



Suzanne Steab < suzannesteab@utah.gov >

Fwd: IBC & Highwall Mining Alternative, Task ID #4517

1 message

Daron Haddock < daronhaddock@utah.gov >

Fri, Mar 14, 2014 at 11:56 AM

To: Priscilla Burton < priscillaburton@utah.gov >, Joe Helfrich < joehelfrich@utah.gov >, Pete Hess < petehess@utah.gov >, OGMCOAL DNR < ogmcoal@utah.gov >, Suzanne Steab < suzannesteab@utah.gov >

Forwarded this submittal from Kirk. Just a reminder, our due date for the review of this project is March 18th. Hopefully Kirk has addressed the outstanding issues that we had discussed. Thanks, Daron

----- Forwarded message -----

From: **Kirk Nicholes** < knicholes@altoncoal.com >

Date: Fri, Mar 14, 2014 at 11:25 AM

Subject: IBC & Highwall Mining Alternative, Task ID #4517

To: "Daron Haddock (daronhaddock@utah.gov)" < daronhaddock@utah.gov >

Hello Daron,

Here are the replacement pages that we discussed earlier. As I said on the phone, I have talked with Pricilla Burton. She indicated to me that she had no further deficiencies, that Pete Hess had no further deficiencies and Ken Hoffman had no further deficiencies. From our conversation on Wednesday the 12th you indicated that Joe Helfrich still had a concern with the mitigation deficiency. Alton Coal has made a change to their response as can be seen in the cover letter dated 031414 (attached). Also, Joe Helfrich call me on Thursday the 13th. In our conversation when asked what other concerns he had, he indicated that he thought that we were seeing thing differently on the cultural resource deficiency. I have made changes to Alton Coals response for this item also. Changes to the MRP have been included in the required redline strikeout format and a clean copy format. Also, Joe indicated that he would like to meet with me on Monday the 17th at about 2:00 pm, I will be available at the Cedar City office if he would still like to meet. I would also invite you to join us by phone if possible. On Joe's arrival we could conference you by phone.

Thank You

Kirk Nicholes

Environmental Specialist

Alton Coal Development, LLC

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Daron R. Haddock

Coal Program Manager
Utah Division of Oil, Gas & Mining
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5 attachments

 **Appendix 3-5 (final)page 14&15.pdf**
84K

 **Appendix 3-5 (marked)page 14 &15.pdf**
84K

 **Chapter 4 Text (final)page 5.pdf**
74K

 **Chapter 4 Text (marked)Page 5.pdf**
74K

 **Cover 031414 Response to deficiencies, Task ID #4502.pdf**
569K

March 3, 2014

Daron R. Haddock
Coal Program Manager
Oil, Gas & Mining
1594 West North Temple, Suite 1210
Salt Lake City, UT 84114-5801

Subject: **Response to Incidental Boundary Change and Highwall mining alternative,
Task ID #4502, Coal Hollow Project, Kane County, Utah, C/025/0005**

Dear Mr. Haddock,

Alton Coal Development, LLC is providing this submittal to address deficiencies identified in Task ID #4502 for the previously submitted Incidental Boundary Change (IBC) to the Coal Hollow Mine (CHM) permit area. The IBC includes a new mineral lease of 85.88 acres adjacent to the CHM. There will be no surface disturbance within the IBC, approximately 38.95 acres will be undermined for the extraction of coal utilizing highwall mining technics. It appears that several of the regulations that are cited with a deficiency have little bearing to that deficiency. For those deficiencies, the best response was made based on the comments.

Please find enclosed 1 (one) redline copies of the revised text for review and 2 (two) clean copies of text and drawings for insertion into the MRP. Please do not hesitate to contact me if you have any questions 435-691-1551.

Sincerely

B. Kirk Nicholes
Environmental Specialist

General Contents

Permit Term

Section 116 of the MRP describes three phases of mining that began in 2010 and is anticipated to be completed in 2017. Section 116 states that there are 394 acres total to be disturbed during all three phases of mining. Phase 1 is listed as 269 acres disturbance. Phase 2 is 57 acres disturbance. Phase 3 is listed as 68 acres disturbance. The cover letter accompanying this submittal states that acreage listed in Section 116 is consistent with the three phases shown on Dwg 5-3 (bonded acreage).

