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DEPARTMENT OF NATURAL RESOURCES

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June 11, 2015

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

Subject: Phase I Bond Release Application, Alton Coal Development, LLC, Coal Hollow Mine, C/025/0005, Task ID #4903

Dear Mr. Nicholes:

The Division reviewed the Phase I bond release application, received on May 29, 2015. This application is being returned for the following reasons. On June 2, 2015, a Division inspector photographed ongoing grading work in area included in the bond release. The grading work in that same area (BRP1-5) was noted in the bond release as being completed in 2013-2014. These backfilling and grading dates are not only inaccurate, but also vague and cannot be used to start the bond clock. Please resubmit the application after the grading and drainage control for the BRP1-5 area is complete and provide an accurate date for completion.

In addition, the next bond release application for these areas should provide further information as outlined in Tech Directive 006, dated 2012 (TD 006) which was developed by the Division as a guide to aid in the review of Bond Release applications. For instance, the application should:

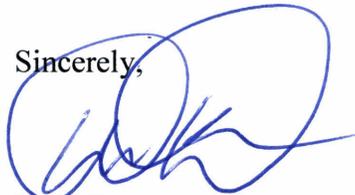
- cite the MRP Sections that cover the grading plan, subsoil placement and shaping for drainage control (TD 006, Sec. A. 4.)
- state the remaining sediment control structures and diversions to be removed and provide a schedule and cost estimate for the remaining reclamation work to be accomplished. (TD 006, Sec. A. 7. & 8).
- provide a summary of the current bond amount, total disturbed area acreage, and the cumulative acreage, locations and dates and amounts of bond released for Phase I. (TD 006, Sec. A. 9.).
- provide overburden chemical analyses results and discussion (TD 006, Sec. B. 4).
- evaluate subsoil replacement depths and provide subsoil chemical analyses (and topsoil, if included in this phase of bond release, TD 006, Sec B.5. & 6.)



The application maps should show the reclamation dates, acreage, operation or reclamation status of each area (TD 006, Sec. A. 2.). Most importantly, the cross section station locations must be shown on the reference sheets Figure 1A and 1B, so that the cross sections can be spatially located. (TD 006, Sec. B 2 & 3.)

For Phase I bond release, all the reclamation requirements for backfilling, regrading and drainage control measures for Phase I must be met. Given this requirement, the area of Robinson Creek and Ditch 4 must be shown as outside the BRP1-5 phase 1 bond release area at this time. A copy of Tech Directive 006 is attached for your information and guidance. Please call me at (801)538-5320 if you have any questions.

Sincerely,



Dana Dean
Associate Director

DD/PWB/ss
Enclosures
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State of Utah
 Department of Natural Resources
 Division of Oil, Gas and Mining
Coal Regulatory Program Directive

Directive Number:
 Tech – 006

Effective Date:
 July 25, 2012

Supersedes:
 May 1, 2001

Subject: **Requirements for Phased Bond Release**

Approved: _____ John R. Baza, Director, Division of Oil, Gas and Mining

DISCLAIMER

“This non-binding directive is intended for internal direction for the Utah Coal Regulatory Program to Clarify the implementation of the Utah Coal Rules. It neither confers rights nor imposes obligations on the Division or any other party. In the case where a conflict is perceived to exist between this directive and the Utah Coal Rules, the rules prevail.”

ABSTRACT

The objective of this policy is to provide information on the general requirements for bond release in accordance with rules and regulations pertaining to coal mining and reclamation operations in the state of Utah.

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1. Purpose

The purpose of this directive is to clearly present the requirements to request bond release under the Utah Coal Regulatory Program.

2. Regulatory Basis

R645-301-800.
30 CFR 800.40

3. Definitions

There are no additional definitions specific to this directive.

4. Policy

To petition for bond release the permittee must file an application with the Division. The Division will return the bond release application if all elements required by the bond release requirements are not provided.

The information supplied in the applicant's plan and bond release package must be adequate to allow the Division to conduct the following evaluations:

1. The degree of difficulty in completing any remaining reclamation and any reclamation that may be needed to bring the site to the premining land use should the proposed post mining land use fail.
2. Whether pollution of surface and subsurface water is occurring and the probability of future occurrence of such pollution, as well as the estimated cost of abating such pollution.

