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United States Department of the Interior

OFFICE OF SURFACE MINING
Reclamation and Enforcement
1999 Broadway, Suite 3320
Denver, Colorado 80202-5733

IN REPLY REFER TO:

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DIV. OF OIL, GAS & MINING

August 31, 1998

Mr. Lowell P. Braxton,
Division Director
Division of Oil, Gas and Mining
1594 West North Temple, Suite 1210
P.O. Box 145801
Salt Lake City, Utah 84114-5801

Copy RAM
ACT/015/017 #3

RE: Decision Document to Approve an Alternative Postmining Land Use and Final Bond Release for the Des-Bee-Dove Mine Haul Road

Dear Mr. Braxton:

This letter acknowledges the Office of Surface Mining's (OSM) receipt and review of the subject Decision Document prepared by the Utah Division of Oil, Gas and Mining (DOGM). The Des-Bee-Dove Mine permit area, including the haul road, contains Federal lands. OSM is in agreement with the decision document and hereby provides OSM concurrence to release final bond liability on the Des-Bee-Dove Mine haul road in accordance with the Federal regulations at 30 CFR 740.15 (d) (3), and 30 CFR 944.30, Article IX, section B, of the Federal - State Federal lands cooperative agreement.

The decision document thoroughly recounts the permitting and regulatory history of the haul road and also documents actions required by the permittee, affected surface land owners, government land management agencies, Emery County, and DOGM, to approve the alternative postmining land use in accordance with Utah Rule R645-301-412. The Forest Service, the Bureau of Land Management, the Utah State Institutional Trust Lands Administration, and Emery County have all provided letters concurring with the alternative postmining land use and transfer of the appropriate rights-of-way to Emery County. These letters, by approving rights-of-way transfer to Emery County, also concur with removal of the haul road from the permit area in order to transfer jurisdiction of the haul road to the county. The approved alternative postmining land use(s) is wildlife, grazing, recreation, and industrial (coal bed methane gas development).

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DOGM conducted the bond release inspection required at Utah Rule R645-301-880.210 on July 20, 1998. The decision document highlights the inspection findings and indicates that all required public notices and surface landowner notifications were made in a timely manner prior to the inspection. The OSM Denver Field Division (DFD) participated in the inspection noted above and inspection findings are documented in the OSM Mine-Site Evaluation Inspection Report dated July 23, 1998. The approved land use(s) noted above were evident during the inspection. The Forest Service, the Bureau of Land Management, and the Utah State Institutional Trust Lands Administration were notified of the inspection but did not participate. The decision document contains a list of inspection participants.

OSM understands that the approved alternative postmining land use is as stated above, and that the land use is being met. The permittee, PacifiCorp, has met the requirements of the approved Utah Coal Regulatory Program at R645-301-412 for postmining land use, and at R645-301-880 for bond release. Both the alternative postmining land use proposal and the bond release were advertised for public comment in the Emery County Progress as required. No adverse comments were received by DOGM. OSM understands 93.18 acres, representing the haul road and associated rights-of-way, will be included in the bond liability release and removed from the Des-Bee-Dove Mine permit area. No release of bond monies has been requested or approved.

Thank you and your staff for coordinating this Federal lands bond release with the DFD. Please address any questions concerning this letter to Henry Austin, Reclamation Specialist, at (303) 844-1466.

Sincerely,

James F Fulton

James F. Fulton, Chief
Denver Field Division

cc: PacifiCorp
Emery County
U.S.F.S.
B.L.M.

State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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Michael O. Leavitt
Governor
Lowell P. Braxton
Division Director

WESTERN SUPPORT CENTER
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OSMRE-WSC

August 24, 1998

James Fulton, Chief
Office of Surface Mining
Reclamation and Enforcement
1999 Broadway, Suite 3320
Denver, Colorado 80202

Re: Decision Document for Des-Bee-Dove Bond Release - Concurrence Requested, PacifiCorp, Des-Bee-Dove Mine, ACT/015/017-98BR, Folder #3, Emery County, Utah

Dear Mr. Fulton:

Enclosed please find the Decision Document for the bond release for the Des-Bee-Dove haul road. This bond release represents 93.18 acres that will be removed from the Des-Bee-Dove Mine permit area due to the achievement of the alternative postmining land use of that road. There is no change in the bond amount due to this final bond release.

OSM concurrence is requested on the Division recommendation for bond release. If you have any questions, please call me.

