

EMERY COUNTY
INTEROFFICE MEMORANDUM

Incoming
2/15/015

TO: Commissioners
FROM: Rex Funk, Road Supervisor *RF*
DATE: March 5, 2002

RE: Consideration for a Loop Road South of Emery

With the mounting excitement regarding the reopening of the Consol mine there are numerous "bits and pieces" of information "floating around". "The talk" is that Consol may have to drive in a new portal above the old one somewhere between the Consol Road #907 and the Cowboy Road #915..

In the past, there have been periodic comments and requests from local ranchers to have the County extend the Jensen Spur Road #916 down to the Consol Mine Road so that owners of isolated properties would not have to go half way back to town then loop back around to get to their lower farms in the vicinity of the Consol Mine Road. I can vividly recall requests from the former Cedar Ridge Ranch owners (Dave Home & Jerry Wilson) as well as others. There are several favorable factors in considering this possibility such as:

1. The local interest in having a convenient connection road to access upper farms and lower farms without miles of backtracking.
2. Dave Taylor, of Live Earth Products, has an active claim on the Hidden Valley Mine Road #929. He has trucked his product back to town occasionally using our Old State Road #906 through residential neighborhoods to his processing plant. Numerous complaints has been received and we had to post weight restrictions on our road to quiet citizens. He now uses S.R. 10 all the way into Emery City but still travels on city streets to get to his processing plant; emotions run high with locals. With a loop road Live Earth could route across using the "Consol Loop" then dead head into their facility which is located on the Jensen Spur road, which would also intersect the proposed loop road. No residences would be impacted using this route and it would be the most direct route for Live Earth.
3. The proposed future railroad spur would terminate in this vicinity so the loop road could provide easy access to that facility.
4. The loop road could also be used as an access to Consol's new portal and be integral with the direct route to S.R. 10 from the mine.

It wouldn't surprise me if Consol would give the County a right of way for a public loop route and even supply funds to build it. I think that the timing is right if we move now. The entire loop route looks like it could stay on Consol properties so that we would not have to deal with BLM or private property owners. I also think DOGM would be favorable to allow it because the road would be multi use and a County road.

