



State of Utah

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Office of the Governor
PUBLIC LANDS POLICY COORDINATING

KATHLEEN CLARKE
Director

C/025/005 Incoming

cc: Joe
Daron

#4942

September 14, 2015

Sent via electronic mail: johnbaza@utah.gov

John Baza
Director
Division of Oil, Gas and Mining
Department of Natural Resources
1594 West North Temple, Suite 1210
Salt Lake City, Utah, 84114-5801

Subject: North Private Lease, Alton Coal Development, LLC; Coal Hollow Mine
Kane County; Significant Revision to Mine Permit C/025/0005

Dear Mr. Baza:

The Public Lands Policy Coordinating Office received the following comments from the Utah Division of Wildlife Resources (UDWR) identifying ways to reduce impacts to wildlife, including the greater sage-grouse, in connection with the Alton Coal Development's application for a significant revision to Mine Permit C/025/0005 (Coal Hollow Project), which involves the addition of approximately 250 acres. Additional technical comments providing specific mitigation guidance for sage-grouse and mule deer are attached.

The Governor of the State of Utah endorsed the *Conservation Plan for Greater Sage-grouse in Utah* in February 2013. This plan was developed by multiple agencies and stakeholders, and provides specific guidelines and management protocols designed to protect greater sage-grouse and their habitats in Utah. The state recommends strict adherence to this plan when addressing potential impacts from actions such as the North Private Lease. Specific avoidance, minimization, or mitigation recommendations listed herein are taken from the *Conservation Plan*, which can be accessed at the following web address:

http://wildlife.utah.gov/uplandgame/sage-grouse/pdf/greater_sage_grouse_plan.pdf

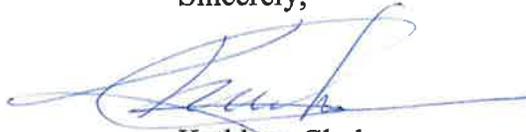
The North Private Lease area is used heavily by greater sage-grouse, a fact expressed by research conducted by Utah State University, occurrence records from the Utah Natural Heritage Program, and observations by UDWR biologists. Since the commencement of the existing Coal Hollow Mine development, the Sink Valley lek has been displaced to a new

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location. Research conducted by Utah State University has documented various movement patterns in response to vegetation treatments conducted in that area, and that the number of males counted at the new lek location has remained stable since that time. These findings reflect the local population's short-term adaptation to habitat improvements, habitat disturbance, and associated mitigation activities. As such, habitat improvements in this area will be essential to ensuring sage-grouse have access to suitable habitat.

Thank you for the opportunity to review and comment on the proposed action to help reduce wildlife impacts associated with the Coal Hollow Project. Please direct any written questions regarding this correspondence to the Public Lands Policy Coordinating Office at the address below, or call to discuss any questions or concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kathleen Clarke', with a long horizontal flourish extending to the right.

Kathleen Clarke
Director

TECHNICAL COMMENTS

Greater Sage-grouse

UDWR is concerned about the potential for habitat disturbances to cause significant impacts to the local grouse population in Sink Valley. According to the *Conservation Plan*, the North Private Lease area is comprised of the following types of habitat within the Panguitch Sage Grouse Management Area (SGMA):

Nesting and Brood-Rearing: The area in which the majority of nesting and brood rearing occurs; identified as habitat within a three (3) mile radius from the lek.

Other Habitat: Other Habitat is habitat within SGMAs but which is not part of the lek, nor identified as nesting or wintering areas.

UDWR provides the following guidelines from the *Conservation Plan* to protect greater sage-grouse inhabiting the area of the North Private Lease.

Within Nesting and Brood-rearing Habitat:

- a) Avoid disturbance within this area, if possible. If avoidance is not possible, project proponents must demonstrate why that is the case.
- b) If avoidance is not possible, use minimization as appropriate to the area. For example, try to minimize effects by locating development in habitat of the least importance, take advantage of topographic features to screen the disturbance, or maintain and enhance wet meadows and riparian vegetation to provide food and shelter.
- c) If minimization is not sufficient, mitigation is sought. Mitigation should be calculated at a minimum of a 4:1 ratio starting with the first acre disturbed. Mitigation must produce lands capable of supporting sage-grouse as habitat before the proposed disturbance occurs, though birds do not need to be using the mitigated area. The proponent of the disturbance must demonstrate that the conditions have been met.

