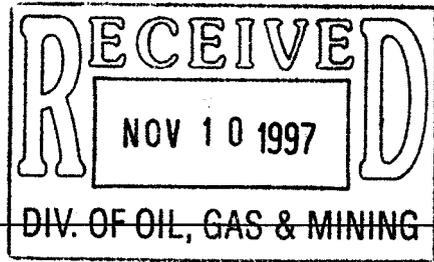


0008



November 5, 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: **PacifiCorp, Des-Bee-Dove Mine, ACT/015/017, NOV N97-41-3-1, Emery County, Utah, Disposition of the Des-Bee-Dove Haul Road**

*Copy Lowell Braxton, Mary Ann Paul, Jason, Joe, JAM*  
*#2, #5. NOV file*

As part of the findings of fact of NOV N97-41-3-1, the Division requested that "Within 60 days of receipt of this Order, the permittee shall submit plans to the Division that discuss the disposition of the roadside ditch containing the pipeline that is subject of the NOV upon reclamation of the Des-Bee-Dove haul road". On July 29, 1997 Energy West requested and received approval for a 90 day extension to resolve the disposition of the Des-Bee-Dove haul road. As you are aware, resolution of the haul road was complicated by School and Institutional Trust Lands Administration granting multiple easements allowing Texaco to install gas and water lines adjacent to the haul road. As a result of the construction activities by Texaco, PacifiCorp received the NOV for failure to maintain drainage control. As indicated in the July 29, request, PacifiCorp has been actively pressing a resolution of the haul road. The following is an updated chronological history of the measures that PacifiCorp has taken to resolve the disposition of the haul road:

1. February 26, 1997 - PacifiCorp submits 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.
2. April 4, 1997 - Energy West Mining Company receives a letter from Rex Funk, Road Supervisor, Emery County, Utah. Mr. Funk states 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.
3. June 18, 1997 - Energy West Mining Company submits a letter to the Emery County Commission concerning the assumption of the Des-Bee-Dove haul road.

Huntington Office:  
 (801) 687-9821  
 Fax (801) 687-2695  
 Purchasing Fax (801) 687-9092

Deer Creek Mine:  
 (801) 381-2317  
 Fax (801) 381-2285

Cottonwood Mine:  
 (801) 748-2319  
 Fax (801) 748-2380

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4. Public Notice published in the Emery County Progress on September 2, and September 9, 1997 ***"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).
5. September 17, 1997 - Emery County Board of County Commissioners 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"***. Commissioner Bevan Wilson as a result of this public meeting made a motion to pursue negotiations with Energy West and Emery County to work on a plan to bring the road to an agreeable standard, 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).
6. October 23, 1997 - Energy West and Emery County met to discuss disposition of the Des-Bee-Dove haul road. As a result of the meeting, a MOU will be developed outlining an assignment of the ROW's from PacifiCorp to Emery County.

In response to the position expressed by Emery County, PacifiCorp requested a meeting with the Division concerning the disposition of the Des-Bee-Dove haul road held in the Salt Lake Division office on October 30, 1997. This meeting involved a discussion concerning the haul road assumption by Emery County and some Division guidelines, procedures and regulations that would need to be addressed that would help in resolving the disposition of the Des-Bee-Dove haul road/assignment to Emery County.

Energy West was to respond to the Division by November 7, 1997 concerning the disposition of Des-Bee-Dove haul road. Therefore, since the time of requesting the 90 day extension, positive and affirmative action with the County and Energy West has transpired. Wherein, the County's request to assume all rights-of-way of the haul road has been agreed in principle to by both parties. It is our intent to completely remove and assign the rights-of-way (traversing across U.S.F.S., BLM, State Lands) of said Des-Bee-Dove haul road from the permit area and assign the rights-of-way to Emery County. A Memorandum of Understanding between Energy West and Emery County is being developed and will be signed when all items of concern are finalized. A copy of this document will be provided to the Division as a matter of record when available.

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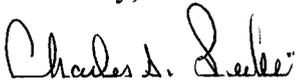
As discussed in the above mentioned meeting, an amendment would be required to address several issues pertaining to Post Land Use within the ROW of the haul road, changes to the ROW boundary description within the Special Use Lease Application Area, and total ROW of the haul road. These issues will be addressed and an amendment provided to cover the requirements necessary.