Exhibit A Page 2 of

ALIBI BATH

ROCKLAND

dashy line to 795

RAKIN SPUR R#916

6055

Wash

6100

28

A
N

ALTERNATE

Loop Road

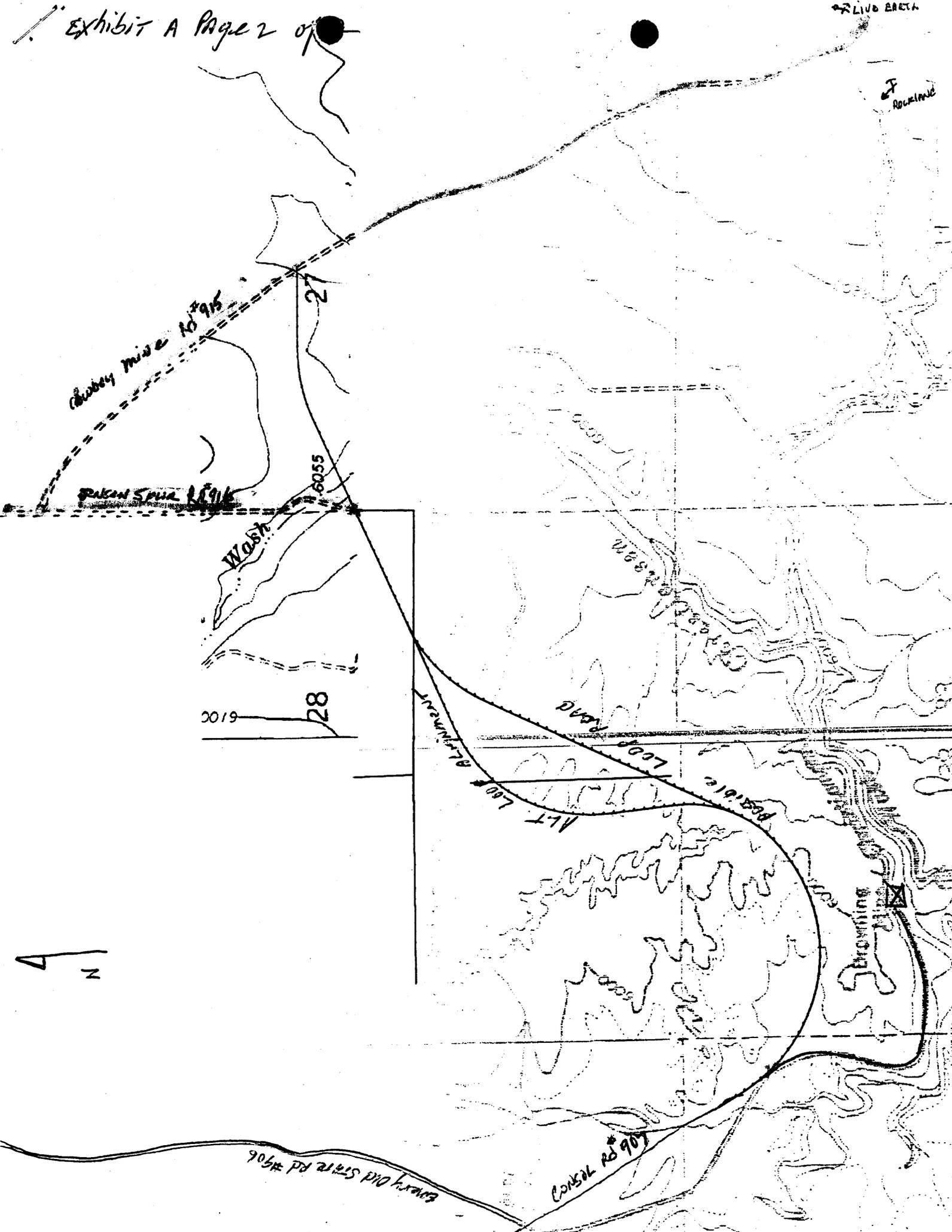
ALT. LOOP

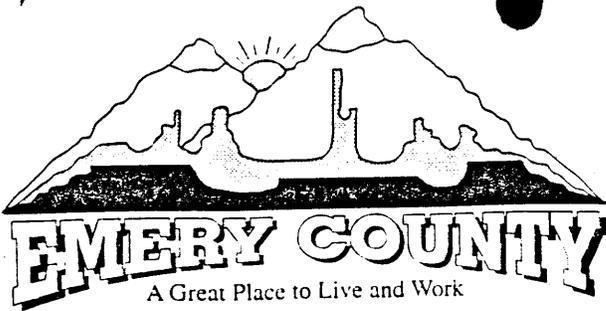
Possible

Throwing

Every Old State Rd #906

CONSL R#907





March 20, 2002

Seth McCourt
Consol Energy - Emery Mine
P. O. Box 527
Emery, Utah 84522

Dear Mr. McCourt:

On March 5th I sent a memo to our County Commissioners regarding the concept of a possible "loop road" scenario which would connect two upper county roads with the lower Consol Mine Road #907. I further mentioned this topic during the March 5th evening commission session which appeared in the Progress March 12th. My idea is not a new one and has been brought up in the past by local ranchers who having segmented farms have complained that to get to their lower properties, adjacent to the Consol Mine Road #907, from the Jensen Spur #916 or the Cowboy Mine Road #915 (both dead ends) they have to back track north half way to town, about 1½ miles, then go west 1½ miles to the Old State Road #906, thence south 1½ - 2 miles to get down to their lower ranch properties. Years ago they asked the Road Department to simply blade a road from above and down through your mine properties to the Consol Mine Road. I had backed them off explaining that this would be in conflict with your mine plan and violate permits even though the idea had great merit. I have enclosed a copy of my memo to Commissioners dated March 5th which mentions more of my rationale.