Successful mitigation may include:

- i) Removal of trees to no more than 5% cover (the closer to 0% the better) and maintenance of at least 10% sagebrush cover;
- ii) Maintain forb cover greater than 10% and greater than 10% grass cover during nesting and brood-rearing season;
- iii) Maintain or improve wet meadows, when present: and/or
- iv) Installation of green-strips or firebreaks to protect existing nesting habitat.

- d) Cumulative new permanent disturbance within the SGMA should not exceed 5% of the spatial extent of the nesting habitat within the SGMA. Allowances must be made to include the temporal effects of any temporary disturbance, if any such effects are expected. The calculation of the spatial extent of each proposed project or land use, or the area of a natural event, such as wildfire, to be employed in this calculation, is defined as part of the definition of disturbance found in Section 10 in the Conservation Plan. The base upon which this calculation is made may be increased through successful rehabilitation or restoration of habitat, or other mitigation actions as appropriate.
- e) Employ seasonal stipulations as follows:
 - Avoid activities (construction, vehicle noise, etc.) that will disturb nesting or broodrearing from April 1 - August 15. The local DWR biologist should be consulted for time and distance determinations based on site-specific conditions.
- f) Employ noise stipulations which allow no more than 10 dB rise above ambient noise levels at the edge of the lek.

Within "Other" Habitat:

- a) Avoid disturbance in the area if possible. If avoidance is not possible, project proponents must demonstrate why that is the case.
- b) If avoidance is not possible, minimize as appropriate to the area. Minimization provisions include, for example, the location of development in habitat of least importance or by locating development to take advantage of topographic screening.
- c) If minimization is not sufficient, mitigation is required. Mitigation should be calculated at minimum of a 1:1 ratio starting with the first acre disturbed. Mitigation must produce lands capable of supporting greater sage-grouse as habitat before the proposed disturbance occurs, though birds do not need to be using the mitigated area. The proponent of the disturbance must demonstrate that the mitigation conditions have been met.

Successful mitigation may include:

- i) Removal of trees to less than 5% cover and maintenance of at least 10% sage brush cover;
- ii) Maintain forb cover greater than 10% and grass cover greater than 10% during nesting/brood-rearing season;
- iii) Maintain or improve wet meadows, when present; and/or

- iv) Installation of green-strips or firebreaks to protect existing habitat.
- d) Cumulative new permanent disturbance should not exceed 5% of the surface area of other habitat within the SGMA. Allowances must be made to include the temporal effects of any temporary disturbance, if any such effects are expected. The calculation of the spatial extent of each proposed project or land use, or the area of a natural event, such as wildfire, to be employed in this calculation, is defined as part of the definition of disturbance found in Section 10 of the Conservation Plan. The base upon which this calculation is made may be increased through successful rehabilitation or restoration of habitat, or other mitigation actions as appropriate.
- e) Manage the lands to avoid barriers to migration, if applicable.

UDWR appreciates the inclusion of a Greater Sage-grouse management plan as part of the North Private Lease application. The mitigation plan discloses techniques and strategies, but the applicant also needs to disclose why avoidance and/or seasonal timing restrictions are not options for the North Private Lease area. UDWR recommends that the *Conservation Plan* be followed and referenced in the management plan. UDWR also recommends that a formal Mitigation Agreement between UDWR, Utah Division of Oil, Gas and Mining, and Alton Coal Development, LLC also be developed, which would ensure that functional mitigation actions are clearly identified, and funds are fully committed for the implementation of those actions prior to disturbance. UDWR further recommends that any greater sage-grouse mitigation projects and funds associated with this lease be channeled through the Watershed Restoration Initiative (WRI) to be reviewed by the WRI partners.

Mule Deer

The mule deer that inhabit the larger area surrounding the North Private Lease tract are part of the Paunsaugunt Management Unit. The Paunsaugunt mule deer herd is one of the few limited entry mule deer hunting units in the state and is renowned for its trophy class animals. Approximately one third of the North Private Lease is considered crucial summer habitat for mule deer. Activities associated with a surface coal mine, including surface disturbance, increased coal truck traffic, and noise, could adversely impact big game by removing key browse and forb habitats, displacing animals, disturbing breeding/fawning grounds, and disrupting migratory movements. UDWR recommends that no construction/development occur in big game crucial summer habitat from May 15 to July 15. UDWR typically requests that 4 acres of mitigation be required for every 1 acre of crucial habitat disturbance. UDWR recommends that any mule deer mitigation projects associated with this lease be channeled through the Watershed Restoration Initiative (WRI) and reviewed by the WRI partners.