

October 29, 2004

Drew Sitterud, Chairperson
Emery County Commissioners
P. O. Box 629
45 East Highway 10
Castle Dale, Utah 84513

Re: Request for Information, Status of Agreements Concerning Lila Canyon Road #126,
Lila Canyon Extension, UtahAmerican Energy, Inc., Horse Canyon Mine,
C/007/0013, Outgoing File

Dear Mr. Sitterud:

This letter is in response to a telephone conversation with Mr. Rex Funk on September 24, 2004 of the Emery County Road Department. The Division contacted him regarding the validity of the Lila Canyon Road Agreement (Road #126) that was signed by Emery County and UtahAmerican Energy, Inc. (UEI) on October 19, 1999 (copy enclosed). Mr. Funk suggested asking you for verification to determine if the past road use agreements are still valid.

We are continuing the permit application review process for the Lila Canyon Extension to the Horse Canyon Mine. This information is required to assist us in making the requisite permit findings.

Please provide a response with your determination if the agreement is still valid and if not, please outline the revisions or updates required to make the October 1999 agreement current.

Thank you for your time and assistance in this regard. Please call me at (801) 538-5286 if you have any questions.

Sincerely,

D. Wayne Hedberg
Permit Supervisor

dwh
Enclosure – 10/99 agreement
cc: Rex Funk, Emery County Road Department w/enclosure
Jay Marshall, UEI
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AGREEMENT

This agreement made and entered into this 19 day of October 1999, by and between Emery County, a body corporate and politic (County), and Utah American Energy, Inc. (UEI).

WHEREAS, there is an existing road in Emery County known as Lila Canyon Road (#126) and

WHEREAS, UEI requires extensive use of said road, and

WHEREAS, due to said extensive use, said road must be improved for the health, safety and welfare of the citizens of County as well as others who may have occasion to use said road,

NOW THEREFORE, be it agreed as follows:

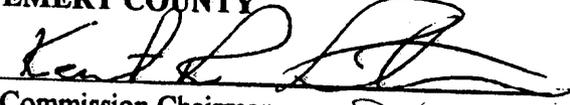
1. The parties hereto agree and acknowledge that presently the southwest portion of the road known as Lila Canyon Road is a County road. Said County road runs from State Route 6 in a Northeasterly direction for approximately 2.63 miles to a presently existing corral. Thereafter the road is an unimproved RS 2477 roadway under assertion by Emery County with the Bureau of Land Management (BLM) and identified as assertion #144 lower Lila point, #155 Lila Canyon and #326 Lila Canyon Lila Pt. The Assertions were indexed and submitted to BLM Jan. 8, 1993.
2. That Emery County will improve the Lila Canyon Road according to the plans and specifications as approved by Johansen & Tuttle Engineering, Inc., as Emery County's engineers of record.
3. The parties shall enter into an Escrow Agreement. Johansen & Tuttle Engineering, Inc. estimates for such improvements are shown in attachment A. Estimates for each phase shall be carefully reviewed and brought up to date before funds are put in escrow prior to initiation of the individual phases. UEI and Emery County shall jointly agree in writing before beginning any specific phase. No phase shall commence before the required funds for that specific phase is in escrow. Each phase once initiated shall be completed.
4. Insofar as the road will be used by the public for access to private and public lands and by UEI for access and construction of the Lila Canyon mine, and insofar as improvement of the Roadway would not otherwise be a budgeted item for Emery County given other priorities for highway maintenance or reconstruction, it has been agreed between Emery County and UEI that the total cost of the reconstruction of the county road shall be the responsibility of UEI. Upon satisfactory completion by both parties of each phase, any remaining unspent funds in escrow shall remain sole property of UEI.

Is this agreement still in effect??

5. UEI will assist the County in obtaining additional road ROW's as required. The newly applied for BLM, ROW #UTU- 76617, now in the EA process will, be issued and assigned to Emery County.
6. Emery County shall make available at no cost, any native rock or dirt materials available on County or otherwise permitted local properties which might be suitable for road construction.
7. UEI shall acquire an Encroachment Permit from Emery County and comply with the conditions as set forth in the permit. It is agreed that when UEI is operating any coal mining or reclamation activity within 100' of a County road that UEI shall protect the public from normal hazards associated with said activity by installing a 6' chain link fence between the public and mine activity or facility situated within the 100' distance from the road unless as otherwise agreed to by Emery County through its Road Encroachment Ordinance 8-7-85A or as amended.
8. It is further agreed by Emery County that in consideration of UEI's contributions, Emery County agrees and acknowledges that said contribution does not in any manner constitute participation by UEI in the design, construction, maintenance or operation of the road except as otherwise agreed by both parties. The road will remain a County network road entirely under authority of Emery County. Furthermore, Emery County agrees to indemnify and hold UEI, its owners, directors, officers, employees, and agents (indemnitees) harmless of any liability, cost or expense, including defense costs, from any claim, demand or action which may be brought alleging negligence or responsibility on the part of indemnitees in the design or construction of the roadway, including any claim or demand which may be made by UEI employees. This obligation to indemnify and hold harmless commences immediately and includes the period of time during which construction is taking place.

