

**From:** <Stan\_Perkes@blm.gov>  
**To:** <petehess@utah.gov>  
**Date:** 3/3/2005 7:51:06 AM  
**Subject:** Fw: Pace Canyon Road Issue

----- Forwarded by Stan Perkes/UTSO/UT/BLM/DOI on 03/03/2005 07:50 AM -----

Mark  
Mackiewicz/PFO/UT  
/BLM/DOI  
03/02/2005 03:20  
PM

To  
Stan Perkes/UTSO/UT/BLM/DOI@BLM  
cc  
Fred O'Ferrall/PFO/UT/BLM/DOI@BLM,  
James Kohler/UTSO/UT/BLM/DOI@BLM,  
Jeff McKenzie/UTSO/UT/BLM/DOI@BLM

Subject  
Pace Canyon Road Issue(Document  
link: Stan Perkes)

Stan:

The Pace Canyon Road is noted in our 1980 Carbon County Road Maintenance Agreement. For maintenance purposes we consider the subject road county until it enters the NE1/4SE1/4 of section 25, T. 13 S. R. 12 E., therefore a public road as per definition noted below. From there onward the road then becomes a BLM system road. The road goes crosses two 40 acre parcels, one in section 25, the other in lot 2, section 30, T. 13 S., R. 13 E. (The road through these two parcels is not considered a public road). Any use of this road that would require maintenance (grading, drainage improvement, widening) would require a right-of-way from BLM. The short term use of the road without maintenance for access purposes to the fan site would not require right-of-way. Use would be required casual. If any upgrading or maintenance of this road occurred for past projects, it was an oversight that right-of-way was not required or obtained.

The coal lessee has the right of access to the Federal coal lease and is authorized to use the coal lease itself for access purposes without additional permits. However, access roads outside of the Federal coal lease require that the lessee obtain the necessary right-of-way authorization. I hope this answers your questions. Please call me if you have additional questions.

Thanks,

Mark

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Stan  
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To  
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James Kohler/UTSO/UT/BLM/DOI@BLM,  
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Subject

Mark. I spoke with Fred O'Ferrall and he asked me to speak with you. I am e-mailing you so you have all the information that I have. Pete Hess from the Utah Division of Oil, Gas and Mining is asking me a question on the Pace Canyon Road (By the Dugout Mine). He wants to know if the road up the canyon is classified as a public road. It does go through some private property owned and gated by the Thayne's.

To refresh your memory of this situation, the Dugout Mine is planning on placing a new fan for mine ventilation in Pace Canyon (T13S R13E Section 30 NWNW). The fan placement will be on a Federal Coal lease U-07064-027821. The Thayne property is in (T13S R12E Section 36). There was no Federal right-of-way necessary to utilize this road for construction, reclamation and some very minimal use of the road while the facility was being utilized. For permitting purposes under the Utah State Rules from the Department of Interior, Office of Surface Mining there is apparently a question whether this road needs to be permitted by the State of Utah, Division of Oil, Gas and Mining. I have provided definitions of "road" and "public road" out of these rules.

Could you please let me know that if in your opinion this road meets these definitions or if the road is a county road. You may consider the road a "public road" using a different definition. If so could you let me know what that is so I can forward it to UDOGM.

I need these ASAP. We are trying to get them a permit so they can start construction so they don't have ventilation problems with the underground mining. If you have any questions please let me know.

Thanks

Stan Perkes  
801-539-4036

"ROAD" means a surface right-of-way for purposes of travel by land vehicles used in coal mining and reclamation operations or coal exploration. A road consists of the entire area within the right-of-way, including the roadbed, shoulders, parking and side areas, approaches, structures, ditches, and surface. The term includes access and haul roads constructed, used, reconstructed, improved, or maintained for use in coal mining and reclamation operations or coal exploration, including use by coal hauling vehicles to and from transfer, processing, or storage areas. The term does not include ramps and routes of travel within the immediate mining area or within spoil or coal mine waste disposal areas.

"PUBLIC ROAD", for the purpose of part R645-103-200, R645-301-521.123, and R645-301-521.133 means a road

- (a) which has been designated as a public road pursuant to the laws of the jurisdiction in which it is located;
  - (b) which is maintained with public funds in a manner similar to other public roads of the same classification within the jurisdiction;
  - (c) for which there is substantial (more than incidental) public use;
- and
- (d) which meets road construction standards for other public roads of the same classification in the local jurisdiction.