



State of Utah

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Department of  
Environmental Quality

Alan Matheson  
Executive Director

DIVISION OF WATER QUALITY

**Date**

Larry W. Johnson, Manager  
Alton Coal Development, LLC  
463 N. 100 W.  
Cedar City, Utah 84095

**Subject:** **DRAFT Approval 401 Water Quality Certification with Conditions.**  
401 Water Quality Certification No.: DWQ-2001-01248.  
USACE 404 NWP Permit No.: SPK-2001-01248.

**Applicant:** Alton Coal Development, LLC (ACD).  
**Project:** North Private Lease Area (NPLA)  
**Date of Application:** June 9, 2017, DWQ-2017-005348.  
**Requests:** ACD operates commercial coal mining operation permitted as Coal Hollow Mine (CHM) in Kane County, Utah. The Applicant is requesting to expand operations from their current mining operation in Area 1 of the NPLA north and east into Areas 2 and 3.

**Purpose:** According to the Applicant the overall project purpose is to continue the existing coal mine operation and keep skilled workers employed.

**Location:** The approximately 296-acre project site is located approximately 1 mile southeast of the Town of Alton and directly east of County Road 10, Latitude 37.4266°, Longitude -112.4694°, Kane County, Utah, and can be seen on the UT-BALD KNOLL USGS topographic quadrangle.

**Watercourse:** Kanab Creek and tributaries.  
**USACE Public Notice Period:** July 17, 2016 – Sept. 18, 2016.  
**Division of Water Quality (DWQ) Public Notice Period:** July 13, 2017 – August 11, 2017.  
**Public Comments Received:** **To Be Determined.**

Dear Mr. Johnson:

Pursuant to Section 401 of the Federal Water Pollution Control Act, commonly known as the Clean Water Act (CWA), the Utah Department of Environmental Quality, Division of Water Quality (DWQ) certifies that the ACD has provided reasonable assurances that any discharge associated with the NPLA #2 and #3 (Project) will not violate surface water quality standards, or cause additional degradation in surface waters not presently meeting water quality standards.

The ACD is seeking a Standard Individual Permit from the USACE under Section 404 of the CWA for the discharge of fill into approximately 2.38 acres of jurisdictional wetlands, 0.04 acre

of jurisdictional open water, as well as temporary discharge of fill and construction of a culvert in 0.05 acres of jurisdictional wetland and 257 linear feet of jurisdictional stream to expand coal mining operations into Areas 2 and 3. Of the impacted waters, 2.38 acres of wetlands and 0.04 acres of open waters in the ephemeral drainage that crosses Area 2 north to south would be permanently lost due to surface mining excavation operations. An additional 257 linear feet of intermittent stream (Kanab Creek) and 0.05 acres of wetlands adjacent to Kanab Creek would be temporarily impacted by the construction of a dirt fill and concrete CMP culvert crossing to accommodate a haul road to transport coal mined from Area 3.

The affected portions of Kanab Creek and tributaries have the following beneficial uses as stated in Utah Administrative Code (UAC R317-2-6):

Class 2B - Protected for infrequent primary contact recreation. Also protected for secondary contact recreation where there is a low likelihood of ingestion of water or a low degree of bodily contact with the water. Examples include, but are not limited to, wading, hunting, and fishing;

Class 3C - Protected for nongame fish and other aquatic life, including the necessary aquatic organisms in their food chain;

Class 4 - Protected for agricultural uses including irrigation of crops and stock watering.

As documented in Utah's *2016 Integrated Report*, Kanab Creek and tributaries were assessed as Category 5. Category 5 waters are impaired, which means that they are not supporting their designated beneficial uses. The pollutants that exceed numeric water quality criteria are selenium, boron and total dissolved solids.

The USACE is requested to include the following Conditions of this 401 Water Quality Certification in the USACE 404 Permit SPK-2001-01248 based on the 401 Water Quality Certification Application received June 16, 2017, DWQ-2017-005465 and the Utah Division of Oil, Gas and Mining (DOG M) Mine Reclamation Program documents DWQ-2017-005427, -005348, -005365, -005369 along with information passed on from several ACD and DOGM conference calls and meetings. In accordance with Section 401(a)(1) of the CWA [33 U.S.C. Sec. 1341(a)(1)], DWQ hereby issues this 401 Water Quality Certification with Conditions provided the items outlined below are met and included in the U.S. Army Corps of Engineers (USACE) 404 Permit SPK-2001-01248.

1. ACD should ensure that all workers involved are continuously aware of water quality protection measures before the start and during the construction period.
2. Water quality standards in Kanab Creek and its tributaries could be violated unless appropriate Best Management Practices (BMPs) are incorporated to minimize waste or other substances that may cause conditions which are undesirable for aquatic life (see UAC R317-2-7.2). Utah Administrative Code R317-2 (Utah Water Quality Standards) requires that the ACD and their subcontractors cannot increase water turbidity by 10

NTUs in Kanab Creek and tributaries. The ACD shall immediately document and notify DWQ of any discharge violations.

