



Alton Coal Development, LLC

463 North 100 West, Suite 1
Cedar City, Utah 84720
Phone (435) 867-5311 Fax (435) 867-1192

CO250005, Incoming
#4942

December 15, 2015

RECEIVED

DEC 17 2015

DIV. OF OIL, GAS & MINING

Dana Dean
Associate Director
Utah Division of Oil, Gas & Mining
1594 West North Temple
Salt Lake City, Utah 84116

Re: Request for Finding – Relocation of Public Roads K136/K3900 and intersection of K3900 and K3100, Proposed North Private Lease, Coal Hollow Mine, Permit No. C/025/0005.

Dear Associate Director Dean:

Alton Coal Development, LLC (“Alton Coal”) requests the Division to issue a finding regarding the proposed relocation of Kane County public roads outside the mine permit boundaries of the proposed North Private Lease, Coal Hollow Mine. Alton Coal requests that the Division find that relocation of the County Road K136/3900 (including the intersection of K3100 with K3900 which is the rerouted 500 feet to the south of its current location) is in the interest of the public and affected landowners pursuant to R645-103-234. 330.

Notice of the temporary relocation of the road was advertised in the Southern Utah News, including a legal description and a map of the affected roads (including County Road K136/K3100 and the relocated intersection of K3100). See, Affidavit of Publication, MRP, Chapter 1, Appendix 1-5. This publication satisfies the requirements of R645-103-234.310. No comment or request for hearing on the described road relocation was received by the Division within the 30 day comment period following last publication of the notice on August 13, 2015. Therefore, now that more than 30 days has expired from the end of the public comment period in September, 2015, the Division can enter a finding pursuant to R645-103-234.330.

Kane County is the governmental entity with authority over Kane County Road 136/3900 (including the intersection of K3900 with K3100). The record supporting the mine permit confirms that all necessary approvals are in place for the road relocation pursuant to R645-103-234.200. Both K136/3900 and K3100 are Class B multiple use public roads which are part of the highway and road system within the sole jurisdiction, maintenance and control of Kane County. See, Utah Code Ann Section 72-3-103(4).

By letter from Kane County received by the Division on October 19, 2015, the County provided notice of construction of the relocated County Road 3900 and a copy of the Grant of Easement for County Road K3900. The easement for the relocated public road right of way is owned by the County and is outside the proposed boundaries of the mine permit. As confirmed by the letter, and as described in the MRP, the existing County Road K3900 within the North

Private Lease permit area will remain open until the bypass road construction is complete. See, Chapter 5, 521.133.2 (Relocating a Public Road) As set forth in the Affidavit of Publication, at MRP, Chapter 1, Appendix 1-5, public notice and an opportunity for comment regarding the road relocation was provided with the advertisement of the notice of a complete mine permit application for the North Private Lease Area.

The Grant of Easement for County Road K3900 satisfies the requirements of R645-103-234.330 to show that the interests of the public and affected landowners are protected. The Grant of Easement is attached as Appendix 1-11 of the MRP. The Grant of Easement is dated September 18, 2015 by and between the Heaton Brothers, LLC and Alton Coal Development, LLC as grantors and Kane County, Utah, as grantee. The public interest is preserved by the terms of this Agreement. The relocated County Road is to be “constructed in accordance with County specifications, and shall be owned by the County, and operated and maintained by County.” Easement Agreement, Paragraph 3. The Grantors agree not to construct any obstruction to prevent or impair the County’s use of the easement and operation of County Road K3900. Easement Agreement, Paragraph 4.

Further, the Grant of Easement is issued by the Heaton Brothers as the landowner of the Easement Area and Alton Coal Development, LLC as the lessee of the landowner. Therefore, the interests of the affected landowners are protected by the terms of the Easement.

