

C/025/005 Incoming  
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May 28, 2013

*VIA HAND DELIVERY AND E-MAIL*

RECEIVED

MAY 28 2013

DIV. OF OIL, GAS & MINING

Mr. Daron Haddock  
Utah Division of Oil, Gas and Mining  
1594 West North Temple  
Salt Lake City, Utah 84116

**RE: Alton Coal Development, LLC, Alton Coal Mine, C/025/0005**

Dear Daron:

On behalf of Alton Coal Development, LLC (“**Alton**” or “**ACD**”), we appreciate this opportunity to respond to the comments of Rhett Boswell, Utah Division of Wildlife Resources (“**DWR**”), regarding consultation with the Utah Division of Oil, Gas and Mining (“**DOG M**”), on the change in mining sequence of the Coal Hollow Mine. As you are aware, DOGM approved the change in mining sequence on April 19, 2013. Consistent with this approval and posting of the readjusted bond, Alton plans to begin road construction and site preparation on June 1, 2013, and mining activities will commence on July 1, 2013. This schedule is necessary for Alton to develop and mine coal to fulfill its coal supply contracts. It will not be possible for the mine to meet this schedule under the seasonal timing restrictions proposed by DWR which would delay these activities until August 15, 2013. Alton will adhere to the Sage Grouse Habitat Protection Plan (the “**Habitat Protection Plan**”) set forth in the approved Mining and Reclamation Plan (“**MRP**”). While this plan has no seasonal timing restrictions, Alton will continue to meet the monitoring and mitigation conditions of its site-specific plan. By Stipulated Settlement dated March 15, 2012, copy attached, the Division and Alton agreed that “satisfactory compliance” with the MRP Special Permit Condition #6 “shall mean and is limited to ACD’s compliance with” the Habitat Protection Plan. This Stipulation was adopted by Board Order in Docket No. 2012-012 on March 21, 2012.

In addition, contrary to the DWR’s comments, the Coal Hollow Mine has been grandfathered from compliance with the guidance provided in the state conservation plan. See Section 3.7.2 of the state conservation plan. The avoidance measures recommended by DWR will cause unacceptable delay which may cause the loss of pending coal supply agreements. In turn, the loss of these contracts will result in a reduction in force involving the loss of mining and trucking jobs from the Coal Hollow Mine. The minimization and mitigation measures set forth

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in the Habitat Protection Plan under the MRP govern activities at the Coal Hollow Mine. The Division has approved the change in mining sequence and Alton will proceed with activities pursuant to that schedule.

We appreciate your consideration in this matter.

Very truly yours,



Denise A. Dragoo

DAD:jmc

cc: Director John Baza  
Bob Nead (via e-mail)  
Kirk Nicholes (via e-mail)  
Larry Johnson (via e-mail)  
Dr. Steven Petersen (via e-mail)

**FILED**

**BEFORE THE BOARD OF OIL, GAS, AND MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH**

**MAR 15 2012**

**SECRETARY, BOARD OF  
OIL, GAS & MINING**

In the Matter of the Request for Agency Action  
of Alton Coal Development, LLC, for Review  
of Notice of Violation 10092, Coal Hollow  
Mine

**STIPULATED SETTLEMENT AND  
REQUEST FOR ORDER OF  
DISMISSAL**

Docket No. 2012-012

Cause No. C/025/0005-NOV10092

The Utah Division of Oil, Gas and Mining (the "Division") and Alton Coal Development, LLC ("Alton") have reached an agreement to settlement the above entitled matter which is attached hereto and request the Board of Oil, Gas and Mining (the "Board") to enter an order dismissing this matter with prejudice.

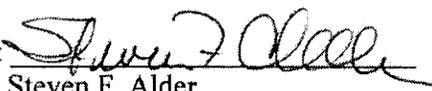
**ALTON COAL DEVELOPMENT, LLC**

**UTAH DIVISION OF OIL, GAS & MINING**

BY:

  
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BY:

  
Steven F. Alder  
Assistant Utah Attorney General  
1594 West North Temple St. #300  
Salt Lake City, Utah 84118  
Telephone: (801) 538-5348

DATE:

March 14, 2012

DATE:

3/15/12

## STIPULATED SETTLEMENT

The Division of Oil, Gas and Mining (Division) and Alton Coal Development LLC in order to settle the pending Request for Agency Action regarding the Notice of Violation 10092 for the Coal Hollow Mine and to clarify the terms of Permit Condition #6, Special Conditions Attachment A, Coal Hollow Mine Permit C/025/0005, dated November 8, 2010; hereby agree as follows.

1. **“Special Permit Condition #6”** reads as follows:

“Satisfactory compliance with the Alton Sage-Grouse Habitat Protection plan is required. Alton Coal Development, LLC, (“ACD”) will use the best technology currently available to achieve the objectives of the plan in order to minimize the disturbances and adverse impacts to the Sage-Grouse and related habitat and to enhance those resources where practicable. ACD will cooperate with the Division in consultation with state and federal wildlife agencies to develop reasonable practices and methods as are determined to be necessary to implement the plan and to measure success and achieve the goals of the plan.

2. Satisfactory compliance as required by this condition shall mean and is limited to ACD’s compliance with the Alton Sage-Grouse Habitat Protection Plan (MRP, Appendix 3-5) as approved by the Division in consultation with state and federal wildlife agencies and incorporated into the Mining and Reclamation Plan for Mine Permit # C/025/0005 (“MRP”). Pursuant to MRP, Appendix 3-5, ACD has agreed to create a 1700 acre corridor for Sage-Grouse migration and to treat and reclaim this area to be credited as full habitat restoration for surface disturbance associated with the permit. The Special Condition #6 shall not be construed to require conditions separate from the approved MRP.

3. The Division and Alton are in the process of finalizing approval of an Addendum to 3-5 of the MRP. Upon approval, the Division will issue written notice

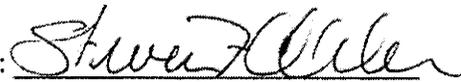
confirming that terms of Special Permit Condition, #6 have been satisfied in full and that the Alton Sage-Grouse Habitat Protection Plan as approved will govern thereafter. The Deficiency List Task No. 4000. Section 1.B. Habitat Restoration is amended to remove the recommendation of 7 acres of habitat restoration for each acre of disturbance.

The foregoing **STIPULATED SETTLEMENT** is approved by signature of counsel as of the date shown below.

**ALTON COAL DEVELOPMENT, LLC**

**UTAH DIVISION OF OIL, GAS & MINING**

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DATE: March 14, 2012

DATE: 3/15/12