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State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

Outgoing
C0250005
#3987
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May 16, 2012

Denise A. Dragoo, Esq.
Snell & Wilmer Law Offices
Gateway Tower West
15 West South Temple, Suite 1200
Salt Lake City, Utah 84101-1531

Subject: 3rd Extension of Time Beyond 90 Days to Address NOV 10092 and Funding Proposal, Task #4039, Alton Coal Development, LLC, Coal Hollow, C/025/0005, Outgoing

Dear Ms. Dragoo:

On May 10, 2012 the Division received your request for additional time to address deficiencies in Appendices 3-5 & 3-6, (funding proposal), which are intended to abate NOV 10092. As this extends the abatement period for the NOV beyond 90 days, the rules at R645-400-327 still apply. Alton Coal Development, LLC (ACD) has been working with the technical staff to address the outstanding deficiencies in the Mining and Reclamation Plan (MRP) and revisions are currently being developed. The Division will extend the time for abatement until close of business on June 6, 2012.

With regard to the Sage grouse mitigation proposal, the Division, in consultation with the Division of Wildlife Resources, (DWR), as required by R645-301-322.100, has determined that 50% of the 885 acre Heaton parcel (428 acres), and the 72 acre conservation area, for a total of 500 acres, can be credited towards ACD's 1700 acre mitigation obligation memorialized in the MRP and settlement agreement. Representatives from ACD, the Division, DWR and the land owner (Kevin Heaton) have verified by on-site inspection that the 885 acre parcel of the Heaton property received treatment to benefit livestock, Mule deer and Sage grouse. It was also verified that Karl Heaton did the work, DWR provided the seed, and ACD participated by providing additional expertise and a rangeland drill to implement the seeding. Allowing ACD 50% of the credit for the 885 acres is the most the Division can allow.

Your proposal of May 10th falls short of what is needed to provide effective compensatory mitigation for the disruption of sage grouse habitat. The remaining 1200 acres of mitigation still need to be addressed in the addendum to appendix 3-5.



Page 2

Denise A. Dragoo

C/025/0005

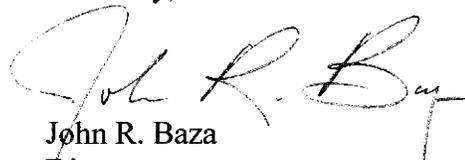
May 16, 2010

It is my understanding that the Division, DWR and ACD are developing habitat restoration plans to satisfy portions of NOV 10092. Currently, these plans include ACD partnering with DWR in a Utah Partners in Conservation Development (UPCD) project. Knowing this UPCD plan already addresses the majority of the details for a habitat restoration plan, and time is of the essence, this UPCD project may be the most attractive option to meet ACD's habitat mitigation obligations. . The costs associated with the partnership are something to be negotiated between ACD and DWR and are not subject to Division review. The Division's only concern is that the proper mitigation occurs.

If ACD chooses not to become a partner in the UPCD project, ACD may choose whomever they wish to complete the remaining 1200 acres of mitigation. However, due to the lateness of the season and the delays in getting this plan submitted and approved, ACD must strictly comply with the time constraints and make efforts to submit a fully complete proposal. If ACD chooses not to use DWR's program they must use a qualified consultant and select a mitigation area and plan that can be approved and implemented as soon as possible. Failure to propose and proceed with a qualified plan in time to mitigate impacts during this summer may result in an NOV and could result in a CO.

Please make every effort to complete the required abatement. Please call Dana Dean at (801) 538-5320 or Daron Haddock at (801) 538-5325 if you have any questions.

Sincerely,



John R. Baza
Director

JRB/DD/vs

cc: Price Field Office

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