At the regularity scheduled March 5th Commission meeting the Commissioners directed me to meet with our Public Lands Council and present the concept to them for comment. Val Payne was also in attendance and was instructed to put this on the March 12th agenda. I was pleased to see you in the audience at that meeting and listened to your general comments of Consols plans but heard no mention of a road even though you mentioned a possible 4th east portal. Of course my loop road presentation came a little later during the meeting and not having had time to discuss this with you beforehand felt that you appeared somewhat favorable afterwards. As you recall the Public Lands Council was supportive of this idea and when I met with Commissioners yesterday, after the Commission Meeting, received their approval to officially contact you.

I have enclosed an imperfect sketch indicating the general route of my proposal. You will note that the yellow color marks the possible loop road. The pink colors represent the two upper county roads and the yellow connects with the blue which is the Consol Mine Road. I am aware that you have an agreement with Emery County Special Service District #1 on the current Consol Mine Road Improvement Project and so have taken the liberty to discuss this idea with Chairman Swasey but this whole process must begin with the County before coming to the District for any consideration.

Letter to Seth McCourt
March 20, 2002
Page 2

What the County is seeking is an easement through Consol properties for a public road. I understand that J & T Engineering is doing some other work for you so perhaps we could all meet to have them plot a route and survey a description for your consideration. Regardless I can officially state that the County is supportive of such a road and would be desirous of acquiring an easement. Funding and other details could be discussed once the engineers come up with a feasible route. I would think DOGM would be favorable towards lengthening a County road which provides a variety of uses including your own. I would appreciate an early response if possible before the Consol Road Project final as there is a remote possibility that the Consol Road Improvement Project could be extended but that may be asking too much considering time frames. Thank you for consideration of this proposal.

Sincerely,

Rex Eunk,
Road Supervisor

enclosures

cc Commissioners
J & T Engineering
Emery County Special Service District #1

Commissioners discuss range of topics

By **PATSY STODDARD**
Staff, Emery County Progress

The Emery County Commissioners met in their regularly scheduled meeting on March 5 at 4 p.m. Those present were Commissioners Randy Johnson, Drew Sitterud and Ira Hatch. County Attorney Dave Blackwell and Sheriff Lamar Guymon were present as well.

The first item on the agenda was an update by Mike McCandless of Emery Telecom. He said, "We have three projects lined up in Emery County. The first project is in Cleveland where we will be replacing two-three miles of cable. We are replacing older equipment to enhance capabilities and growth. We are changing the way the load works.

"We are completing the removal of old telephone poles. Most all of the cable used is buried now. We are also working on an Emery Town replacement. We are installing new cable throughout the town and rehabilitating old cable. A continuing project will be cleaning up US West in Huntington and Green River. Those lines were not maintained as they should have been. We have been working on getting them up to where they should be. All projects we are involved with improve the overall quality of the network. Our employees are out working on these projects now and are ahead of schedule on these projects because of the good weather we've had. We budget each year to make these improvements," said McCandless.

Commissioner Johnson asked McCandless about Emery Telecom possibly cost sharing on the breaching of the canal to install the utility lines to the new public safety complex. McCandless instructed Commissioner Johnson who to contact in the matter.

Candace Ungerman was next on the agenda with a request for a donation. Ungerman said, "I have been selected as the only junior from Emery High to represent Utah at the Freedom Foundation Conference in Valley Forge, Penn. I sent in a resume, wrote an essay and filled out an application. I was selected for an interview and chosen to attend."

The commission approved

the standard individual donation for Ungerman.

The next item on the agenda was the approval of the resolution approving transfer of the cable television franchise from Peak to Precise Communications LLC.

The next item on the agenda was the approval of the request of the Ute Indian Tribe to use the county's parcel layer platting program. Commissioner Sitterud pointed out that the program has been given out all over the state and he made a motion to approve the Ute Indian's request. The motion was seconded and carried.

The next item on the agenda was the approval to abate the interest and penalty for taxes on a hardship case. A motion was made, seconded and carried to approve the abatement.

The next item on the agenda was the approval of board members to the economic development council. Those approved for the four vacancies were Boyd Wilson of Huntington, Sharon Earl of Huntington, Ed Christensen of Orangeville and Howard VanWagoner of Elmo.

