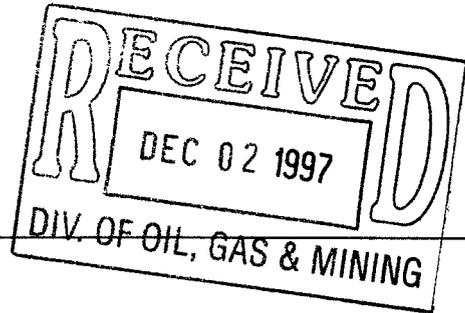




PO Box 310  
Huntington, Utah 84528



December 1, 1997

Utah Coal Regulatory Program  
Division of Oil, Gas and Mining  
1594 West North Temple, Suite 1210  
Box 145801  
Salt Lake City, Utah 84114-5801

Attention: Mr. Lowell Braxton

Re: Amendment to Des-Bee-Dove Permit, Acquisition of the Road Rights-of-Way by Emery County -- PacifiCorp, Des-Bee-Dove Mine, ACT/015/017, Emery County, Utah

**Introduction:**

This proposed amendment to the above captioned permit is submitted as a follow-up to our previous correspondence dated November 5, 1997.

Emery County, a political subdivision of the State of Utah, has proposed that it acquire from PacifiCorp a portion of the Wilberg/Des-Bee-Dove Road. In order to accomplish this transfer PacifiCorp would convey the road and its existing rights-of-way to Emery County and all references to the area of the rights-of-way would be eliminated from the permit. The portion of the road affected by this action would begin at station 96+00 and end at station 243+18.

Listed below are items that are addressed in this amendment application:

1. References to the Des-Bee-Dove Road are amended to indicate it will remain as a public road following reclamation.
2. The Des-Bee-Dove Road and related rights-of-way will be conveyed to Emery County.
3. The Des-Bee-Dove Pond Access Right-of-Entry and Pond Boundary Description will be changed, including drawing # CS1740D (1-6), to show modifications to the State Special Use Land Lease # 436.
4. We are providing a chronological order of events since the Division issued of NOV N97-41-3-1 to Energy West.

Huntington Office:  
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Deer Creek Mine:  
(435) 687-2317  
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Trail Mountain Mine:  
(435) 748-2140  
Fax (435) 748-5125

*Mary Ann*  
*Copy Aaron, Joe, Paul*  
*Paul*  
*# 2 (letter)*  
*(other info to # 2)*

*Copy of file*

5. We are providing a list of items to be deleted from the permit related to the haul road. These items include drawings, maps and text that reflects the existence of the road within the permit area.

**Amendment:**

1. References to the Des-Bee-Dove Road.

The current permit states that the Des-Bee-Dove Road is to be reclaimed. The general postmining land use for the area of the mine of grazing and wildlife will remain even though the lands covered by the rights-of-way are removed from the permit area. As discussed in our meeting held on October 30, 1997, it is our intent to simply remove the Des-Bee-Dove Road from the permit area and redefine the permit and disturbed boundaries associated with the sediment pond and access road to the sediment pond. All references in the permit related to the Road will be removed subject to approval of this amendment. To assist the Division in developing the findings with respect to issues discussed in the October 30, 1997 meeting, we are providing the following information:

> Expansion of Postmining Land Use: R645-100-200 states that "*Land Use*" means specific uses of management-related activities, rather than the vegetation or cover of the land. Land uses may be identified in combination when joint or seasonal uses occur and may include land used for support facilities that are an integral part of the use. Changes of land use from one of the following categories to another will be considered as a change to an alternative land use which is subject to approval by the Division. The postmining land use of the lands in the vicinity of the Des-Bee-Dove Road would be expanded to reflect current public uses of the area which include the following land use categories: industrial/commercial (coal bed methane extraction) and recreation. With conveyance of the Des-Bee-Dove Road to Emery County, the Des-Bee-Dove Road would remain in-place to provide public access to facilitate the postmining land uses listed above.

2. Des-Bee-Dove Road transfer to Emery County.

It is the intent of PacifiCorp to allow Emery County to acquire all of the Rights-of-Way, together with all right, title and interest of PacifiCorp now contained within the permitted Des-Bee-Dove Road. Rights-of-Way that were issued by various government agencies including, Bureau of Land Management, The State of Utah School and Institutional Lands Administration, and U.S.D.A. Forest Service will be assigned to Emery County. The transfer of said Rights-of-Way will be negotiated

through and with the consent of each underlying landowner. The Rights-of-Way for the Road that will be transferred are as follows:

- State of Utah Special Lease Agreement No. 436 utilized for a sediment pond and a portion of the Haul Road R/W, located in the NW 1/4 NW 1/4, Section 36, T17S, R7E, SLM.