Sincerely,

Pamela Grubaugh-Littig
Permit Supervisor

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Enclosure
cc: Chuck Semborski, PacifiCorp
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DECISION DOCUMENT

DES-BEE-DOVE HAUL ROAD
(AKA DES-BEE-DOVE/WILBERG JUNCTION ROAD)
ALTERNATIVE POSTMINING LAND USE
FINAL BOND RELEASE
DES-BEE-DOVE MINE
ACT/015/017-98BR

BACKGROUND

The Des-Bee-Dove haul road was constructed in 1983, in response to public concern for safety in the previous route that went through the residential streets of Orangeville, Utah. Utah Power and Light Company (now PacifiCorp) represented the road as a public road and did not obtain a permit from the regulatory authority to construct the haul road. The Division of Oil, Gas, and Mining ("Division") issued a notice of violation to Utah Power and Light Company on July 18, 1984 that required this haul road be included in the PAP for a permanent program permit.

On July 31, 1984, the Division issued a cessation order preventing Utah Power and Light Company from using this road. This cessation order was terminated on October 1, 1984. The Utah Board of Oil, Gas, and Mining reopened the haul road under an emergency order pursuant to the approved Utah State Program, to allow Utah Power and Light Company to resume production and delivery of coal to the Hunter Power Plant without routing trucks through the town of Orangeville.

CHRONOLOGY AND SUMMARY

Temporary Cessation/Notice to Reclaim

This haul road was included in the Des-Bee-Dove Mine permit issued by the Division on August 28, 1985. The Des-Bee-Dove Mine went into temporary cessation on February 6, 1987. By letter, dated February 26, 1997, PacifiCorp submitted to the Division a Notice of Intent to reclaim the Des-Bee-Dove Mine, including the portion of the haul road within the permit area.

Violation Issued/Third Party Interference

On February 27, 1997, the Division issued violation N97-41-3-1- to PacifiCorp at the Des-Bee-Dove Mine for "failure to have adequate drainage control .....failure to maintain a road to control or prevent additional contributions of suspended solids to streamflow or runoff outside the permit area", which was associated with construction of a coalbed methane pipeline by Texaco in the drainage ditch of the Des-Bee-Dove Haul Road. On April 4, 1997, Energy West Mining Company ("Energy West") (operator of the Des-Bee-Dove Mine) received a letter from Rex Funk, Road Supervisor for Emery County that stated there may be a public interest in the Des-Bee-Dove Haul Road.

Division Order Issued

Violation N97-41-3-1 was vacated on June 10, 1997, and an Order issued that stated: "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 June 18, 1997, Energy West submitted a letter to the Emery County Commission concerning the assumption of the Des-Bee-Dove Haul road. On July 29, 1997, Energy West requested and received Division approval for a 90-day extension to resolve the disposition of the Des-Bee-Dove Haul Road until October 29, 1997.

Process of Converyance of Haul Road to County Road System

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 (i.e. the Des-Bee-Dove Haul Road) to the County Road System in order to provide access." On September 17, 1997, the Emery County Board of County Commissioners held this public hearing. As a result of this public hearing, 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 the county attorney to prepare the documents to transfer the haul road to the county system.

On October 23, 1997, Energy West and Emery County met to discuss the disposition of the Des-Bee-Dove road. As a result of the meeting a draft agreement was 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 haul road was designed by the Utah Department of Transportation and constructed in 1983 to meet UDOT 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 (coalbed methane exploration and development work conducted by Texaco Corporation), recreation (hunting and wildlife viewing), and grazing (access to separate grazing allotments).

Division Order/Midterm (Postmining Land Use Change)

A meeting was held at the Division on October 30, 1997, with PacifiCorp about this issue. A draft amendment was submitted on November 5, 1997 and an extension was granted until December 2, 1997 to submit an amendment to formally address this issue which was done, but was still identified as "draft". The Division responded by letter dated December 16, 1997 about the postmining land use deficiencies. On December 30, 1997, PacifiCorp requested an additional 90 days to resolve this issue due to the land transfer process with Rights of Way with State Institutional Trust Lands Administration (SITLA), Bureau of Land Management (BLM), and the Manti LaSal National Forest as well as finalizing the transfer with Emery County.