Notably, the Easement provides a specific legal description of the realigned County road in satisfaction of 654-301- 526 (description of public road realignment). See Recital B, Agreement – Grant of Temporary Relocation Easement at Par 1, Exhibit B “Legal Description of the Temporary Relocation Easement.” In addition, the Easement specifically requires that following mining, Alton will “replace the right of way for County Road K3900 across the Heaton Brothers Property within an area described at Exhibit C to this Agreement (the” Replacement Easement Area”). Easement at Recital C and Agreement – Grant of Replacement Easement, Par. No. 2. The MRP, Ch. 5, Section 521.133.2 addresses the reestablishment of public roads upon completion of mining activities. Details for establishing K3900 are shown on Drawings 5-22-E, F and H. Therefore the Easement, attached at Appendix 1-11 and the MRP Chapter 5 permit commitments meet the requirements of R645-301-542.600 to address reclamation following mining. See, MRP, Ch. 5, Section 524 at p. 5-88 for a description of roads that will be reconstructed and will remain post-mining.

The attached letter dated December 15, 2015, from Kane County to Alton Coal, the County reconfirms that the relocated County Road K3900 will be used by both the public and coal haul trucks. The letter states that, “Kane County’s number one priority is that no public access will be impaired”. The County determined that the public road could accommodate truck traffic due to road width (32 feet plus), assuming that coal trucks were no more than 12 feet in width with a “typical left side operation”. Alton Coal has agreed to limit truck speed on the relocated segment of County Road K3900 to no more than 25 miles per hour to address public safety concerns. This letter serves as the statement requested by the Division detailing how the K-136/3900 will remain open to the public.

Finally, although the relocated public road is outside the proposed mine permit boundaries, in some locations, the relocated road will be within 100 feet of certain mining operations. See, Ch. 5 MRP, Section 526.116.1 (Operations Within 100 ft. of a Public Road) However, consistent with R645-234.230 and .300, the public interest will be protected. As set forth in the MRP, Section 526.116.1, Alton Coal will install signage and a boundary fence to mark those permit areas along the road where mining operations occur within 100 feet when measured horizontally, of the outside right-of-way line of the public road. See Chapter 5, MRP, Sections 526.116.1 and 116.2, pp 5-47 and 5-48 Drawings 5-47, 5-61-63 and Appendix 1-11.

Therefore, Alton Coal requests that the Division issue a finding pursuant to R645-103-234.300, confirming that relocation of County Road K136/K3900 and the intersection of K3900 and K3100 will protect the public and affected landowners. This finding is supported by Kane County's letters dated December 15, 2015 and October 19, 2015, the MRP, Affidavit of Publication, and the Grant of Easement.

Very truly yours,



Larry Johnson
Mine Manager
Alton Coal Development

LJ/mkm



**Kane County GIS/Transportation Dept.
Kane County Courthouse**

**76 N. Main St.
Kanab, Utah 84741
(435)-644-4968 (OFFICE)
(435) 644-2052 (FAX)
gis@kane.utah.gov**

Dana Dean
Associate Director
Utah Division of Oil, Gas and Mining
1594 W. North Temple, Suite 1210
PO Box 145801
Salt Lake City, Utah 84114-5801

Dear Ms. Dean:

This letter serves as notice that in November, 2015, the Kane County Road Department intends to commence construction on the public road that will provide a new route around the Coal Hollow Mine site for County Road K 3900. The work will occur outside the mine permit boundaries for the proposed North Lease Project Area. By agreement between the parties, crews and equipment from Alton Coal Development, LLC ("Alton Coal") will perform much of the road-building work under the supervision of the County. The right of way for the new segment of public road K 3900 is held by Kane County and the road will be constructed to County specifications for other public roads in the area.

The existing alignment of County Road K 3900 through the NE 1/4, section 13, T. 39 S, R. 6 W. of Kane County within the proposed permit area, will remain open to the public until the bypass is complete and the North Lease Project Area mine permit is issued. Until that time, the newly-constructed bypass road will remain barricaded. Public notice of the road relocation was advertised in the local paper.

