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Lieutenant Governor

State of Utah
DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

September 11, 2013

CERTIFIED MAIL RETURN RECEIPT
7004 2510 0004 1824 7067

Kirk Nicholes
Alton Coal Development, LLC
463 North 100 West, Suite 1
Cedar City, Utah 84720

Subject: 2012 Annual Report Review Completion and Midterm Review Completion, Coal Hollow Mine, Alton Coal Development, LLC, C/025/0005, Task ID #4387 and Task ID #4386

Dear Mr. Nicholes:

The Division staff has completed the review of the 2012 Annual Report as well as the information you provided on July 31, 2013 in response to our midterm review request. The Annual Report Review and the Midterm Review are completed and are hereby closed. Enclosed are the approved, stamped clean copies for incorporation into the Mining Reclamation Plan.

There are three commitments/deficiencies which have not been met, likely due to miscommunication. Rather than prolonging the Annual Report Review or the Midterm Review, the Division has chosen to issue a Division Order which we hope will clarify the remaining work that needs to be done to address the deficiencies in your plan. Accordingly, we direct your attention to the attached Division Order.

Thank you for your diligence in completing the Annual Report and Midterm Review. We look forward to receiving your response to the Division Order. If you have any questions, please call me at (801) 538-5325.

Sincerely,

Daron R. Haddock
Coal Program Manager

DRH/sqs
Enclosure
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STATE OF UTAH
DIVISION OF OIL, GAS AND MINING

PERMITTEE	
Kirk Nicoles Alton Coal Development 463 North 100 West, Ste 1 Cedar City, Utah 84720	ORDER & FINDINGS OF PERMIT DEFICIENCY
PERMIT NUMBER C/025/0005 DIVISION NUMBER DO-13A	

PURSUANT to R645-303-212, the DIVISION ORDERS the PERMITTEE, Alton Coal Development, LLC, to make the requisite permit changes enumerated in the findings of Permit Deficiency in order to be in compliance with the State Coal Program. These findings are to be remedied in accordance with R645-303-220.

FINDINGS OF PERMIT DEFICIENCY

A review of the current Mining and Reclamation Plan (MRP) and Annual Report Review have revealed that certain activities associated with the mine are not adequately addressed. The following Permit Deficiencies have been identified:

1. During the meeting with ACD, DWR and DOGM at the Panguitch Court House on April 17, 2013 Dustin Schaible and Rhett Boswell (Wildlife and Habitat Biologists from DWR) requested and those present agreed that the annual sage grouse report needed to be submitted to DWR and DOGM in October in order to make recommendations and determine the requisite number of Lek surveys (aerial and ground). However the current MRP indicates that the annual report will be submitted in January. This must be changed.

2. It is not clear from the information submitted in the Annual Report that the Wildlife Awareness Program (Volume 2, chapter 3, page 3-56) was conducted by a qualified wildlife biologist during 2012. This is a requirement noted in the wildlife awareness program, Vol. 2, chapter 3, page 3-56; and for the sage-grouse, this commitment is referred to on page 4 and Table 1 of the 2013 Greater Sage Grouse Population Monitoring and Habitat Improvement Progress Report to Appendix 3-6.

3. ACD has not kept up with the reclamation timing commitment in the MRP. The commitment reinstated to page 58 states the following:

   Briefly, the mine will conduct operations in one area (segment) at a time. No more than 40 acres will be disturbed at one time for mining, Once mined, the plan includes redistributing subsoil and topsoil followed by seeding this segment with the final seed mix contemporaneously, or at the same time the mining of the next segment begins,"

The Permittee has documented on Map 002 (Mining Disturbance Map) that 19.7 acres are actively being mined and 44.1 acres have been backfilled and graded as of July 31, 2013. None of the 44.1 acres of former pits #3, #5, and #6 have been covered with topsoil or subsoil, while mining has progressed on to the next segment in pits #7, #8 and #9, demonstrating that the above commitment has not been met. The current plan is confusing with regard to what area can be disturbed at any one time for mining.

REQUIRED PERMIT CHANGES

1. **R645-301-330** Chapter 3, Appendix 3-5, Page 20, Paragraph 1 needs to be updated to reflect that ***"ACD will meet with UDWR, USFWS and DOGM annually (in October)"*** instead of January.

2. **R645-301-333 and R645-301-121.300, Employee Wildlife Awareness Program** When the Division and ACD developed this commitment it was determined that the sage grouse specialists would include a wildlife biologist from ACD, UDWR and DOGM. Accordingly, ACD must submit to the Division an Employee Awareness Training schedule for incorporation into the MRP that includes a qualified Wildlife biologist from ACD, UDWR or DOGM in order to meet the requirements of this commitment. The schedule needs to include specific training on sage-grouse identification, seasonal patterns in sage-grouse development and movement, and deer and elk observations and migratory patterns in the Alton area.

3. **R645-301-500, -542.100 and R645-301-121.300, Reclamation Timing Commitment** ACD must modify the MRP to clarify when the redistribution of subsoil and topsoil will occur and when seeding will take place. The 44.1 acres identified on Map 002 as "Backfill/Grading for Reclamation," and those portions of the 53.1 acre "Spoils Pile Formation" that are at final contour, must receive subsoil, topsoil, mulch and seed within 60 days or by November 1st 2013.

ORDER

Alton Coal Development, LLC, is hereby ordered to make the requisite permit changes in accordance with R645-303-220 and to submit a complete, adequate application for permit change to address the findings of permit deficiency within 60 days of the date of receipt of this order.

Ordered this 11th day of September, 2013, by the Division of Oil, Gas and Mining.

John R. Baza

John Baza, Director
Division of Oil, Gas and Mining

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Kirk Nicholes
Alton Coal Development LLC
463 North 100 West, Suite 1
Cedar City, Utah 84720

PS Form 3800, June 2002 See Reverse for Instructions