to soil type.

### **Appendix A Maps**

The pit disturbance outline shown on Map 3.17 is difficult to interpret.

### **Section 4.16.2.1 Surface Water**

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Impacts to stream channel condition are assessed according to the length of stream altered or realigned and the number of stream crossings required for mining operations. In addition, one or two stream crossings of Kanab Creek would be required. The plan of action for mining through or avoidance of Kanab Creek and Robinson Creek should be outlined.

**RECOMMENDATIONS:**

Written comment on suitability and unsuitability issues is required from the State of Utah for federal and non-federal lands and should be included in the DEIS. The Division recognizes Alternative C as providing value in terms of tonnage of coal mined while also providing protection of natural resources. The State's map, database, and findings from petitions should be referenced in the DEIS.

Division responsibilities under R645-103-460 and -482 should be fulfilled prior to leasing.