Please convey this information to members of the Division who will be visiting or inspecting the mine location. Should you or your staff have any questions, I can be contacted at 435-644-4968.

Sincerely,

Louis Pratt
Kane County Kane County Transportation/GIS Director
76 N Main St
Kanab, Utah 84741

Cc:
Kane County Commission
Heaton Brother, LLC
Larry W. Johnson, Alton Coal

WHEN RECORDED, RETURN TO:

Kane County Attorney
76 North Main Street
Kanab, Utah 84741

GRANT OF EASEMENT FOR COUNTY ROAD K3900

THIS GRANT OF EASEMENT FOR COUNTY ROAD K3900 (also referred to as County Road 136) (this "Agreement") is made and entered into as of the 18 day of Sept, 2015 (the "Effective Date"), by and between HEATON BROTHERS, LLC, ("Grantor" or "Heaton Brothers"), and ALTON COAL DEVELOPMENT, LLC, a Nevada limited liability company, ("Alton" or "Grantor") and Kane County, a political subdivision of the State of Utah ("County" or "Grantee"). Grantor, Grantee, Alton and County are sometimes hereinafter referred to as a "Party" and collectively referred to as the "Parties."

RECITALS

A. County Road K3900 currently intersects the Coal Hollow Mine North Private Lease Area crossing lands owned by Heaton Brothers, LLC ("Heaton Brothers Property") and leased by Alton ("North Private Lease Area," described at Exhibit A to this Agreement).

B. Approximately 0.6 miles of County Road will be temporarily relocated to allow for Alton's mining operations. This relocated section begins approximately 0.8 miles south of the Town of Alton and will reconnect with the original road approximately 1.4 miles south of the Town. The proposed relocation of the County road is within the North East Quarter, Section 13, Township 39 South, Range 6 West, SLB&M, Kane County, more particularly described on Exhibit B to this Agreement (the "Temporary Relocation Easement Area").

C. Alton intends to conduct coal mining activities on certain portions of the Heaton Brothers Property and following mining of these lands, seeks to replace the right of way for County Road K3900 across the Heaton Brothers Property within an area described at Exhibit C to this Agreement (the "Replacement Easement Area").

D. Alton and Kane County ("County") have entered into an agreement regarding the relocation and replacement of County Road K3900 ("County Road K3900 Agreement").

E. This Agreement seeks to grant an easement and right of way from Grantors on the North Private Lease Area and the Alton lease area to the County for temporary relocation and replacement of County Road K3900.

F. The Temporary Relocation Easement Area and the Replacement Easement Area burden certain portions of the North Private Lease Area more particularly described on Exhibits B and C and depicted on the maps and diagrams attached at Exhibit D to this Agreement (jointly referred to as the "Easement Areas").



G. Following mining and upon replacement of County Road K3900 within the Replacement Easement, and removal of the County Road 3900 from the Temporary Relocation Easement Area, the County intends to reconvey the Temporary Relocation Easement Area to Grantors.

AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Grant of Temporary Relocation Easement. Grantors hereby grant to the County a temporary, exclusive easement and right of way 66 feet in width for County Road K3900 over, across, upon and within any area within the outlying boundaries within the Easement Area, for the purpose of constructing, owning, operating, maintaining, repairing and relocating County Road K3900 (Temporary Relocation Easement Area).

2. Grant of Replacement Easement. Grantors hereby grant to the County a perpetual, exclusive easement and right of way 66 feet in width for County Road K3900 over, across, upon and within any area within the outlying boundaries within the Easement Area, for the purpose of constructing, owning, operating, maintaining, repairing and replacing County Road K3900 (Replacement Easement Area).

3. Construction and Use Requirements as Provided by the County Road K3900 Agreement. The County Road K3900 within the Easement Area shall be constructed in accordance with County specifications and shall be owned by the County, and operated and maintained by County without any cost, expense or obligation on the part of Grantors. Further, the parties agreed to provide each other with written notice prior to commencing construction within the Easement Areas.