The applicant may obtain conditioned bond release approval, but actual bond release will not occur until all remaining transfers, lease conditions and other legal transactions are completed.

5. Procedure

PRIOR TO BOND RELEASE REQUEST

Prior to request for bond release, the reclamation plan and modifications to the reclamation plan, including changes in the post mining land use and those changes that result during reclamation, must be approved by the Division and

incorporated into the Mining and Reclamation Plan (MRP). This includes the following:

1. Provide certification that reclamation was done according to the designs in the approved plan, or provide as-built plans including designs, reports and drawings of the reclamation work accomplished and any modifications, amendments, or changes to the reclamation plan as a result of the reclamation.
2. Provide the maintenance agreements for structures approved to remain for the postmining land use. The maintenance agreements must state that the facilities will be properly managed and maintained by the land owner or managing agency following bond release and accept full liability for the facility.
3. Where the postmining land use is changed from the premining land use in accordance with R645-301-412 through R645-301-414, the MRP must address all applicable performance standards for bond release and the criteria by which successful reclamation for the post mining land use will be judged.

Prior to submitting an application for bond release, the Applicant should submit a "proposed" notice to be published in the local paper so that the Division can verify that it contains the necessary information and meets the requirements for publication. This proposed notice should be submitted a minimum of 30 days prior to the application for bond release.

REQUEST FOR BOND RELEASE

GENERAL ADMINISTRATIVE REQUIREMENTS

- I. Application for bond release may be filed only at times or during seasons authorized by the Division in order to properly evaluate the completed reclamation operations.
- II. A request for bond release must contain or reference the following administrative information and be filed with the appropriate C1 and C2 forms:
 - A. NOTARIZED SIGNATURE – A request will contain the notarized signature of a responsible official of the permittee, certifying that the information contained in the request is true and correct to the best of the official's information and belief; and all applicable reclamation activities have been accomplished in

accordance with the requirements of the Act, the Regulatory Program, and the approved Reclamation Plan.

B. NOTIFICATION LETTERS – Copies of letters of notification must be submitted to the Division. Notice Letters shall, at a minimum, contain the same information as submitted in the Newspaper Advertisement (see part C below) and shall be sent by the permittee to all parties who have a valid interest in release of the bond. Notice Letters shall identify the intent to seek bond release, and shall be sent to the following:

1. Surface Owners
2. Subsurface Owners
3. Adjoining Property Owners
4. County Commissioners
5. Mayors
6. Local Planning Agencies
7. Municipal Authorities
8. Sewage and Water Treatment Authorities
9. Water Companies

Depending on land ownership and management, other agencies that may need to be notified include:

1. Utah Division of State History
2. Utah Division of Water Rights
3. Utah Department of Environmental Quality
4. Utah Division of Wildlife Resources
5. Federal Agencies (OSM, BLM, Forest Service, Natural Resources Conservation Service, Fish and Wildlife Service, Mine Safety and Health Administration, etc.)

C. NEWSPAPER ADVERTISEMENT – Newspaper advertisements should be approved by the Division PRIOR to publication to ensure completeness. A copy of a newspaper advertisement which is published at least once a week for four consecutive weeks in a newspaper of the locality of the mining operation shall be submitted to the Division within 30 days of filing the bond release application. The advertisement shall contain the following items:

1. The permit number, name of the permittee, and the permit approval date.
2. A description of the precise location of the land affected.
3. The number of acres to be considered for release.

4. The amount and type of bond the Division currently holds.

5. The amount of bond being sought for release.

6. A description of the type of reclamation work performed and the dates when the work was performed and completed.

7. A description of the results achieved in relation to the mining and reclamation plan (i.e. stability, restoration of drainages, vegetation establishment).

8. A statement indicating written comments, objections and requests for public hearings or informal conferences may be submitted to the Division of Oil, Gas and Mining.

9. The closing date for submission of such comments, etc. (At least 30 days AFTER the last publication date).

10. The address of the Division of Oil, Gas and Mining.

D. PERMIT CONDITIONS – Demonstrate all outstanding permit conditions have been satisfied.

GENERAL TECHNICAL REQUIREMENTS

A. BOND RELEASE REQUEST (ALL PHASES) – A request for bond release must contain or reference (specific sections or exhibits from the MRP) the following technical information:

1. A legal description of the permit area and a legal description of the area requested for bond release if different than the permit area. Isolated and clearly defined portions of the permit area may be separated from the original area as long as the area and associated bond can be clearly distinguished from remaining areas. These areas should be limited in extent and not constitute a scattered, intermittent or checkboard pattern.