3. Implement the Division of Oil, Gas & Mining approved ACD Mining and Reclamation Plan (MRP) including all hydrologic monitoring locations and protocols outlined in Table 7-4. Any deviation from the MRP that could potential impact water quality, including flow, will need to be reported to the DWQ Director. Additionally, the open-pits are to be backfilled, recontoured and revegetated per DOGM's reclamation standards and monitored for ten years. The crossing at Kanab Creek will be removed at the conclusion of the mining operation and Kanab Creek and associated riparian wetlands restored to their approximate original condition and monitored for ten years.
4. Fill material to construct Area 3 haul road will not leach harmful components and will consist of clean fill, native soils and compacted road base. All storm water road way run-off will not enter Kanab Creek, including any crossing, and will be diverted to the sedimentation ponds permitted in UPDES Permit No. UT0025992.
5. Submit concurrently a copy of the DOGM report of the updated ground water model as described in the MRP.
6. Submit concurrently a copy of the DOGM report that documents the final predicted post-mining groundwater flow as compared to the pre-mining groundwater flow in respect to the potential for impacts to the local and regional groundwater system. The comparison and discussion should include a description of the anticipated post-reclamation aquifer characteristics. Every reasonable effort should be made to construct at least one monitoring well (BW-1, in a post-mining backfilled pit) to evaluate water quality and the water table elevations quarterly.
7. A 100' minimum setback from the crest of the open pits in Area 2 & 3 should be maintained at all time from the Kanab Creek centerline (KCCL). Additionally, a 250' minimum setback should be maintained at all time from KCCL to any pit intercepted alluvial groundwater table.
8. Submit DWQ a copy of the USACE Final Mitigation Completion report required under SPK-2011-01248 when it is completed and a copy of the USACE 404 Individual Permit SPK-2011-01248.
9. Ensure that the project's water quality monitoring plan includes at least two sampling sites on Kanab Creek, one immediately above and one immediately below the project area. For all ground and surface water quality samples, the monitoring plan shall include analysis of boron, selenium, total dissolved solids, and all other metal parameters protective of the 3C use as defined in R317-2-14.
10. Coyote Seep surface elevation must be measured from a surveyed and fixed elevation in addition to taking a flow measurement quarterly.
11. Refueling equipment and storage of lubricants and fuels will occur at designated staging areas and in state approved containers. The storage and refueling areas will be at least 200 feet from the edge of the nearest water body (including wetlands and springs) and at least 100 feet from any private water or municipal water supply well.

12. Utah Code Annotated 19-5-114 requires that any spill or discharge of oil or other substances which may cause pollution to the waters of the State, including wetlands, must be immediately reported to the Utah DEQ Spill Hotline at (801) 536-4123, a 24-hour phone number. ACD agrees to fully remediate any spill or discharge in accordance with all applicable regulations.
13. ACD must acquire all necessary easements, access authorizations and permits to ensure they are able to implement the Project.
14. The legislatively-mandated fee for 2017 is \$90.00/hour, for review and issuance of the §401 Water Quality Certification <http://www.deq.utah.gov/FeesGrants/fees/docs/2016/DEQFEEDOC17.pdf>, per: (see page 174). An invoice will be sent to you and your payment will be due within 30 days or the invoice date.
15. ACD shall not use any fill material which may leach organic chemicals (e.g., discarded asphalt), nutrients (e.g., phosphate rock) that can potentially discharge into Kanab Creek. Additionally, any discharge of boron, selenium, and total dissolved solids into impaired sections of Kanab should be prevented to avoid contributions to existing impairments.
  - a. Construction activities that disturb one acre or more are required to obtain coverage under the Utah Pollutant Discharge Elimination System (UPDES) Storm Water General Permit for Construction Activities, Permit No. UT00000. The permit requires the development of a storm water pollution prevention plan (SWPPP) to be implemented and updated from the commencement of any soil disturbing activities at the site until final stabilization of the project. A fact sheet describing the permit application procedures are located on our website at: <https://deq.utah.gov/Permits/water/updes/stormwatercon.htm>.
  - b. Dewatering activities, if necessary during the construction, may require coverage under the UPDES General Permit for Construction Dewatering, Permit No. UTG070000. The permit requires water quality monitoring every two weeks to ensure that the pumped water is meeting permit effluent limitations, unless the water is managed on the construction site. For more dewatering information refer to DEQ's website at: <http://www.deq.utah.gov/Permits/water/updes/docs/utrc00000.pdf>
16. §401 Certification Modification: Without limiting DWQ's discretion to take other actions in accordance with UAC R317-15, and, as applicable, 33 USC 1341, DWQ may modify the Certification to add, delete, or modify the conditions in this Certification as necessary and feasible to address:
  - a. Adverse or potentially adverse project effects on water quality or designated beneficial uses that did not exist or were not reasonably apparent when this Certification was issued;
  - b. TMDLs;
  - c. Changes in water quality standards;
  - d. Any failure of Certification conditions to protect water quality or designated beneficial uses when the Certification was issued.

Please contact Mr. Bill Damery at (801) 536-4354, [wdamery@utah.gov](mailto:wdamery@utah.gov) with any questions you may have concerning this 401 Water Quality Certification with Conditions.

Sincerely,

Erica Brown Gaddis, PhD  
Director

cc: Craig Brown, USACE, and Landon Newell, SUWA, via email.

DWQ-2017-005242 Application