On February 27, 1998, the midterm review was sent to PacifiCorp for the Des-Bee-Dove Mine, which included resolution of the Division Order associated with this haul road. On March 18, 1998, the Emery County Commissioners approved of the transaction and signed the land transfer agreement. On March 23, 1998, PacifiCorp requested 30 more days to submit the land use changes to meet the requirements of the Division Order, which was granted until April 30, 1998.

Transfer of Rights of Way

The Forest Service (letter dated April 15, 1998), Bureau of Land Management (letter dated March 26, 1998), and State Institutional Trust Lands Administration (letter dated March 24, 1998) all concurred with the postmining land use change, i.e. transfer of use from PacifiCorp to Emery County, contingent upon the Division approval of the removal of this haul road from the Des-Bee-Dove Mine permit area.

Bond Release

PacifiCorp submitted the postmining land use changes for the haul road which would remove the haul road from the permit area on April 30, 1998. The Division decided that this "removal from the permit area" would be considered a "final bond release" for this area and notified PacifiCorp on May 5, 1998.

Vegetation Test Plots/Erosion Study Along Haul Road

Evidence of erosion on the outslope of the mine haul road had been in existence since 1987 (see Decision by Administrative Law Judge, Harvey Sweitzer dated February 28, 1995 for federal violation No.93-020-190-05). Between August and November 1991, PacifiCorp implemented a sedimentation control plan which effectively prevented most of the road runoff

from flowing onto the road outslope. Concurrently, PacifiCorp and the Division organized a task force to determine what other measures might be taken to control or prevent erosion on the road outslope. Members of the task fork included representatives of the Division, United States Natural Resource Conservation Service (USNRCS - formerly SCS), Utah State University Extension Service, PacifiCorp and its subsidiary, Energy West Mining Company. Office of Surface Mining (OSM) was invited to take part in the task force, but OSM did not participate.

The task force met on November 12, 1991, and concluded that the outslope rills and gullies are caused by water erosion and that the erosion control measures implemented by PacifiCorp should curtail and/or control this erosion. The task force also concluded that further erosional control and rehabilitation measures should be deferred pending completion of a study to evaluation erosion control measures and reclamation alternatives. Pursuant to the task force's recommendation, PacifiCorp in 1992 with Division oversight, launched a three-year study to evaluate various erosion control methods.

The reasoning behind the task force's conclusions were that the road outslope is composed of Mancos shale and is very steep. By all accounts, Mancos shale is highly susceptible to erosion. Nevertheless, the outslope was considered stable, showing no evidence of tension cracks or mass movement and having naturally settled since the road's construction in 1983.

Implementation of additional erosion control or rehabilitation measures would require the use of heavy equipment and disturbance of the slope, loosening the soil surface and destabilizing the steep slope. The task force feared that if such measures failed, their implementation would only exacerbate the outslope erosion.

In addition to being extremely erosive, Mancos shale is very resistant to revegetation because of its high salt content and tendency to form a hard surface crust. In light of these conditions, it was unclear whether implementation of additional measures, such as mulching, netting, tackifiers, and revegetation would be effective.

Revegetation test plots were established near the haul road in 1992. The existing plan contains information about methods used, and the application has an executive summary with methods and results. Results presented include dominant species, total cover, and soil analyses.

The information provided in the summary together with the design information in the appendices will be valuable for future reclamation efforts at this and other mines.

The application includes changes to the reclamation plan. Primarily, tree and shrub seedlings are being deleted from both interim and final revegetation planting mixes, and shrubs would be established from seed. No methods for establishing trees are included in the plan, but

they are not needed. The proposed changes are acceptable.

The regulations do not specifically address revegetation of road cut and fill slopes. While the postmining land uses for the road are considered the same as for adjacent areas, revegetation requirements should not necessarily be the same. For example, wildlife management agencies intentionally seed less palatable species near roads to help reduce wildlife collisions with vehicles, and it is best not to have wildlife cover next to a road. Therefore, the traditional standards for density of woody species, cover, production, and diversity are not applicable.

The areas near the road are, for the most part, adequately vegetated or otherwise protected that there are no serious erosion problems. However, a few areas in the cuts and fills east of the sediment pond are not well vegetated and have had some erosion problems. In an attempt to control erosion, the applicant has diverted water away from the longer slopes adjacent to the road. The applicant has had an ongoing erosion monitoring program in this area. Recent results indicate rills and gullies are tending to become wider but that the depths are either stable or becoming shallower. This is a typical pattern for healing erosional features and indicates increasing stability.