2. Maps at a scale of 1"=500' or larger (e.g. 1"=50') clearly illustrating the boundaries of lands for which bond release is being requested. The maps shall:

- a. Delineate all disturbed areas,
- b. Show the reclamation dates and acreages of each reclaimed area,

- c. Show the operation or reclamation status of each area, such as active; temporary cessation; or phase bond release, and,
 - d. Show areas proposed for bond release. The area must be a readily identifiable increment of land and be described in the application and notice.
3. Notify the Division 3 months in advance of vegetation sampling for PHASE II and PHASE III bond release to confirm adequacy of sampling methodology and schedule sampling dates.
 4. The specific reclamation treatments, areas, and work accomplished which is to be considered for bond release. Reference the pages or sections where postmining topography, drainage control, vegetation, intended land use, etc., are contained in the MRP.
 5. A brief history of mining and reclamation activities indicating when mining operations began and ended and when earthwork and topsoil distribution began and ended.
 6. Dates of last seeding, rill and gully repair or other augmentative practices, and references to approval for any husbandry practices occurring during the period of extended responsibility.
 7. Remaining sediment control structures (ponds, silt fences, straw bales) and diversions to be removed and any release of refuse piles and impoundments from MSHA requirements.
 8. A detailed schedule and cost estimate for the remaining reclamation work to be accomplished. The cost estimate shall include, but not be limited to: cost for remaining reclamation treatments; revegetation; diversion and sediment pond removal; access road removal; vegetative, water, and other monitoring requirements; surveys or studies to determine reclamation success; maintenance costs; and engineering and contingency costs and any reclamation that may be needed to bring the site to the premining land use should the proposed post mining land use fail.
 9. A summary of the current bond amount, total disturbed area acreage, and the acreage, locations, dates and amounts of bond released for PHASE I, PHASE II, and PHASE III reclamation.
- B. PHASE I BOND RELEASE – Bond release for PHASE I may be considered only after the applicant

demonstrates and the Division is satisfied that all the reclamation requirements for backfilling, regarding and drainage control measures for PHASE I are met. This phase may include topsoil replacement.

For PHASE I bond release, the following information must be included in the bond release package or referenced in the MRP:

1. All applicable information required in: BOND RELEASE REQUEST (ALL PHASES)
 2. A map illustrating the “as-built” topography (refer to: PRIOR TO BOND RELEASE REQUEST)
 3. Postmining Contour Topographic Maps (no smaller than 1”=500’) showing detail including:
 - a. Postmining hydrologic features including restoration of natural drainages. It should also show ponds, diversions, wells and monitoring sites to be removed at PHASE II,
 - b. Cross sections showing important topographic features including but not necessarily limited to, approximate original contour, roads etc.,
 - c. Dates of backfilling and grading activities,
 - d. Dates to topsoil replacement, and
 - e. Topsoil replacement depths.
 4. Overburden chemical analyses results, and discussion on potential adverse affects on plant growth or water quality.
 5. Evaluation of topsoil or substitute soil including chemical and physical analyses and replacement depths (if included in this phase of bond release).
 6. Evaluation of subsoil including analyses and replacement depths (optional).
- C. PHASE II BOND RELEASE – Bond release for PHASE II may be considered only after the applicant demonstrates, and the Division is satisfied that all the reclamation requirements for PHASE I reclamation, and vegetation and water quality requirements for PHASE II reclamation are met in accordance with the MRP.
- For PHASE II bond release, the following information must be included in the bond release package or reference in the MRP:
1. All information required above in BOND RELEASE REQUEST (ALL PHASES) and completion of PHASE I bond release, including

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topsoil replacement requirements if not previously met.