Under the citizen concerns category Rex Funk of the road department notified the commission of Cleveland City's request for help in pulling down an old house so it can be burned. "It's not a big job," said Funk. Commissioner Hatch told Funk to make sure the operator stays back away from the power lines which are in close proximity to the house and pose a danger. The commission approved the request for assistance with the house.

Funk's next question was concerning the Consol Mine opening a new portal. He said there is a lot of local interest in making a loop road for Emery residents to give them more access in the area. The Live Earth business could utilize such a loop road as could farmers and ranchers in the area. Funk's request was that the county approach the mine concerning a right-of-way across mine property.

Commissioner Johnson pointed out that the only way Consol can begin mining coal is through a new portal. Funk said he sees this as an opportunity. Commissioner Hatch said they

will put it on the public lands council agenda to have them figure out what the request would be.

Val Payne of the public lands council said they would contact Consol and invite them to the public lands council meeting to explore the possibility of the right-of-way.

Marreen Casper who is Senator Orrin Hatch's federal projects liaison was next on the agenda. She mentioned the work being done to balance the budget. She said they had taken out earmarked money and that Congress was working hard to get it back in. Casper had two requests of the county, to list what PILT funds means to the county now and what full funding would mean. The letters should be faxed or e-mailed but not sent through the mail as they are just returning to their building after the anthrax scare.

The other item was the request to get information to citizens who might be experiencing cancer as a result of nuclear testing. The Emery County area was not originally considered as a downwind site but boundaries have been broadened. Any responses should be sent by fax or e-mail to Patty DeLoche. Casper expressed her hope that something would get done.

She said they are finding cancers outside the original geographic area. "The men who worked on the railroad hauling radioactive material have a high incidence of cancer among them," Casper said.

Commissioner Johnson pointed out that wind doesn't stop at county borders. Casper also pointed out that uranium miners and those who worked in the mills were also exposed.

Commissioner Hatch asked Casper what was going on in Washington. She answered politics and said currently the Senate is holding hostage 50 bills and refusing to hold hearings on them.

The next item on the agenda was the presentation for approval of the check edit list, additional claims, requisitions and dispositions by Clerk Bruce Funk. Commissioner Hatch asked for clarification on how often the contract for animal control is updated. It was determined that it is reviewed yearly. Commissioner Johnson said at

some point they should evaluate costs. He said the county is paying \$1,800 a month for these services. Commissioner Hatch pointed out that they haven't received any complaints on the services which used to be a problem.

Ambulance supplies were questioned and Sheriff Guymon pointed out that a glucometer is used to take blood sugar levels and they needed some new ones because the old ones had worn out. Funk was questioned on the first aid kits for the road department. He clarified that only regulated medicines are allowed in the standard first aid kits. He also explained the engineering review at the landfill that must be done each year to see if there is enough air space left for the amount of tonnage at the facility. He pointed out that a trust of money must be kept to cover the closure costs of the facility. All of the information is provided to the state for their review.

The power bill for the Horn Mountain facility for one month was \$740. Commissioner Johnson said they are meeting with all the parties involved to renew contracts. GPS units were also discussed and the new units are an update from those that came out a few years ago. The new units are accurate to within five meters.

Workmans compensation is going up again and the commissioners asked Pat Snowball if she would check into getting some other bids for these services. Commissioner Johnson said we shouldn't take a big hit without looking at other options.

Bruce Funk mentioned an upgrade for computer software for printing ballots. He said they are getting an early start to make sure things are running correctly.

The Green River Annexation issue will be heard before the Utah State Supreme Court on March 12. Arguments will be made in favor of the annexation by County Attorney Dave Blackwell and Green River City Attorney, Gerald Kinghorn. Opposing arguments will be made by an attorney hired by Grand County. The supreme court may take up to a year to make a final decision after they have heard the arguments.

Pat Snowball, personnel di-

Notice of Regular Meeting

Emery County Public Lands Council

March 12, 2002

10:00 a.m.