In accordance with R645-301-121, to accurately reflect the bonded acreage, the following changes should be made to the plan: 1) Section 116 should state that Phase 1 is 289 acres and Phase 2 is 40 acres (as shown on Drawing B-2 of the Revised Reclamation Agreement Exhibit D, signed 12/13/13), and
2) Phase 3 will correspond to the remaining acreage shown on Drawing 5-3 Phase 3; and,
3) Phase 2 shown on Drawing 5-3 must reflect the same area drawn as Phase 2 on Drawing B-2 of the Revised Reclamation Agreement Exhibit D, (signed 12/13/13); and,
4) Drawing 5-3 must provide the bonded acreage figures in the legend for each phase of bonding.

pburton

Texts in Section 116 as well as Drawing 5-3 have been revised to reflect the required changes

Maps and Plans

The information is not adequate to meet the requirement of this section of the regulations. Prior to approval the following information must be provided in accordance with R645-301-140; Plate 3-7 needs to be revised to show the current phases of mining and the proposed highwall mining activities. The current plate is for a three year surface operation.

jhelfric

Plate 3-7 has been revised to show Phases rather than years, also a Plate 3-7A has been added that shows the proposed highwall mining activities.

Environmental Resource Information

Land Use Resource Information

The information is not adequate to meet the requirements of this section of the regulations. Prior to approval the following information must be provided in accordance with R645-301-411.140; ACD needs to include a commitment in Chapter 4, section 411.140 to conduct a presite survey of the proposed 500 foot disturbance associated with the trench and any additional disturbances associated with the development of proposed highwall mining activity.

jhelfric

As stated in Chapter 4, section 411.140 "A cultural resource inventory was conducted by Montgomery Archaeological Consultants Inc.(MOCA) in June 2005 for Alton Coal Development, LLC." This Class III inventory includes the proposed 500 foot disturbance associated with the trench. Also, text has been added to this section to update the MRP with regards to the "Cultural Resource Discovery Plan for the Alton Coal LLC, Coal Hollow Project in Kane County, Utah which guides the mine during development. Since construction of the mine began in November 2010, ACD has employed a qualified cultural resource monitor each time topsoil is removed for new development.

Prime Farmland

In accordance with R645-301-121.100, Section 221 of the MRP must be revised to state that the NRCS has made a determination that 80 acres of the 85.88 acre IBC Dame lease are considered Farmlands of Statewide and Local Importance. A copy of the referenced letter should be included in Section 1 of Appendix 2-1 with the previous NRCS correspondence.

pburton

The referenced letter has been included to Section 1 of Appendix 2-1. This also necessitated change be made to text in Chapter 2 pages 2-1 & 2-2. These changes have been included in this submission.

Operation Plan

Fish and Wildlife Protection and Enhancement Plan

The impacts to wildlife from the extended mining activities are not adequately addressed in chapter three of the current Mining and Reclamation Plan, (MRP). Prior to approval the following information must be provided;

In accordance with R645-301-333.300. During the meeting on January 7, 2014 ACD agreed to provide a commitment to restore the wet meadow habitat, the location is shown on drawing 3-1(Meadow). The application needs to include a commitment to restore the wet meadow habitat in the 85.88 parcel in the event of habitat loss due to water diminution. This commitment has not been included in the application.

The Utah Supreme Court has determined that water replacement under the Surface Mining Control and Reclamation Act is not a permitting issue, but rather requires a showing of damage to the water source. Castle Valley Special Service District v. Utah Board of Oil, Gas and Mining, Case No. 950487, Utah Supreme Court, December 31, 1996. Therefore until damage to the water source has been shown no further action is required to the permit for restoring the wet meadow habitat.

In accordance with R645-301-322.200, .200, 342.100, 358.400 a narrative describing how springs SP-8, SP-14, SP-20, SP-22, SP-40 and wells C4, C2, C3, C5, and Y-61 that sustain the critical brood rearing habitat will be restored in the event of water diminution,

There is no evidence to support water diminution. The amendment currently contains an aggressive monitoring schedule for these springs and wells prior to, during and after highwall mining. The wells themselves are monitoring wells, and do not "sustain the critical brood rearing habitat." Further, the Utah Supreme Court has determined that water replacement under the Surface Mining Control and Reclamation Act is not a permitting issue, but rather requires a showing of damage to the water source. Castle Valley Special Service District v. Utah Board of Oil, Gas and Mining, Case No. 950487, Utah Supreme Court, December 31, 1996. No further action is required.

In accordance with R645-301-322.100 a table that includes a schedule to initiate compensatory mitigation of 343.52 acres for the addition of the 85.88 acre parcel by no later than August 1, 2014 and complete the mitigation within six months or by January 31st 2015.