2. A detailed analysis showing that vegetation meets the provisions in the approved reclamation plan, Utah Coal Rules and policy, and includes; sampling data on production (for cropland), cover, species composition; and sampling methodology. In the event the area under consideration includes prime farmlands, soil productivity yield must be demonstrated to be returned to the equivalent yield for non-mined land of the same soil type in the surrounding area under equivalent management practices, as determined from the soil survey performed pursuant to UCA 40-10-11(4) of the Act and R645-301-200 rules.
 3. A demonstration that no part of the land considered for bond release is contributing suspended solids to streamflow or runoff outside the permit area in excess of the requirements set by UCA 40-10-17(2)(j) of the Act and by R645-301-751 of the rules.
 4. Where a sediment pond or impoundment is to be retained as part of the postmining land use, a demonstration that the pond: 1) has a size and configuration adequate for its intended purposes, 2) the impounded water quality is suitable on a permanent basis for its intended use, 3) the pond has a sufficiently stable water level and is capable of supporting the intended use, 4) will meet applicable Utah and federal water quality standards after reclamation including demonstrating discharges from the impoundment will meet applicable effluent limitations and will not degrade the quality of receiving water below applicable Utah and federal water quality standards, and 5) the applicant must also show that there are provisions for sound future maintenance of the sediment pond or impoundment and a valid water right exist to legally allow the water to be put to beneficial use.
- D. PHASE III BOND RELEASE – Bond release for PHASE III may be considered only after the Division is satisfied that all the reclamation requirements for PHASE I and PHASE II reclamation are complete, the period specified for Permittee responsibility in R645-301-357 is met, and all requirements of the Act and the permit are fully met for PHASE III.

For PHASE III bond release, the following information must be included in the bond release package or referenced in the MRP.

1. All information required in the above BOND RELEASE REQUEST (ALL PHASES).
2. A demonstration that the period specified for Permittee responsibility in R645-301-357 is met.
3. A surface and groundwater quality and quantity impact analysis assessing hydrology data relative to the impact projections contained within the Probable Hydrologic Consequences (PHC) and Cumulative Hydrologic Impact Assessment (CHIA). The analysis must show a) That onsite impacts have been minimized and that offsite impacts have been prevented, b) Water quality demonstrated to be adequate for the post mining land use, and c) Trends.
4. Detailed vegetation information, for the last two years of operator responsibility, including sampling data on woody plant densities, productivity and cover, species composition, and sampling methodology. A detailed demonstration of how all the requirements of R645-301-350 have been met in accordance with the approved reclamation plan and as required by state regulation and policy.
5. A detailed demonstration that the approved postmining land use is achieved. This may include, but not be limited to, lease agreements, zoning information, contracts, and letters of commitment for industrial/commercial or residential uses; information on water availability and suitability for developed water resources; vegetation productivity; livestock use; wildlife counts; and recreational use.
6. Provide any contracts, agreements, or summaries of agreements demonstrating the likelihood of achieving an alternate post mining land use where a change in the postmining land use from the premining land use is approved by the Division.
7. Analysis of observed versus projected subsidence impacts, and a discussion of how any subsidence-caused material damage was prevented or mitigated. Information demonstrating that subsidence monuments have been removed.

8. Information demonstrating the requirements for all contracts and obligations has been met. This may include, as appropriate, transfer of water rights, well ownership, grazing rights, and coal lease provisions. Information demonstrating that all wells have been capped, cased, sealed or back filled if not transferred.

BOND RELEASE INSPECTION

I. NOTIFICATION OF INSPECTION – Upon acceptance of a complete application, the Division shall within 30 days, or as soon thereafter as weather conditions permit, inspect and evaluate the reclamation. The Division will make the following notifications of the bond release inspection:

- A. The Division will give notice of the inspection to the surface owner, agent or lessee, who may participate with the Division in the bond release inspection. The Division may also arrange with the Permittee to allow other persons with an interest in bond release access to the site for the purpose of gathering information relevant to bond release proceedings.
- B. The Division shall notify the Office of Surface Mining (OSM) (and other federal agencies, if necessary) two weeks prior to the scheduled bond release inspection, in accordance with Article IX.B of the State-Federal Cooperative Agreement.

II. INSPECTION AND EVALUATION – The Division will conduct the following evaluations during the bond release inspection:

- A. The degree of difficulty in completing any remaining reclamation and any reclamation that may be needed to bring the site to the premining land use should the proposed post mining land use fail.
- B. Whether pollution of surface and subsurface water is occurring and the probability of future occurrence of such pollution, as well as, the estimated cost of abating such pollution.
- C. If all other aspects relating to the requested bond release have been completed.