4. Obstructions. Grantors, by the terms of said agreement, shall not construct any fence, wall, or other barrier or structure of any kind on the Easement Areas which would prevent, obstruct or impair County's use and enjoyment of the Easement Areas and the operation of County Road K3900.

5. Term. The duration of this Agreement shall be perpetual unless all Parties mutually agree in writing to terminate this Agreement.

6. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

7. Notices. All notices, requests, demands or other communications hereunder shall be in writing and deemed given when delivered personally, when deposited to be sent via a nationally-recognized overnight courier keeping receipts of delivery, service prepaid or billed to sender, or on the day said communication is deposited with an overnight courier service, postage prepaid, addressed as follows:

Handwritten signature and initials in blue ink, appearing to be 'J. J.' and 'JH'.

To County: Kane County Commission
76 North Main Street
Kanab, Utah 84741

With a copy to: Kane County Attorney
76 North Main Street
Kanab, Utah 84741

To Grantee: ALTON COAL DEVELOPMENT, LLC
463 North 100 West, Suite 1
Cedar City, Utah 84720
Attention: Larry W. Johnson

With a copy to: Denise A. Dragoo, Esq.
Snell & Wilmer L.L.P.
15 West South Temple, Suite 1200
Salt Lake City, Utah 84101

To Grantor: Heaton Brothers, LLC
449 South 2050 West *Karl H*
Cedar City, Utah 84720

or to such other address as either Party may from time to time designate by notice in writing to the other Party. Rejection, refusal to accept delivery or inability to deliver due to changed address of which no notice has been given shall be deemed receipt by the addressee.

8. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Utah, without giving effect to its choice of law principles.

9. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed as an original but all of which together shall constitute one and the same instrument.

10. Entire Agreement. This Agreement supersedes all prior understandings, representations and agreements between the Parties with regard to the subject matter hereof and there are no other understandings, representations, warranties or agreements between them.

11. Amendment. Neither this Agreement nor any provision hereof may be changed, amended, modified, waived or discharged orally or by any course of dealing, but only by an instrument in writing signed by the Party against which enforcement of the change, amendment, modification, waiver or discharge is sought.

12. Authority. Each party hereto hereby represents, warrants and covenants unto the other that this Agreement has been duly authorized, executed and delivered by such party and constitutes the valid, legal and binding agreements and obligations of such party enforceable against such party in accordance with the terms hereof.

13. No Joint Venture. Nothing in this Agreement shall be construed to make the Parties partners or joint venturers or render any of the Parties liable for the debts or obligations of the other.

14. Agreement to Run with the Land: Running of Benefits and Burdens. All provisions of this Agreement touch, concern and run with the Heaton Brothers, LLC properties, tracts 9-6-13-1 and 9-6-13-2 and Easement Area and are binding upon and inure to the benefit of the successors and assigns of Grantor and Grantee.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives effective as of the Effective Date.

Grantor:

HEATON BROTHERS, LLC

By: Ronald D. Heaton
Its: President

Grantor:

ALTON COAL DEVELOPMENT, LLC

By: James W. Go
Its: General Manager

Grantee:

KANE COUNTY

By: [Signature]
Chairman, Kane County Commission

[Signature]

EXHIBIT A

Legal Description of the North Private Lease Area

The following described lands located in Kane County, Utah within Sec. 12 & 13, T39S, R6W and within Sec. 7 & 18, T39S, R5W:

Beginning at S 58° 16' 29" W a distance of 1,920.87 ' from Section Corner 7-18-12-13, T39S, R5 R6W; thence N 89° 29' 27" W a distance of 823.81'; thence S 00° 00' 38" E a distance of 1313.93'; thence S 65° 46' 32" E a distance of 479.40'; thence S 89° 44' 30" E a distance of 1861.86'; thence S 54° 58' 33" E a distance of 226.53'; thence S 89° 45' 07" E a distance of 1235.50'; thence N 00° 41' 09" E a distance of 1322.97'; thence N 00° 41' 09" E a distance of 1322.97'; thence S 89° 30' 20" E a distance of 241.42'; thence N 00° 51' 49" E a distance of 1323.52'; thence N 89° 22' 59" W a distance of 249.30'; thence N 89° 56' 02" W a distance of 2923.34'; thence S 00° 24' 59" W a distance of 2326.09'; which is the point of beginning, having an area of