Text has been added to Chapter 3, Appendix 3-5, pages 14 &15 committing ACD to complete 344 acres of sage-grouse habitat improvement during the appropriate season during the 2014 and 2015 calendar years or approximately 170 acres per year.

In accordance with Chapter 3, Appendix 3-5 and R645-301-333.300 a commitment to monitor the vegetation and bird use in the 85.88 acre parcel for vegetation (annually) and bird use (monthly except for May, June and July).

Past bird monitoring has included the area of the new Dame Lease. Birds were documented during the June, July, and August surveys (sightings were in the area of ACD's water well down to and Swapp Ranch House. All other months that surveys were done in this area no grouse were observed. It seems questionable to restrict monitoring of this area 2 of the 3 months that the grouse utilize the area and require it the remainder of the year. Appendix 3-5 page 21 has been modified to include "All areas of the approved MRP permit boundary". Timing of bird use monitoring will follow the current protocol in Appendix 3-5 established by a sage-grouse biologist, Dr Steven Petersen. Annual monitoring of a vegetation community that will not be disturbed makes little sense. No further action is required.

In accordance with R645-301-121.200 Chapter 3, Page 3-7, the last sentence needs to include the word surface before disturbance.

The word "surface" has been added.

In accordance with R645-301-322.100 Chapter 3, Page 3-34 ACD needs to provide valid documentation that defines the amount of the 808 acres they have been given credit for by the Division and this sentence needs to be revised to reflect that,

The sentence has been revised to correctly reflect "885 acres". Also, reference to the letter from Director Baza addressed to Denise A. Drago, Esq. dated May 16, 2012 has been added to verify credit given by the Division.

In accordance with R645-301-322.100 Chapter 3, Page 3-34 ACD needs to provide written concurrence from the surface management agency, (BLM), verifying the completion of the lop and scatter pinyon/juniper removal from the 355 acre parcel,

A letter dated 2/28/2014 from Lisa Church of the Kanab Field Office, BLM has been added to Appendix 3-7 "2013 Sage-grouse Habitat Mitigation Project". In this letter the BLM has included addition work that needs to be completed during the 2014 season on the 355 acre parcel.

In accordance with R645-301-330 Page 3-44, Sage-Grouse Work, Sentence #4 needs to be revised to read as follows The implementation of the highwall miner provides an additional method for recovering coal. This is because the disturbance associated with the development of the 500 foot disturbance associated with the trench (Figure 5-41) will be located in the middle of the lek and nesting and brood rearing areas for an extended period of time and perhaps indefinitely with the addition of underground mining.

This deficiency has no basis on the current amendment. It is without reason as to how a determination of the location of disturbance was derived from Figure 5-41 (a cross section of a typical highwall). The approved MRP shows the estimated schedule for final reclamation of all disturbances as 2017. The amendment currently under review shows the estimated schedule for final reclamation of all disturbances as 2017. No extensions have been proposed. The approved MRP as well as the amendment currently under review does not anticipate "underground mining". At this time, there has not been an amendment that proposes "underground mining". No changes have been made to the amendment.

In accordance with R645-301-333.300 the application needs to include a monitoring plan for the noise levels in the proposed 85.88 parcel from the mining equipment that will be used to implement the proposed highwall mining activities.

jhelfric

Noise levels for mining equipment is regulated by the Federal Mine Health and Safety Administration and a monitoring plan for noise levels is currently in place.

Topsoil and Subsoil

R645-301-121.100 and R645-301-231.100, Please provide a version of Dwg 2-2 for the highwall mining scenario shown in Dwg 5-10A.

pburton

Drawing 2-2A has been added to the amendment package.

Maps Affected Area

Two mining methods have been proposed. Under the surface mining method the affected area is shown on Dwg 5-2 disturbance sequence and 5-16 overburden removal map and the reclaimed area is shown on Dwg 5-38 reclamation sequence. For the highwall mining method, the pertinent maps are Dwg 5-2A, 5-16A, and Dwg 5-38A. To provide clarity, actual disturbance and reclamation should be provided in an as-built submitted with the annual report.

In addition, Drawings 5-2A, 5-16A, and 5-38A appear to align the highwall mine trench along the Section 30 and Section 29 boundary line; whereas the trench is shown centered in Section 30 on Drawing 5-10A and 5-10B. If the trench is constructed with trench floor as shown in Dwg. 5-10A and Dwg. 5-10B, then the Area disturbed by topsoil & overburden removal and reclamation will be slightly different than that shown on Dwg 5-2A, 5-16A and 5-38A.