State of Utah, The NE 1/4 NW 1/4 Section 36, T17S, R7E, SLM.

- State of Utah Road Right-of-Way No. 2470 (49.34 acres) utilized for the location of the Junction Haul Road located within Section 36, T17S, R7E, SLM and Section 2, T18S, R7E, SLM.

State of Utah-The NE 1/4 NE 1/4 Section 2, T18S, R7E, SLM.

State of Utah-NW 1/4 NE 1/4 Section 2, T18S, R7E, SLM.

State of Utah-SW 1/4 NE 1/4 Section 2, T18S, R7E, SLM.

State of Utah-NW 1/4 SE 1/4 Section 2, T18S, R7E, SLM.

State of Utah-NE 1/4 SW 1/4 Section 2, T18S, R7E, SLM

- BLM Right-of-Way Grant U-50148 (28.29 acres) utilized for the location of the Junction Haul Road within the E 1/2 E1/2 Section 35, T17S, R7E, SLM.

BLM- The NE 1/4 NE 1/4 Section 35, T17S, R7E, SLM

BLM- The SE 1/4 NE 1/4 Section 35, T17S, R7E, SLM.

BLM-The NE 1/4 SE 1/4 Section 35, T17S, R7E, SLM.

BLM-The SE 1/4 SE 1/4 Section 35, T17S, R7E, SLM

- BLM Right-of-Way Grant U-53809 (3.04 acres) utilized for the location of the Junction Haul Road within the E 1/2 E1/2 Section 35, T17S, R7E, SLM.

BLM- The E1/2 NE 1/4 NE 1/4 NE 1/4 Section 35, T17S, R7E, SLM

- United States Forest Special Use Permit of 8.95 acres utilized for the location of the Junction Haul Road located within the SW 1/4 SW1/4 Section 25 and the SE 1/4 SE 1/4 Section 26, T17S, R7E, SLM.

3. Materials to be changed.

Drawing # CS1740D (1-6) will be incorporated as part of the amendment and placed in the permit when approved by the division. The drawing is attached and depicts the road with references related to the sediment pond and access road as described above. The area of the right-of-way itself will be removed from the permit. Upon approval of the proposed amendment, Energy West will re-submit Drawing # CS1740D (1-6) to include seven copies.

During field inspections to locate existing right-of-way markers along the road, it has been determined that some areas/conveyance structures are in fact outside the right-of-way but within the special use permit (No. 436). The road will need to be surveyed and new right-of-way and markers established in accordance to the resurveyed locations. The new locations of the right-of-way will include at a minimum the toe of slope (but could include a buffer zone) and any runoff drainage conveyance structures that may extend beyond the existing right-of-way. The agreement between PacifiCorp and Emery County will address these issues. A copy of this document will be provided to the Division as a matter of record when available. When the new descriptions and markers are established, records and drawings will be revised accordingly. Copies will be provided to the Division and other agencies involved.

4. Chronological Order of Events.

The following is an updated chronological history of the measures taken by Emery County to acquire the Des-Bee-Dove Road to facilitate the postmining land uses:

- > February 26, 1997 - PacifiCorp submitted to the State of Utah a Notice of Intent to reclaim the Des-Bee-Dove mine, including the portion of the haul road within the permit area. A copy of the notice of intent was sent to School and Institutional Trust Lands Administration, Bureau of Land Management, U.S. Forest Service, Emery County Commission, and Texaco Exploration Production Inc.
- > April 4, 1997 - Energy West received a letter from Rex Funk, Road Supervisor, Emery County, Utah. Mr. Funk stated there may be a public interest in the Des-Bee-Dove haul road. He suggests that Energy West direct a letter to the Emery County Commission regarding

possible assumption of the road.

- > On June 18, 1997 Energy West submitted a letter to the Emery County Commission concerning the assumption of the Des-Bee-Dove haul road.
- > A Public Notice was published by Emery County in the Emery County Progress on September 2, and September 9, 1997 which stated: ***"The purpose of the Public Hearing, is to receive public comment on whether the Emery County Commission should accept and add the following road to the County Road System in order to provide access"*** (see attached notice).
- > On September 17, 1997 the Emery County Board of County Commissioners held a Public Hearing ***"To receive public comment on whether the Emery County Commission should accept and add the Des-Bee-Dove Road to the county road system in order to provide public access"***. As a result of this public meeting Commissioner Bevan Wilson made a motion to pursue negotiations with Energy West to work on a plan to bring the road to an agreeable standard and to coordinate with County Attorney David Blackwell to prepare the documents to transfer the road to the county system. The motion was seconded by Commissioner Kent Peterson and approved by all members present (see attached minutes).
- > October 23, 1997 - Energy West and Emery County met to discuss disposition of the Des-Bee-Dove road. As a result of the meeting, a draft agreement has been prepared incorporating the following provisions:
  - After the road has been conveyed to Emery County, it will have sole responsibility for maintenance of the road.
  - While the Des-Bee-Dove Road was designed by the Utah Department of Transportation and constructed in 1983 to meet U.D.O.T. specifications which are similar to, or exceed the standards for the county road system additional action will be taken by Emery County at the expense of PacifiCorp, to insure that the road meets all construction standards applicable to other public roads in the State of Utah of this classification.