12,877,780.47 square feet, or 295.633 acres

EXHIBIT B

Legal Description of the Temporary Relocation Easement

HEATON BROTHERS, LLC LEASE AREA DESCRIPTION:

BEGINNING AT A POINT N52°09'23"E 4413.80 FEET FROM THE WEST QUARTER CORNER SECTION 13 TOWNSHIP 39 SOUTH RANGE 6 WEST SALT LAKE BASE AND MERIDIAN SAID POINT BEING THE CENTERLINE OF A PROPOSED BY PASS ROAD EASEMENT AND THE CENTERLINE OF AN EXISTING COUNTY ROAD; RUNNING THENCE ALONG THE BYPASS ROAD CENTERLINE THE FOLLOWING COURSES: S14°39'53"W 89.62 FEET TO THE PC OF A CURVE TO THE RIGHT; CURVE DATA: TANGENT 16.90' CHORD 33.75' COURSE N17°53'22"E RADIUS 300.00' DELTA 6°26'58" THENCE ALONG SAID CURVE 33.77 FEET TO THE PT; THENCE S21°06'51"W 192.60 FEET TO THE PC OF A CURVE TO THE RIGHT CURVE DATA: TANGENT 16.78' CHORD 127.38' COURSE N33°22'18"E RADIUS 300.00' DELTA 24°30'54" THENCE ALONG SAID CURVE 128.36 FEET TO THE PT; THENCE S45°37'44"W 469.48 FEET TO THE PC OF A CURVE TO THE LEFT; CURVE DATA: TANGENT 60.63' CHORD 118.85' COURSE S34°12'15"W RADIUS 300.00' DELTA 22°50'59" THENCE ALONG SAID CURVE 119.64 FEET TO THE PT; THENCE S22°46'45"W 228.51 FEET TO THE PC OF A CURVE TO THE LEFT; CURVE DATA: TANGENT 60.15' CHORD 117.95' COURSE S11°26'31"W RADIUS 300.00' DELTA 22°40'28" THENCE ALONG SAID CURVE 118.72 FEET TO THE PT; THENCE S00°06'16"W 256.42 FEET TO THE SOUTH LINE OF THE HEATON BROTHERS PROPERTY AND THE POINT OF ENDING.

ALTON COAL, LLC NORTH PRIVATE PERMIT LEASE AREA DESCRIPTION:

BEGINNING AT A POINT N65°11'15"E 3082.87 FEET FROM THE WEST QUARTER CORNER SECTION 13 TOWNSHIP 39 SOUTH RANGE 6 WEST SALT LAKE BASE AND MERIDIAN SAID POINT BEING THE CENTERLINE OF A PROPOSED BY PASS ROAD EASEMENT AND THE NORTH LINE OF THE NORTH PRIVATE PERMIT LEASE AREA PROPERTY; RUNNING THENCE ALONG SAID CENTERLINE THE FOLLOWING COURSES: S00°06'16"W 870.32 FEET TO THE PC OF A CURVE TO THE LEFT; CURVE DATA: TANGENT 398.58' CHORD 564.68' COURSE S44°47'37"E RADIUS 400' DELTA 89°47'48" THENCE ALONG SAID CURVE 626.90 FEET TO THE PT; THENCE S89°41'31"E 1877.24 FEET TO THE PC OF A CURVE TO THE RIGHT CURVE DATA: TANGENT 72.39' CHORD 140.74; COURSE S76°07'33"E RADIUS 300' DELTA 27°07'56" THENCE ALONG SAID CURVE 142.06 FEET TO THE PT; THENCE S62°33'35"E 76.59 FEET TO THE SOUTH LINE OF THE NORTH PRIVATE PERMIT LEASE AREA PROPERTY AND THE POINT OF ENDING.



