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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

April 23, 2018

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

Subject: Findings of Fact, Conclusions, and Order for Violation NO21194, Alton Coal Development, LLC, Coal Hollow Mine, C/025/0005

Dear Mr. Nicholes:

On March 29, 2017 an Informal Assessment Conference was held at the Division of Oil, Gas and Mining regarding a violation Issued to Alton Coal Development, LLC at the Coal Hollow Mine. As a result of the facts given at the conference I have upheld the violation, and directed the Division to assess an appropriate fine.

Within fifteen (15) days of your receipt of this finding, you or your agent may make a written appeal to the Board of Oil, Gas and Mining. This will not waive your right to an informal or formal hearing regarding the fine once it is assessed.

Sincerely,

Dana Dean, P.E.
Associate Director
Assessment Conference Officer

DD/vs

CC Priscilla Burton
Daron Haddock
John Webster

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**BEFORE THE DIVISION OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH**

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**IN THE MATTER OF THE
INFORMAL ASSESSMENT**

**CONFERENCE for PROPOSED
ASSESSMENT; VIOLATION No.
N21194, ALTON COAL
DEVELOPMENT, COAL
HOLLOW MINE, C/025/0005,
KANE COUNTY, UTAH**

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**FINDINGS of FACT,
CONCLUSIONS OF LAW
AND ORDER**

CAUSE NO. C/0025/0005

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On March 29, 2017 the Division of Oil, Gas and Mining (Division) held an Informal Assessment Conference as provided for by Utah Admin. Code R645-401-700 (2017) in response to the written request by Alton Coal Development (ACD) to review the fact of violation and amount assessment for Notice of Violation NO21194 (NOV), issued to it on March 15, 2017 for operations at the Coal Hollow Mine, C/025/0005, Kane County, Utah.

ISSUES

The Division in its Notice of Violation found that Utah Admin. Code rules R645-301-722.100 through 752.240 had been violated. These rules require that sediment control measures be located, maintained, constructed and reclaimed according to plans to control or prevent erosion and the contribution of suspended solids to runoff outside the permit area. The Division has not assessed a fine, pending the outcome of this conference.

PARTIES

Dana Dean, Associate Director of the Division of Oil, Gas and Mining served as the hearing officer. The hearing was conducted as an informal adjudicative proceeding. Priscilla Burton and Daron Haddock represented the Division in defense of the fact of violation. Andrew Christensen and Kirk Nicholes represented ACD and presented the position and arguments on its behalf.

No recording or transcript of the conference was made.

Based on the information provided at the conference, the statements presented by those speaking, and on information in the files of the Division, the following Findings of Fact and Conclusions of Law were made.

FINDINGS OF FACT

- Snowmelt and storms caused many issues that were noted in the February site inspection and not written as violations at the time due to the unusually high run-off conditions that were difficult to anticipate.
- At the time of the subsequent inspection on , 2017 ACD had succeeded in fixing most of the sediment controls problems caused by high runoff in the areas they are currently working.
- The Pit 10 area, which is the location of the idled underground operation at ACD's mining operations, seemed to have been neglected. [until the inspector desired to see it]
- The sedimentation controls in the Pit 10 area were not working in accordance with the plan and could have been contributing suspended solids to Pond 3, which was already overtaxed and had been decanting 55 gpm for several weeks.
- The general area of the mine was wet and had been affected by the high runoff in February, but the photos from the March 2017 inspection showed no signs of recent maintenance in Pit 10 and several completely buried culverts and detached piping structures.
- The Pit 10 area drainage issue was brought to ACD's attention last year during runoff events and ACD was required to upgrade the drainage controls in and around Pit 10. ACD was not able to provide evidence that everything in that plan was completed as required; e.g. the rip-rap in Ditch R-04 appeared not to have been done.

CONCLUSIONS OF LAW

1. The Division allowed ACD a reasonable amount of time for ACD to address the unusual conditions of the very wet February.
2. The evidence supports the Division's issuance of the Notice of Violation #N021194 in March 15, 2017 for failure to properly maintain drainage controls in the Pit 10 area.
3. The Division should proceed with assessment of this violation.

ORDER

NOW THEREFORE, it is ordered that:

1. The fact of the violation 21194 is upheld.
2. The Division shall proceed with assessment of this violation.

SO DETERMINED AND ORDERED this 23rd day of April 2018



Dana Dean, P.E., Associate Director
Division of Oil, Gas and Mining