ACT/007/016-87
FILE #2

0026

BEAVER CREEK Coal Company
Post Office Box 1378
Price, Utah 84501
Telephone 801 637-5050

FILE COPY

May 14, 1987

RECEIVED
MAY 20 1987
DIVISION OF
OIL, GAS & MINING

Mr. Lowell P. Braxton,
Administrator
Division of Oil, Gas & Mining
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203

Re: MRP Amendment
Gordon Creek Mine
Access Haul Road
Gordon Creek No. 2/7 Mines
ACT/007/016, #3 & #4
Carbon County, Utah

Dear Mr. Braxton:

Beaver Creek Coal Company is hereby requesting approval of an amendment to the approved Mining and Reclamation Plan for its Gordon Creek No. 2/7 Mines. It is our wish to amend the permit boundary by deleting that portion of the Gordon Creek (County) Road from Consumers Canyon to our mine gate.

The road section in question was added to our permit area at the insistence of the O.S.M. enforcement group during the Mine Plan review; however, as the O.S.M. Technical Staff reached the late (and therefore, critical) stages of the review, they were informed by Carbon County Commissioner, Lee Semken, that this is considered a county road to our gate. At this point, the Technical Staff reviewer, Mark Humphrey, said it would be best to leave it in the plan until it was approved, and then request a change. This would minimize delays in the approval process. He also said O.S.M. would not require any reclamation plans on this portion of the road.

Our request for deletion of this portion of the road from our permit area is based on the following:

1) Carbon County considers this a county (public) road to our gate;

2) The D.O.G.M. has determined that the Gordon Creek Road meets the criteria for designation as a public road; (See appendix III, attached).

3) The addition of this road to the permit area was based on an enforcement question, which was resolved after the addition had been made.

4) This portion of the road was not required to be included in the reclamation plan or bond.

Attached Appendix I is a map showing the portion of the road proposed to be deleted from our permit area, along with proposed text and figure corrections to be placed in the MRP upon approval.

The basis for our request is that the Gordon Creek Road (including this upper portion) does in fact meet each of the U.D.O.G. & M. criteria for a public road as defined in the attached Appendix II.

The following is an explanation of how each of the criterion are met, supported by attached documentation in Appendix III.

"A public road is one which:"

1. "is classified as a public use road by the subject public body;"
   The attached letter from Carbon County will verify that the Gordon Creek Road is a public use road (Appendix III, Exhibit A).

2. "is constructed similarly to similarly classified roads;"
   The attached Exhibit A will also verify an opinion by the County that the Gordon Creek Road is constructed similarly to other public use (county) roads.

3. "is publicly funded, with public funding determined by the following criteria:

   a. Constructed and/or maintained by the public body; or,

   b. An agreement, at the public body's insistence, provides for the construction and maintenance by the operator wherein the public body retains control over the construction and/or maintenance and some public funds are expended through the exercise of that control."

   Attached Exhibit B. (Appendix III) is a maintenance agreement between Beaver Creek Coal Company and Carbon County, wherein it shows that Beaver Creek will maintain the Gordon Creek Road, the County will provide some public funds (material), and the County will retain control of the road.

4. "has substantial (more than incidental) public use; i.e. the road:

   a. is used by the public for access, and
   b. provides access to sites other than the permit area, and
   c. the operator does not have the authority to deny public access at any time."

   Exhibit C. (Appendix III) is a list of regular users of the Gordon Creek Road. Many of these people use the road to access rangeland and cabin sites in the Beaver Creek area, which is beyond our permit area. The Sweet's Canyon area is used by landowners for access to their trailer houses in the canyon. A public parking and turnaround area below our mine gate is used for sportsmen and sightseers parking and, most recently, as a construction staging area by AML during reclamation activities in the canyon. Beaver Creek Coal Company does not restrict travel on any portion of the public use part of the road at any time during the year. Locked gates are maintained <u>only</u> at our permit boundaries which are private property, and do not affect general public use of the Gordon Creek Road up to our gate.

It is our hope that the above explanation and attached documentation is adequate to show that this upper portion of the Gordon Creek Road should be designated as public road, and removed from our permit area.

If you have any questions, or need any further information, please let me know.

Respectfully,

Dan W. Guy

Dan W. Guy
Manager Permitting and Compliance

DWG/rs

cc: R.J. Marshall
W.S. Wagener
File