Due to the above ambiguity, the following commitment will be required. In accordance with R645-301-521.162 and R645-301-121.100, Please state a commitment in the plan to provide an as-built of the reclamation sequence map (Dwg. 5-38 and/or 5-38A) filed with the annual report each year and include in the legend:

The acres of open pit and trench;

The acres backfilled;

The acres fully reclaimed (topsoiled and seeded);

Revisions to the reclamation timetable, if any.

The map should be accompanied by a C1C2 form to allow replacement of the existing Dwg. 5-38 or 5-38A in the MRP.

pburton

Changes were made in Chapter 5, Page 5-81 to update Drawing 5-38 or 5-38A at the time the Annual Report is due.

In accordance with R645-301-121.100, plates 5-16 and 5-16A must be in agreement on the area of overburden removed in the past year, 2013,

Appropriate changes were made.

In accordance with R645-301-121.200, please review and correct as necessary the year shown for overburden removal on the northeast corner of Section 30, because the area shown in pink will either have overburden removal 2016 (according to the legend) or in 2015 (according to the year written in the pink area).

Appropriate changes were made.

In accordance with R645-301-553, both plates 5-38 and 5-38A must illustrate compliance with the backfilling and grading rule for surface mining with regard to pits 9 and 10. Pit 9 was mined out in September of 2013 and pit 10 is shown on both Plate 5-10 and Plate 5-10A as being developed in 2014. Therefore, Dwg 5-38 and 5-38A must show reclamation of the pit 9 & 10 area in 2014 and 2015 respectively.

Pits 1, 2, 5, 7, 9, & 10 are all under the under the Excess Spoils Pile. The majority of material to be placed in the Excess Spoils Pile will come from the mining of the eastern pits 11- 15. At this time pits 1, 2, 5, & 7 have been mined and backfilled at least up to approximate original contour and in some places above approximate original contour to begin forming the Excess Spoils Pile. Enough excess spoils have now been placed above the mined out Pit 1 and some of the re-contouring completed for final reclamation. Final reclamation cannot proceed above the remaining pits with in the foot print of the Excess Spoils Pile until excess spoils is placed from the mining of pits 10 – 15.

In accordance with R645-301-122.100, please review the active pit location shown on Dwg. 5-19, as it does not appear to reflect either reclamation scenario illustrated on Dwg 5-38 or 5-38A.

phess

Drawing 5-19 is one of three drawings show the greatest amount of disturbance anticipated at three different stages of mining for bonding purposes. The MRP contains two scenarios of traditional open pit mining. One scenario (the approved scenario) the private property is mined and reclaimed with no further mining. The second anticipates Alton Coal acquiring the Federal coal in the LBA. Drawing 5-19 depicts how mining would proceed prior to rolling out on to the Federal coal. This scenario, if approved, would be the greatest amount of disturbance in Phase 3 of mining and thus bonding for Phase 3 has been calculated based on the greatest amount disturbance anticipated.

The information is not adequate to meet the requirements of this section of the regulations. Prior to approval the following information must be provided in accordance with R645-301-322, -301-323, -301-331, -301-333, -301-341, -301-342- and 301-521

The redline text on page 3-57A, The Alternate highwall mining will reduce the practicable area to be reclaimed, does not describe how and when the highwall mining activity will be reclaimed. As previously stated the application does not include a description of or provide for the reclamation of the proposed highwall mining method.

The application needs to include at a minimum in accordance with R645-301-521;,
A narrative describing how the highwall mining disturbance will be reclaimed,
Where the material for backfilling and grading will come from,
A narrative describing the volume of different materials including topsoil that will be needed for reclamation of the highwall and the 500 foot disturbance associated with the trench,
A revised time table for reclamation in accordance with R645-301-341.100,
And in accordance with R645-301-352 a commitment to meet with the Division each year in August to define the amount of reclamation to be completed for that calendar year.

jhelfric

Text has been added to Chapter 3, Section 341.100. In response to a prior deficiency by pburton a commitment has been made to update Drawings 5-38 and/or 5-38A as appropriate to refine the reclamation schedule annually.

Revegetation Timing

Clean copies of this amendment must be revised to include the wording changes made to Section 341.100 approved January 24, 2013 (Task4463, DO-13).

pburton

The approved text has been included in this submission.

Special Categories

Auger Mining

In accordance with R645-301-121.200 please update Dwg 5-10 to show the as-built size and location of pits 25-28.

pburton

A revised Drawing 5-10 has been included with this submission.