Emery County Courthouse

Exhibit C

1. Welcome
2. Approval of Minutes
3. Subcommittee Reports
 - a. Water
 - b. Coalbed Methane
 - c. Recreation
 - d. Heritage
 - e. Access Management Team
 - f. Grazing
 - g. Land Exchange
4. BLM Update
5. Forest Service Update
6. Temple Mountain Abandoned Mine Reclamation Project Update
7. Presentation Regarding Seely Guard Station
8. Response to Quitchupah Draft EIS
9. Status Report Regarding Heritage Area Legislation
10. Concept for Monument Proposal Public Information Meetings
11. Consideration of Loop Road South of Emery
12. BLM Travel Plan Response
13. Other Business

Emery County Public Lands Council MISSION STATEMENT

The mission of the Emery County Public Lands Council is to represent the public lands interests of Emery County and its citizens and to perform an advocacy role for local users and stakeholders; to work in partnership with federal and state agencies in fashioning management decisions and policies affecting lands within Emery County; and to participate in the development, coordination and implementation of the planning objectives of federal, state, and local entities to ensure harmony between the objectives of these various entities and the Emery County Master Plan.

It is the intent and purpose of the Emery County Public Lands Council to aggressively preserve the community heritage of Emery County by vigorously participating in and influencing all public land planning and decision making processes on behalf of and under authority of the Emery County Commission.

If you need specific accommodations that will assist you to fully participate at this meeting call (435) 381-5552.

Exhibit D

CONSOL Energy

CNX Coal Operations
172 Route 519
Eighty-Four, PA 15330

phone: 724/206-2006

fax: 724/206-2007

e-mail: barhyita@consolenergy.com

web: www.consolenergy.com

BART HYITA

Vice President, Operations Support

April 2, 2002

Mr. Rex Funk
Road Supervisor
Emery County Road Department
P. O. Box 889
300 North First West
Castle Dale, Utah 84513

Re: Loop Road Easement through Properties of Consolidation

Dear Mr. Funk:

Your letter dated March 20, 2002 addressed to Mr. Seth McCourt has been forwarded to me. In that letter you detail the general interest by the public, the Public Lands Council, and the Emery County Commissioners in the possible development of a "loop road" which would connect two County Roads (Jensen Spur #916 and Cowboy Mine Road #915) with Consol Mine Road #907. It appears that a majority of, if not all of, the proposed loop road would be constructed across surface properties owned by Consolidation Coal Company ("Consolidation") as set forth on the sketch attached to your letter.

Consolidation, as a good neighbor, always supported the public spirit of the Road Department, the County Commission and Special Service District No. 1. Therefore, Consolidation would be willing to convey for the price of one dollar (\$1.00), a permanent easement (at appropriate widths) as well as any necessary construction easements over and through Consolidation surface properties for the public road. Further, Consolidation agrees that J. & T. Engineering would be the appropriate firm to plot a route and survey a description for the road. Finally, Consolidation concurs that funding and other details, including possibly considering extending the existing Consolidation Road improvement project, can be discussed once the engineers develop a feasible route.

Very truly yours,



Bart J. Hyita
Vice President

cc: Dan Baker
Seth McCourt
Jim Noyes
John Zachwieja

● Exhibit E page 1 ● 3

NOTICE OF REGULAR MEETING OF THE
EMERY COUNTY SPECIAL SERVICE DISTRICT #11
EMERY COUNTY, UTAH

PUBLIC NOTICE is hereby given that the Emery County Special Service District #1 will meet at 4:00 p.m. on April 8, 2002 in the Emery County Courthouse Conference Room, 95 East Main Street, Castle Dale, Utah.

The agenda for the meeting is as follows:

1. Discussion of Consol Loop Road.
2. Johansen and Tuttle Engineering, Update on current/future projects
3. Presentation of financial report and payment of bills.
4. Approval of previous meeting minutes.

Any other business which may regularly come before the board. Please call ahead if you need specific accommodations that will assist you to fully participate at this meeting at 381-5217.