PUBLIC HEARINGS AND WRITTEN OBJECTIONS

Written objections and requests for public hearings or informal conferences may be made by any person with a

valid legal interest which might be adversely affected by release of the bond or by any federal, state or local governmental agency which has jurisdiction by law, special expertise, or enforcement regarding any impact involved in the operation.

- A. If written objections are filed and a hearing is requested, the Division will inform all the interested parties of the time and place of the hearing and will hold a public hearing within 30 days after receipt of the request for the hearing. The date, time and location of the public hearing will be advertised by the Division in a newspaper of general circulation in the locality for two consecutive weeks. The public hearing will be held in the locality of the coal mining and reclamation operations from which bond release is sought, or at the location of the Division office, at the option of the objector.
- B. The Division may hold an informal conference as provided in UCA 40-10-13(2)(b) of the Act to resolve written objections. The Division shall make a record of the informal conference, unless waived by all parties, which shall be made accessible to all parties. The Division shall also furnish all parties of the informal conference with a written finding of the Division based on the informal conference and the reasons for said finding.
- C. The Division shall notify the operator, surety and persons who either filed objections in writing or who were party to the hearing proceeding, if any, of its decision to release or not release all or part of the performance bond. If not public hearing is held, the notification shall occur within 60 days from the filing of the bond release application, or, if a public hearing is held, within 30 days after the hearing has been held.

BOND RELEASE, DETERMINATION OF AMOUNT

The Division shall review, revise and approve the recalculated bond amount as necessary in order to determine the amount of bond to be retained and the amount of bond to be released. If it is determined that the current bond amount is inadequate and the remaining costs exceed what is currently held by the Division, the Division may require an increase to the bonding sum rather than a partial reduction of the dollar value of the bond. It may be possible to release partial liability on lands reclaimed without actually reducing the dollar sum.

PHASE I bond release shall in no case exceed 60% of the bond for the applicable area.

PHASE II bond release shall require that the Division retain the amount of bond for the revegetated area which would be sufficient to cover the cost of reestablishing revegetation if completed by a third party and for the period specified for operator responsibility in UCA 40-10-17(2)(t) of the Act for reestablishing revegetation.

PHASE III or final bond release shall not be made until such time as the period specified for Permittee responsibility in R645-301-357 has been met (if applicable) and until all reclamation requirements of the Act and the permit are fully met.

6. Delegated Responsibilities

N/A.

7. Reporting Requirements

Written analysis and findings will be prepared in response to the bond release application. This decision document shall include the preliminary findings responding to the information prepared in the petition for bond release. In the event the information in the petition for bond release is inadequate or incomplete for the Division to determine that phased bond release can be accomplished, the Division shall require that such deficiencies be corrected prior to conducting the bond release inspection.

The Division will prepare a field report summarizing the bond release inspection. The report shall include any concerns raised by persons present at the time of the inspection. The filed report will be used in conjunction with the information presented by the operator to evaluate the reclamation for the purpose of bond release.

Following the bond release inspection, the Division shall finalize the analysis and findings made in response to the petition for bond release. Comments or on-site conditions evaluated during the course of the bond release inspection shall be incorporated into these analyses and findings.

These analyses and findings will include the determination of the bond amount required following approval of phased bond release. Article IX, B of the Cooperative Agreement requires OSM concurrence on federal bonds (and concurrence from other applicable federal agencies on federal lands.) A draft outline of the findings and analyses and other pertinent information for all Phases of bond

release can be found as Appendix A – Draft Decision Document for Bond Release.

Upon completion of the Decision Document and receipt of concurrence from OSM and other land management agencies, the Division (Division Director) shall notify the permittee that the bond amount may be revised to the approved amount.

8. References

AOC Tech Directive (Tech-002)
Vegetation Information Guidelines
Soil Guidelines

9. Effect on Other Documents

None.

10. Division Contact/Work Group

Bond Release Directive Team: Susan White, Wayne Western, Randall Harden, Pamela Grubaugh-Littig and Paul Baker.

11. Key Words

Bond, Bond Release

12. Appendices

Appendix A – Draft outline of Decision Document for Bond Release.

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