Auger Mining

R645-302.240: The language on Page 7-61 shall be updated stating "All holes except as provided in R645-302.245.230 will be sealed within 72 hours" and the follow language shall be removed:

"As specified in R645-302-240, all auger holes not discharging water containing acid- or toxic forming material will be sealed with an impervious noncombustible material as contemporaneously as possible with the augering operation, as approved by the Division."

khoffman

*The following text was substituted to allow for requirements by two of many regulating agencies:
"All holes except as provided in R645-302.245.230 will be sealed within 72 hours with the exception of the hole adjacent to the current hole being mined. In the approved "Ground Control Plan" for CHM, MSHA requires the adjacent hole remain open for monitoring of the web."*

To establish effective plans for habitat improvement and connectivity, UDOGM, UDWR, ACD and interested biologists (such as Renee Chi, Amy Defreese, Kevin Heaton and Lisa Church) will be invited to meet and work on these plans. The purpose for these improvements is to increase connectivity for sage-grouse migration and critical sage-grouse nesting and brood-rearing habitat. The goal for habitat improvement will be returning a sustainable ecological condition (state) that facilitates plant community establishment and increased ecological resilience along with providing improved habitat for sage-grouse.

1700 acres are required during the life of the mine. Currently, 1200 acres remain to be treated, or approximately 240 acres per year. Although the addition of the 85.88-acre Dame Lease IBC does not include any permanent disturbance, ACD will complete an additional 344 acres of habitat improvement for sage-grouse. The mitigation work will be completed during the appropriate season in the 2014 and 2015 calendar year, thus approximately 170 acres over the course of two years. The emphasis of this work will consist of pinyon-juniper removal and some sagebrush/Rabbitbrush treatments. Treatment types (options for habitat improvement) associated with PJ removal include:

- 1) Chaining (and seeding if necessary)
- 2) Lop and scatter
- 3) Bullhog (and seed if necessary)
- 4) Bulldozer / track hoe for knocking trees down (stack and burn optional)
- 5) Prescribed fire (and seed if necessary) and chaining

Pinyon juniper removal efforts will be focused on the following areas (in order of treatment)

- 1) Private lands east of the mine site (Pugh and Heaton, see Figure 6)
- 2) Private lands south of Alton
- 3) Private lands within the occupied sage-grouse habitat regions delineated by the UDWR which includes PJ woodlands from immediately south of Sink Valley through Skutumpah Terrace (Drawing 3-9).

ACD and UDOGM will reevaluate these habitat improvement plans on an annual basis to ensure that habitat treatments are being implemented with optimal sage-grouse conservation efforts in mind. Vegetation and bird use monitoring will be completed and then evaluated (ACD and UDOGM) in accordance with procedures described in this appendix.

Connelly, J.W., K.P. Reese, and M.A. Schroeder. 2003. Monitoring of Greater Sage-grouse Habitats and Populations. Station Bulletin 80, College of Natural Resources Experiment Station. Moscow, ID.

Procedures for ground disturbing activity for mining will follow the “Cultural Resources Discovery Plan for the Alton Coal LLC, Coal Hollow Project in Kane County, Utah prepared for Alton Coal and submitted to Utah Department of Oil Gas and Mining November of 2010”. These same procedures will be followed for the alternate Highwall mining method.

411.141 Cultural and Historic Resources Maps

Cultural and Historic Resource Maps are included in Appendix 4-1.

411.141.1 Boundaries of Public Parks

There are no public parks in the permit area. There are known archeological sites as reflected in the Montgomery survey, Appendix 4-1.

411.141.2 Cemeteries Located within 100 feet

No cemeteries exist within the permit area or within 100 feet of the permit area or within any adjacent area subject to potential impacts.

411.141.3 Trails, Wild and Scenic Rivers System

No trails or wild and scenic rivers or study area rivers exist within the permit area or areas of potential impact.

411.142 Coordination with the State Historic Preservation Officer

Coordination with the State Historic Preservation Officer (SHPO) will take place prior to any mining. Clearances will be obtained through SHPO by means of Phase Testing, a data recovery treatment plan, or other appropriate mitigation processes.

The Permit area is not within any publicly owned parks or places listed on the National Register of Historic Places.

411.142.1 Adverse Impacts on publicly owned parks or places listed on the National Register of Historic Places.

The Permit area is not within any publicly owned parks or places listed on the National Register of Historic Places.

411.142.2 Valid Existing Rights / Joint Agency Approval

The Permit area is not within any publicly owned parks or places listed on the National Register of Historic Places.

411.143 Mining on Historical Resources

Alton Coal Development determines there will be no significant effects of mining on historical resources. Alton Coal Development proposes there will be no impacts on mining on human values, cultural or historical.

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