EXHIBIT C

Legal Description of the Replacement Easement Area

BEGINNING AT A POINT N52°09'23"E 4413.80 FEET FROM THE WEST QUARTER CORNER SECTION 13 TOWNSHIP 39 SOUTH RANGE 6 WEST SALT LAKE BASE AND MERIDIAN SAID POINT BEING THE CENTERLINE OF THE REPLACEMENT ROAD EASEMENT AND THE CENTERLINE OF AN EXISTING COUNTY ROAD; RUNNING THENCE: S14°35'54"W 108.41 FEET; THENCE S11°35'34"W 111.22 FEET; THENCE S02°19'40"E 321.46 FEET; THENCE S13°27'08"E 444.10 FEET; THENCE S21°28'04"E 166.43 FEET; THENCE S42°42'54"E 323.24 FEET; THENCE S55°58'34"E 441.32 FEET; THENCE S52°00'18"E 312.75 FEET; THENCE S41°32'11"E 367.14 FEET; THENCE S31°48'12"E 407.12 FEET; THENCE S42°55'54"E 293.06 FEET; THENCE S55°10'16"E 217.66 FEET; THENCE S60°36'13"E 207.50 FEET TO THE SOUTH LINE OF THE NORTH PRIVATE PERMIT LEASE AREA PROPERTY AND THE POINT OF ENDING.

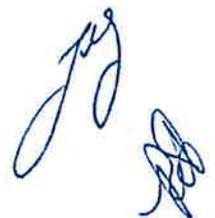
A handwritten signature in blue ink, consisting of a large, stylized initial 'J' followed by a surname that is partially obscured and difficult to read.

EXHIBIT D

Map of Easement Areas

12

ALTON COAL
LEASE BOUNDARY

7

R 6 W R 5 W

NORTH

Temporary Relocation of County Road

200 Acres
Heaton Brothers, LLC
9-6-13-2

ALTON COAL
LEASE BOUNDARY

Portion of existing road to be temporarily replaced

ALTON COAL
PERMIT BOUNDARY

120 Acres
Alton Coal Lease
9-6-13-1

13

18



**Kane County GIS/Transportation Dept.
Kane County Courthouse
76 N. Main St.
Kanab, Utah 84741
(435)-644-4968 (OFFICE)
(435) 644-2052 (FAX)
gis@kane.utah.gov**

December 15, 2015

Mr. Larry Johnson

It is our understanding that Alton Coal needs to open up coal fields north of the existing mine area and as agreed with Kane County Commissioners Alton Coal will be moving a section of Kane County Road K3900 to allow this new mining activity. Coal ore transportation will be allowed from this new site southerly to the existing mine facilities on the current Kane County Road K3900.

Kane County Commission and myself have discussed this issue thoroughly and have concluded due to the additional width of this roadway, 32 plus feet and the fact that it is only approximately 1.6 miles of gravel road that Alton Coal will be able to operate up to the agreed 12 foot width construction type trucks with typical left side operation in order to relocate this coal ore to the existing processing facilities.

By mutual agreement the coal trucks will be allowed to travel this short route with the understanding that their top speed will be limited to 25 mph, even though the road is posted slightly higher Kane County concurs that due to the larger size and weight of the trucks a slower limit set by your company will help with all public safety issues that may be of concern. The duration will not be long term but is yet undefined by Alton Coal and Kane County. Kane County's number one priority is that no public access will be impaired; we are 100% confident in dealing with Alton Coal that this will be strictly adhered too.

Sincerely,

A handwritten signature in black ink, appearing to read "Louis Pratt", written over a horizontal line.

Louis Pratt

Kane County GIS / Transportation Director