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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

September 11, 2013

Denise A. Dragoo
Snell & Wilmer L.L.P.
15 West South Temple, Suite 1200
Salt Lake City, Utah 84101

Subject: Request to Vacate NOV 10123 and Clarification of Mitigation Commitments, Alton Coal Development Company, Coal Hollow Mine, C/025/0005, Task ID #4390

Dear Ms. Dragoo:

The Division has received your letter dated August 13, 2013 regarding your request on behalf of ACD to vacate NOV #10123 issued by Joe Helfrich on June 19, 2013. The information provided in your letter and application submitted by Kirk Nicholes received August 9, 2013 is not adequate. The emailed map and revised text are not what the Division was expecting as detailed mitigation plans agreed to in the informal conference that would then allow us to vacate the NOV. The information provided thus far is simply not adequate to justify the 355 acres of mitigation that are claimed. The submitted map and text are denied in their present form.

The following information is required to be submitted with the correctly notarized C1/C2 forms which will amend the MRP:

1.) A map to an appropriate scale of 1:24,000 or larger properly labeled on the document (including Township, Range, and Section) which contains, a legend properly identifying the areas to be treated including the correct surface ownerships, and the proper orientation. The map needs to be identified as an ACD document.

2.) If using the proposed 355 acre mitigation area, less than 100% of the total acreage can be credited towards mitigation for those areas that are located in stands of open sagebrush, bare ground or that have been previously treated. Documentation in a scale that supports the claimed percentage of credit needs to be submitted to support the percent credit allowed. This could include representative sampling for woody species density or other statistically valid methods. The remaining three polygons of Pinyon/Juniper excised

from the proposed treatment area also need to be treated and can be credited at100 % for the acreage treated. It is recommended that the acreage in the three polygons be included in the application. These areas would also need to be seeded with a seed mix approved by the Division.

3.) The application needs to include written approval authorizing treatment from the surface owner (BLM) and any associated stipulations.

4.) The application needs to include a description of the general location of the area to be treated, a description of the methodology used to treat the area (such as all trees will be lopped and scattered with no sections larger than 48"), a start date and completion date and a commitment to obtain written acceptance from the surface management agency (BLM) upon completion of treatment.

The approved MRP requires 1700 acres of compensatory mitigation of which 1200 remained as of July 12, 2012. ACD completed 146 acres of treatment during the remaining portion of 2012 leaving a balance of 1054 acres of required mitigation as of the writing of this letter.

The current activities associated with the removal of coal from the Coal Hollow mine have displaced the sage grouse from suitable habitat within the remaining portions of the permit area due to disturbance in the entire area surrounding the lek. Therefore a detailed comprehensive plan for the mitigation of the remaining acreage is required.

In order to get current with the mitigation requirement, at least 355 acres of mitigation need to be completed this year (2013). This will leave approximately 700 acres of remaining mitigation to be completed. Once the Division approves the revised mitigation plan, consideration to vacating the NOV can be given. Should adequate plans not be submitted, the NOV will be reinstated. Also, in order to get on track with the remaining mitigation requirement, the Mining and Reclamation plan will need to be amended to include a comprehensive plan for the remaining mitigation acreage of 700 acres within the next year.

The plans as submitted are denied. Please resubmit the entire application by no later than September 19, 2013, which is 90 days from the date of issuance of the NOV. Extensions beyond 90 days can only be granted under special circumstances and require approval from the Director.

Since the mitigation efforts continue to fall behind and there is a limited window of opportunity, we suggest that you proceed with the treatment of the 355 acre area as soon as possible regardless of the % credit that you will be allowed. If you have any questions, please call me at (801) 538-5325.

Sincerely,

Daron R. Haddock
Coal Program Manager

DRH/ss
cc: Kirk Nicholes
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