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PLATEAU MINING COMPANY

A Subsidiary of Getty Mining Company
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Orig to Marjle w/enc.
RECEIVED

DIVISION OF
OIL, GAS & MINING

October 28, 1983

*Copy w/o enc to
Ron D. and*

Mr. Ronald W. Daniels
Deputy Director
Department of Oil, Gas and Mining
State of Utah - Natural Resources Division
4241 State Office Building
Salt Lake City, Utah 84114

Re: County Roads - Star Point Mines, ACT/007/006,
Folder No. 6, Carbon County, Utah

Dear Mr. Daniels:

Plateau Mining Company ("Plateau") is in receipt of your letter dated October 5, 1983, regarding county roads and the necessity for permitting and maintaining the same. With respect to the issues raised in that letter, Plateau asserts that the subject county road ("the Wattis Road") is a public road and not subject to coal mining permit requirements. In support thereof, Plateau submits the following information.

While certain coal hauling and related coal mining operations are performed by Plateau on the Wattis Road, the entirety of such operations take place within the present Star Point Mines mining and reclamation permit boundary. No coal hauling or mining operations are performed by Plateau outside of said permit boundary and the present permit area is sufficient. For your assistance, a map clearly indicating the location of said road as well as the subject permit boundary is enclosed.

As evidenced by the enclosed map, the Wattis Road enters the permit boundary from the east and extends southeastward therefrom to County Road 122, running between Highway 10 and the town of Hiawatha. With respect to that portion of the county road outside of the permit boundary, there is no doubt that it is a public road, both as a matter of common sense as well as under the twofold "public road test" set forth in your letter of October 5, 1983.

Specifically, as to the issue of maintenance with public funds, it is essential to note that the subject road, which is a permanent asphalted road, was originally constructed by the State of Utah sometime prior to the existence of Plateau Mining Company. The origi-

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nal date of said construction is, at this point in time, unknown, however, efforts are being made to determine the same. Sometime after its construction, the road was deeded by the State to Carbon County who presently holds all rights and title in and to the same. In accordance with its ownership interest, the County has performed and continues to perform any and all maintenance on the road and has re-surfaced the same on several occasions. At no time has Plateau Mining Company performed any maintenance or work on the road. The County's ownership and maintenance clearly was evidenced in the early 1960's when Carbon County lengthened the road on the western side of Plateau's permit boundary in order to connect the same with an existing United States Forest Service road accessing a county owned and operated television relay station. Further evidence of such ownership and control is supplied by the fact that the road is and has been patrolled by Carbon County law enforcement officials.

With respect to the issue of "significant public use", Plateau Mining Company asserts that there can be no question but that the Wattis Road is subject to significant public use. As noted above, Carbon County, in the early 60's, constructed an extension to the Wattis Road accessing a Forest Service road to the County's television relay station. County officials use the road on a regular basis to perform work on said relay station and will continue to do so. The United States Forest Service also utilizes the road on a continuous basis for access to areas around the Plateau permit boundary. As you are aware, the United States Forest Service manages the natural resources in those areas and administers grazing and other activities thereon. In discussions with officials at the Forest Service, it was indicated that they utilize the Wattis Road on a regular basis and that it is of great value to them. It was further indicated that said road constitutes one of two necessary accesses to the area and that its continued existence is essential.

The United States Bureau of Land Management ("BLM") also utilizes the road on a regular basis and considers the same extremely valuable to its operations. Specifically, the BLM has issued and manages four (4) cattle and/or sheep grazing allotments on properties accessed by said road and anticipates the indefinite continuance of said grazing activity. Said grazing activity continues throughout the year and requires access at all times. Persons handling the livestock

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grazing on the BLM areas also require continuous access thereto and regularly utilize the Wattis Road therefor.

The BLM has also issued several oil and gas leases and exploration permits on areas accessed by the subject road and its continued use and existence is necessary therefor. At the present time, there is one natural gas well on the properties located to the west of the permit boundary and use of the road for access thereto is regular and essential. The BLM anticipates that new and/or additional oil and gas rights may be issued for areas accessed only by the Wattis Road and its continued existence is again necessary.

In addition to the foregoing public uses, additional and substantial use is encountered in connection with recreation on and private ownership of properties accessed thereby. In particular, a substantial number of hunters utilize the property during hunting season and it is anticipated that such use shall continue at its present or an escalated rate. Records kept by Plateau Mining Company indicate that during the 1982 deer hunting season, one hundred ninety-eight (198) hunter trips were encountered through the property. Preliminary records for the year 1983 season indicate that a similar level of public use will occur. In addition to recreational use, the subject road is essential to parties owning private properties accessed by the subject road. As evidenced by County records, private properties serviced by the Wattis Road are held by John and LaRue Pettitti, Clifford Smith, U.S. Fuels Company, the County of Carbon, and the State of Utah. More importantly, Mr. Clifford Smith owns and maintains a residence on a portion of property serviced by the Wattis Road and regularly utilizes it for access thereto.

Finally, it should be recognized that the Utah Railway Company owns and operates a main rail line and spur track on property accessed solely by the subject road. Employees of the Utah Railway utilize the subject road on a regular and continuous basis throughout the year for purposes of track maintenance and inspection. As noted above, this rail line is an essential "mainline" for the Utah Railway, and shall remain as a permanent structure requiring continued maintenance and visitation. Additionally, said road accesses a structure owned, built and operated by the Utah Railway for use in connection with its railroading operations in the area. Said structure is adja-

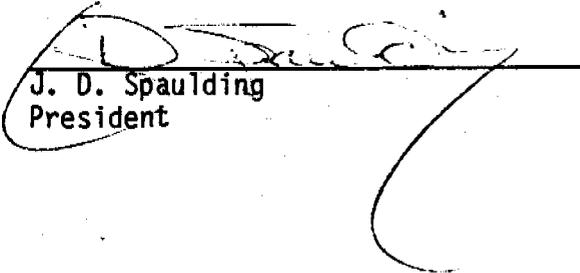
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cent to its mainline track and immediately east of the Plateau permit boundary.

Upon considering the foregoing information, we are certain you will agree that the Wattis Road outside the existing Plateau permit boundary is a "public road" under any reasonable definition thereof and not subject to the permitting requirements of the Division of Oil, Gas and Mining. In the event that you require additional information or if we can assist in any way, please don't hesitate to give either myself or Mr. Jeffrey C. Collins of our office a call.

Very truly yours,

PLATEAU MINING COMPANY



J. D. Spaulding
President

JDS/JCC:lm1

cc: Messrs. Walter Mueller, Jr.
Jeffrey C. Collins

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