Emery County agrees that it will fully cooperate with UEI should any explanation of this expenditure by UEI be required by any of the commissions which regulate UEI operations and/or any government agency which may inquire or investigate into the expenditure of UEI.

EMERY COUNTY


Commission Chairman Peterson

Attest:


Emery County Clerk

Subscribed and sworn to before me this 19th day of October, 1999.



Carol D. Cox
Notary Public

UtahAmerican Energy, Inc.

H. H. Hayden President
Hershiel H. Hayden, President

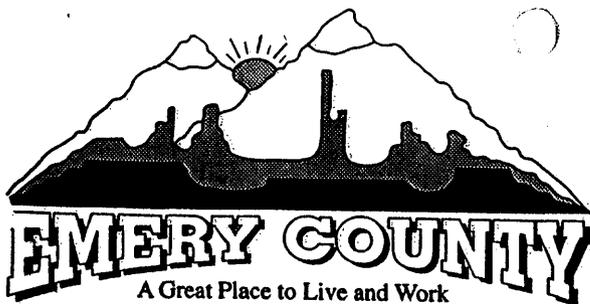
Subscribed and sworn to before me this 26th day of October, 1999.



Janet A. King
Notary Public

ATTACHMENT "A"

Phase	Description	Estimated Cost
Phase I	Engineering and Design of the Lila Canyon road complete, ready for bid.	\$150,000
Phase II	Construction of gravel roadways. Includes acceleration & deceleration lanes on State Hwy 6.	To be determined by Phase I studies.
Phase III	Paving of the western segment of the Lila Canyon road.	To be determined by Phase I studies.



Emery Co Road
Dept.
to LPS 2/27/2001
Response to
Daron's letter
on Lila Can Rd.

cc vjw/vs
3/6/01
Pam
3/15/01

Road Department

February 27, 2001

RECEIVED

MAR 05 2001

DIVISION OF
OIL, GAS AND MINING

Jacobs
C/007/013
Copy Daron

Lowell P. Braxton
Division of Oil, Gas, and Mining
1594 West North Temple, STE 1210
P. O. 145801
Salt Lake City, Utah 84114-5801

Dear Mr. Braxton:

The following information should answer certain questions posed to Melvin Coonrod, Resident Agent UEI, by Daron Haddock on November 29, 2000 regarding the proposed Lila Canyon Road (#126) improvements.

Emery County recognizes that there are significant natural resources located on its State School Trust and Federal Public Lands. Emery County supports the responsible development of its natural resources which is consistent with Emery County's Comprehensive Master Plan and the multiple use ideals held by its people. Our natural resources include, but are not limited to, mineral deposits including coal, oil and natural gas, timber, water, grazing, recreation, wildlife, cultural and scenic which are all of significant social and economic benefit to Emery County, the State of Utah and the United States in terms of employment, tax revenue, mineral royalties and recreational opportunities.

I will respond to the questions in the order set forth in Mr. Haddock's letter (November 29, 2000).

- A. **A legal description of the road right of way.**
The approximate description of the proposed county road is as follows:
The road will start from U.S. Highway 6 located in the west half of Section 6, T. 17 S., R. 14 E. and proceed northeasterly to the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 32, T. 16 S., R. 14 E. The road will then proceed to the NW $\frac{1}{4}$ of Section 28 and then to the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 21. The road finally enters the Lila Canyon Mine surface facilities in the SW $\frac{1}{4}$ of Section 15. The total length of this road would be approximately 4.8 miles.
- B. **Name or numerical designation for the road.**
Lila Canyon Road No.126
- C. **Land ownership for the road right of way.**
Lila Canyon Road No.126 is currently situated on Federal and State Properties. Emery County will control all necessary right of ways for this road.
- D. **Name of the entity responsible for the alignment, construction, maintenance and liability for the road.**
Emery County will be responsible for the alignment, construction, maintenance and liability for the road.

Mr. Braxton, DOGM
February 27, 2001
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- E. Name of the entity responsible for environmental permitting of the road.**
Emery County will be ultimately responsible for obtaining environmental permitting for the road.
- F. Construction standard for the road and the entity responsible for attaining this standard.**
Emery County will design the Lila Canyon Road No.126 according to existing county, state and federal specifications.
- G. Maintenance schedule for the road.**
The maintenance schedule for the road will be the same as other similar Class "B" roads in Emery County.
- H. Source of funds for construction and/or maintenance of the road.**
Emery County will be responsible for funds to improve and maintain the Lila Canyon Road No.126.
- I. Examples of similar roads in Carbon and Emery Counties.**
Cottonwood Canyon road No.506 (Trail Mountain), Deer Creek Road No.304, Bear Creek Road No.305 (Co-Op), C Canyon Road Carbon County.
- J. Will Utah American Energy, Inc. have the ability to deny use of the road?**
No! The Lila Canyon Road No.126 will continue as a multiple use public road under the authority of Emery County providing access to stockmen, recreationalists, minerals exploration and development, hunters and the general public.

I hope that this information is sufficient for your purposes.

Sincerely,



Rex Funk,
Road Supervisor

RF/lr

attachment

cc Commissioners
Val Payne, Public Lands Director
Craig Johansen, Johansen & Tuttle Engineering
Melvin Coonrod, EIS