- Current and past uses of the Des-Bee-Dove Road will be acknowledged which include diverse public uses such as: industrial/commercial (coal bed methane exploration and development work conducted by Texaco Corporation), recreation (hunting and wildlife viewing), grazing (access to separate grazing allotments).

5. Revisions and deletions.

With the conveyance of the road to Emery County, Energy West is revising the boundaries of the permit and disturbed areas in the vicinity of the sediment pond and access road within Lease No. 436 to eliminate third party interference issues. The changes begin at the southern boundary of Lease No. 436 and continue along the disturbed area of the road up to and including the pond area. Revising the description within Lease No. 436 will reduce that acreage to approximately 8.5 acres instead of the original 40 acres. Energy West will retain the 8.5 acres within its permitted area (refer to Drawing No. CS1740D, 1-6. The access road up to Lease No. 436 contains approximately 3.8 acres, which includes the .37 acres of BLM owned land which is covered by a right-of-way granted to PacifiCorp which is separate from the haul road right-of-way within section 35).

The State Land and BLM land description for access into the sediment pond, is as revised on the attached page, 1-47A. This page will be added to the permit in Volume 1. The remaining portion of the original 40 acres of Lease No. 436 will be relinquished and in part obtained by Emery County for the road.

The pages listed below will be removed from the permit upon approval from the Division.

The list provides pages and maps that reflect or depict items related to the Des-Bee-Dove Road that could or will be revised or omitted from the permit. If the Division agrees with our approach to this amendment then these pages and maps will be specifically identified as to changes or omission from the permit.

Volume 1, Introduction, page 2, is Fig. 1, drawing that will require changes.

Volume 1, Part 1, pages, 1-41, 1-44, 1-47, (Add 1-47A)

Volume 2, Part 3, pages, 3-1, 3-2, 3-4, 3-19, 3-43, 3-44, 3-52,

Volume 2, Part 4, pages, 4-7, 4-8, 4-9, 4-10, 4-11, 4-13, 4-16, 4-17, 4-18, 4-19, 4-20, 4-21 to 4-60 could be removed, 4-82, 4-100, 4-102, 4-103, 4-106, 4-107, 4-111, 4-112, 4-113, 4-114, 4-115, 4-126, 4-127, 4-128 to 4-137, 4-140, 4-143, 4-144.

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Volume 3, Maps: CE-10536-DS, 1-1,- CE-10537-DS, 1-2,-CM-10368-BH, 1-3,-  
CM-10371-DS, 1-4,-CM-10864-DS, 1-5,-CE-10490-DS, 2-12,-CE-10502-DS, 2-14,  
CM-10865-DS, 2-16,-CM-10596-DS, 2-17A, 2-17B,-CM-10544-DS, 2-18,-  
CM-10333-DS, 3-6,-CM-10388-DS, 3-7,-CM-10421-DS, 3-8.

Volume 4, Maps: CM-10393-DS, 4-1.

Volume 6, Appendix-XIV- Remove all of this appendix. Haul Road Construction  
Drawings.

Volume 7, Appendix XIV-Continued, CM-10601-DS, 5-2,-CS-1130-D, 5-3,-CS-1129C,  
5-3A,-KS-1190C, 5-3B,-CM-10607-DS, 5-4,-CM-10609-DS, 5-5,-CM-10613-DS, 5-6,-  
Volume 7, Appendix XV-CM-10658-DS, 5-7.

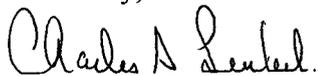
Volume 7, Appendix XVI-

Some of this section could remain for use in revegetation of the mine site areas according  
to statements within the permit, found in Volume 2, Part 4, page 4-69.

Due to the extensive number of items that will require changes or omission from the permit it  
was deemed logical to send the list without actually including the changed pages and maps.  
When the Division has found the contents of the draft amendment acceptable, then Energy West  
will expend the significant number of man hours needed in making the required revisions.

Thank you again for your assistance and cooperation in preparing this amendment.  
If there are any questions or concerns regarding this draft please call Richard Northrup at 687-  
4822 or Chuck Semborski at 687-4720.

Sincerely,



Charles A. Semborski  
Environmental/Geology Supervisor

cc: Blake Webster  
Carl Pollastro  
Susan Tuttle (File)