It is our intent to submit an amendment to address the issues discussed above as a draft copy for your review, when your response is received, any corrections can be finalized and the amendment will then be submitted in compliance with the Division Regulations and will include seven copies.

At this time Energy West would commit to that amendment draft on the above issues by December 2, 1997.

Thank you for your help and assistance in resolving these matters, if there are any questions or suggestions that will further assist us in finalizing these issues please call Richard Northrup at 687-4822 or Chuck Semborski at 687-4720.

Sincerely,



Charles Semborski  
Environmental and Geology Supervisor

cc: Blake Webster  
Scott Child  
Carl Pollastro  
Susan Tuttle for (File)  
John Kirkham (Stoel Rives)  
Charles Semborski

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## **PUBLIC HEARING**

PUBLIC NOTICE IS HEREBY GIVEN that the Board of Emery County Commissioners will hold a Public Hearing on September 17, 1997 at 5:00 PM in the Commission Chambers of the Emery County Courthouse at 95 East Main Castle Dale, Utah.

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 public access:

PacifiCorp Crossover Road from SR57 East to the North end of the Des Bee Dove Road.

Those persons unable to attend the meeting and others may submit written comments to the Office of Emery County Clerk/Auditor 95 East Main, P.O Box 907 Castle Dale, Utah 84513 on or before 5:00 PM September 17, 1997.

/s/Bruce C. Funk  
Emery County Clerk/Auditor

Published in the Emery County Progress: September 2, and 9, 1997

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(4)

**5:00p.m. 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.**

Commissioner Bevan Wilson provided opening remarks. Emery County had received word that Energy West was going to reclaim the road from Des Bee Dove Road to the haul road State #57. In discussion with Energy West, the road department looked into an option of Emery County taking over jurisdiction of this road and leaving it open to provide public access. Through the Mine Reclamation Plan this road would be put back to its original state if the county does not assume ownership of the road. The county had a meeting with Energy West to discuss the options the county might have if they did take it over. Drafts are being put together by Johansen & Tuttle Engineering as to the scope of work that will have to be done to bring it up to an acceptable standard before the county could take it over. When the scope of the work with the cost estimates is complete, it will be reviewed by the county staff and put back out to Energy West for further discussion. The old existing trails would remain if the reclamation by Energy West did happen. Commissioners Wilson, Commissioner Petersen, Howard Tuttle, Rex Funk and Val Payne took a tour of the road to assess the county's option. If the end result of this Public Hearing is to assume the road into the county system, then they would look at some turnaround areas and parking areas. If the county does not opt to take it over then under the mine plan Energy West would be required to reclaim the road. It would revert back to its natural state. no longer be a road or be allowed public access.

Commissioner Wilson's opening comments were echoed by Road Supervisor, Rex Funk, adding his support for leaving the road open. He gave details of the procedures for maintaining the road if returned to the county system. Public comment was received from Mark H. Williams and Larry Harrington, citizens of Castle Dale, Val Payne, Public Lands Director, representatives from Texaco Oil, who are utilizing the road with their coalbed methane production, as well as each of the Commissioners, in support of leaving the road open for public access.

**Commissioner Bevan Wilson made a motion to close the public hearing. The motion was seconded by Commissioner Kent Petersen and approved by all members present.**

**Commissioner Bevan Wilson as a result of this public hearing made a motion to pursue negotiations with Energy West and Emery County to work on a plan to bring the road to an agreeable standard, 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 Petersen and approved by all members present.**

(5)

**6:00p.m. PUBLIC HEARING- To receive public comment on whether the Emery County Commission should include the plant: PURPLE LOOSESTRIFE as a county noxious weed.**

Weed & Mosquito Director, James Nielson, explained the origin of Purple Loosestrife. This plant is an exotic, perennial weed from Eurasia. The last several years it has come to the forefront of discussion and activities of those who are involved in the wetlands. It is the only plant that he is aware of that is a threat to our wetlands. There are no natural controls for Purple Loosestrife. Emery County has the only known infestation of that plant on the Colorado River Drainage. For that reason there are a lot of individuals, involved with invading weeds in the