Dated: 4/4/02

By: Leslie Bolinder
Leslie Bolinder, Secretary for District

DRAFT

CONSOL Energy
CNX Coal Operations
172 Route 519
Eighty-Four, PA 15330

phone: 724/206-2006
fax: 724/206-2007
e-mail: barthyita@consolenergy.com
web: www.consolenergy.com

BART HYITA
Vice President, Operations Support

April 8, 2002

Merrill Swasey, Chairman
Emery County Special Service District No. 1
P.O. Box 1055
Castle Dale, Utah 84513

Re: Letter Agreement
Loop Road Project

Dear Chairman Swasey:

On April 8, 2002 representatives of Consolidation Coal Company (Consolidation) met with the Emery County Special Services District No. 1 (District) in Castle Dale, Utah to discuss participation in a "Loop Road" project. As a result of discussions held at the meeting, the parties have agreed to memorialize the current and future course of transactions concerning the project in this Letter Agreement as follows:

1. The Loop Road is currently projected to connect two county roads (Jensen Spur #916 and Cowboy Mine Road #915) with Consol Mine Road #907.
2. Pursuant to a certain prior "Letter Agreement" dated July 13, 2001 between the parties concerning the construction of Emery County Road #907, the District must reimburse Consolidation the sum of \$458,831.00 on or before May 31, 2002.
3. Consolidation hereby waives its right to be reimbursed the monetary sum mentioned in paragraph 2 above subject to two (2) express conditions being: First, that the District apply the monetary sum to the cost of necessary engineering and right-of-way acquisition for the Loop Road; and Second, that the District apply the monetary sum to the actual construction of the Loop Road. If for any reason, including, but not limited to, the decision of Consolidation not to commence construction as provided in paragraph 6 below, the Loop Road is not actually constructed, then Consolidation shall be entitled to an immediate reimbursement of the remainder of said monetary sum minus any amounts spent for Loop Road engineering and right-of-way acquisition.

Merrill Swasey, Chairman
April 8, 2002
Page Two

DRAFT

- 4. The parties agree to hire the firm of Johansen & Tuttle Engineering to prepare a report which will set forth the route for the road alignment.
- 5. If Consolidation agrees to the route for the road alignment and desires actual construction to commence, it will convey to Emery County for the price of one (\$1.00) dollar a permanent easement (at appropriate widths and with applicable reservations), as well as any necessary construction easements over and through any Consolidation surface properties that are located on the route.
- 6. Within thirty (30) days of the completion of the engineering report described in paragraph 4 above, Consolidation will inform the District of whether or not it desires actual construction of the road to commence. If Consolidation declares that it desires construction of the road to commence, then the parties agree that the participation percentage of each party shall be Consolidation 50% and District 50% for those construction costs of the project that are over and above the monetary sum stated in paragraph 2 above, as reduced by amounts either paid or to be paid for necessary engineering and right-of-way acquisition costs. Further, if Consolidation declares that it desires construction of the road to commence, then Consolidation shall advance and pay the construction costs over and above the monetary sum stated in paragraph 2 above, as reduced by amounts either paid or to be paid for necessary engineering and right-of-way acquisition costs as the loop road is built, and the District shall reimburse Consolidation for its above described 50% participation percentage on or before May 31, 2003. However, if Consolidation declares that it does not desire construction to commence, then it shall have no further obligation under this Letter Agreement, and the District shall only have the reimbursement obligation stated in paragraph 3 above.

If District is agreeable to the foregoing, will you so signify by signing both duplicate originals of this Letter Agreement in the space provided below and returning a signed original to me.

Very truly yours,

CONSOLIDATION COAL COMPANY

By _____
Bart J. Hyita
Vice President

AGREED and ACCEPTED this _____ day
of _____, 2002.

Emery County Special Service District No. 1

By _____
Merrill Swasey, Chairman



BOX 487 • CASTLE DALE, UTAH 84513 • TELEPHONE (435) 381-2523

April 22, 2002

Emery County Road Department
PO Box 889
Castle Dale, Utah 84513

Re: Consol Loop Road
Centerline Description

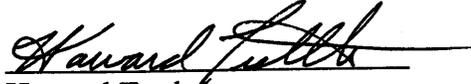
Attn: Rex Funk

Dear Rex:

Enclosed is the centerline legal description of the Consol Loop Road Extension, Road #907. This proposed road will connect County Road #907 to County Road #915.

Please contact me if you have further questions.

Sincerely,


Howard Tuttle
Johansen & Tuttle Engineering

CONSOL LOOP ROAD
CENTERLINE DESCRIPTION

Beginning at a point which is S 89°43'05" W, 894.55 feet from the Northeast corner of the Northeast quarter of Section 32, Township 22 South, Range 6 East, Salt Lake Meridian; thence S 31°47'53" E, 294.93 feet to the beginning of a circular curve to the left having a radius of 1535.00 feet and an arc length of 3619.81 feet; thence Easterly, 3619.81 feet along said curve (chord bears N 80°38'42" E, 2837.48 feet); thence N 13°05'16" E, 1058.96 feet to the beginning of a circular curve to the right having a radius of 1500.00 feet and an arc length of 1386.81 feet; thence Northeasterly, 1386.81 feet along said curve (chord bears N 39°34'27" E, 1337.94 feet); thence N 66°03'37" E, 2924.54 feet to the beginning of a circular curve to the right having a radius of 1700.00 feet and an arc length of 713.06 feet; thence Easterly, 713.06 feet along said curve (chord bears N 78°04'35" E, 707.84 feet); thence S 89°54'26" E, 1378.49 feet to a point which is N 0°13'51" W, 949.81 feet and N 89°54'26" W, 99.22 feet from the Center of Section 27, Township 22 South, Range 6 East, Salt Lake Meridian.

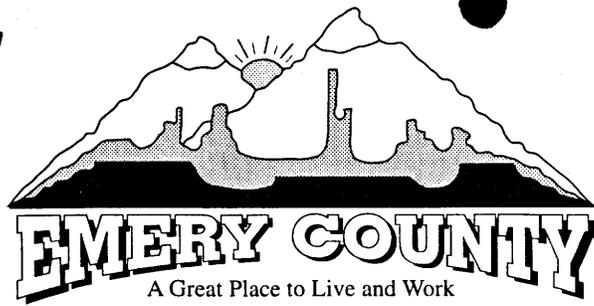


EXHIBIT G, Page 1 of 3
Road Department

April 30, 2002

Seth McCourt
Consol Energy - Emery Mine
P. O. Box 527
Emery, Utah 84522

Dear Mr. McCourt:

On April 2, 2002 Mr. Hyita responded to my letter of March 20, 2002 requesting an easement through Consol properties for a "loop" extension of the Consol Road (#907). The proposed extension would connect two upper county roads (Jensen Spur #916 and Cowboy Mine Rd #915). Mr. Hyita indicated that "Consolidation would be willing to convey for the price of one dollar (\$1.00), a permanent easement (at appropriate widths) as well as any necessary construction easements over and through Consolidation surface properties for the public road.

In conferring with J & T Engineering we asked that they submit a centerline description (enclosed) for the proposed "loop" road extension. I submit this description for your consideration. We can meet, at your convenience, to go over the easement on site, please let us know when.

Also I recently had a discussion with Mr, Darron Haddock of DOGM regarding our "loop" road proposal and he indicated that he will be responding to you with a questionnaire seeking information (from Consol). We would be willing to provide any other file information should you need it.

We appreciate Consol's cooperation and willingness to work with us on the county "loop" road proposal in the public interest. Please contact us where you can meet on the proposed alignment.

Sincerely,


Rex Funk,
Road Supervisor

enclosures

cc Commissioners
J & T Engineering (Howard & Craig)
Val Payne, Public Lands

CONSOL LOOP ROAD
CENTERLINE DESCRIPTION

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CONSOL Energy

CNX Coal Operations
172 Route 519
Eighty-Four, PA 15330

phone: 724/206-2006

fax: 724/206-2007

e-mail: barthyita@consolenergy.com

web: www.consolenergy.com

BART HYITA

Vice President, Operations Support

April 2, 2002

Mr. Rex Funk
Road Supervisor
Emery County Road Department
P. O. Box 889
300 North First West
Castle Dale, Utah 84513

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Very truly yours,



Bart J. Hyita
Vice President

cc: Dan Baker
Seth McCourt
Jim Noyes
John Zachwieja