Information provided in the proposal is considered adequate to meet the requirements of this section of the regulations. The conclusions of this task force and the results of the three-year study are included in the plan.

FINDINGS FOR ALTERNATIVE POSTMINING LAND USE

POSTMINING LAND USE

Regulatory Reference: R645-301-412

Analysis and Findings:

Together with the bond release, the applicant is proposing a change in the postmining land use from wildlife and grazing to wildlife, grazing, recreation, and industrial.

The application includes comment letters from the involved government agencies supporting retention of the road, and it gives justification for changing the postmining land use in accordance with the requirements of R645-301-413.300. The applicant has shown the uses proposed are higher or better uses as defined in R645-100. The road will be used for coalbed methane development in the area and for recreation purposes.

PacifiCorp has met all of the requirements of R645-301-413.300 through R645-301-414.300 (Alternative Postmining Land use), for this haul road. The current postmining land use for the area is grazing and wildlife. The alternative postmining land use has been expanded to recreation and industrial/commercial access. There is likelihood for achievement of the use of this road for recreation and access for industrial/commercial (coalbed methane) because these uses are already occurring.

These uses do not pose any actual or probable hazard to public safety, health, or threat of water diminution or pollution. These uses are practical and reasonable, consistent with applicable land-use policies or plans, are currently being implemented, and do not contribute to violation of federal, Utah, or local law.

Emery County has agreed to transfer this road to the Emery County Road system by agreement dated March 18, 1998, contingent upon removal of this road from jurisdiction by the Utah Coal Regulatory Program, i.e. through bond release.

The alternative postmining land use for this haul road was submitted to the Division as a significant revision to the plan. PacifiCorp published this significant alteration from the original permit for four consecutive weeks in the Emery County Progress (May 12, 19, 26 and June 2, 1998), and at the end of the comment period, no comments were received.

Information provided in the proposal is considered adequate to meet the requirements of this section of the regulations.

RECOMMENDATION

The applicant has provided required information to justify the postmining land use change and to delete the haul road from the permit area.

FINDINGS FOR BOND RELEASE

Bond Release

Regulatory Reference: R645-301-880 - 880.330

Administative

The application for final bond release for the Des-Bee-Dove haul road included removal of

this road from the Des-Bee-Dove Mine permit area (decrease the permit area by 93.18 acres) but no change in the reclamation bond amount.

The advertisement of the postmining land use and bond release for this haul road was published in the Emery County Progress on May 12, 19, 26, and June 2, 1998. The comment period ended and there were no adverse comments.

Letters were sent to the landowners by PacifiCorp advising them of this bond release action. Invitations to the bond release inspection were sent to Emery County Planning, OSM, Manti-LaSal FS, BLM - Price, BLM (State Office) and SITLA on July 6, 1998. The bond release inspection was conducted on July 20, 1998. In attendance were:

OSM:	Henry Austin
Division:	Paul Baker, Daron Haddock, Mary Ann Wright, Wayne Western, Bill Malencik, and Pamela Grubaugh-Littig
Emery County:	Ray Petersen (Emery County Road Department)
PacifiCorp:	Dennis Oakley, Chuck Semborski, Scott Child, Blake Webster, and John Kirkham

There were no problems identified about the transfer of this road to the county road system during the inspection. A midterm inspection at the Des-Bee-Dove mine site was also conducted with no problems identified.

The Forest Service (letter dated April 15, 1998), Bureau of Land Management (letter dated March 26, 1998), and State Institutional Trust Lands Administration (letter dated March 24, 1998) all concurred with the postmining land use change from grazing and wildlife to the expanded grazing and wildlife and recreation and industrial/commercial access as well as the transfer of use from PacifiCorp to Emery County. All of these concurrences are contingent upon the Division approval of the removal of this haul road from the Des-Bee-Dove Mine permit area. The concurrence for the change in postmining land use gave concurrence to remove from the permit area because there was no longer any mining use for this road and therefore, no longer required for the permit area for the Des-Bee-Dove Mine.

PacifiCorp has met the requirements of the Act, the R645 rules, and the permit. The alternative postmining land use has been met and therefore, final bond release for the Des-Bee-Dove Haul Road should be granted.

CONCLUSIONS AND RECOMMENDATION

Based on the Division findings PacifiCorp has met the requirements for approval of the

alternative postmining land use for the Des-Bee-Dove Haul Road. It is recommended that this final bond release be approved which removes 93.18 acres from the Des-Bee-Dove Mine permit area. There is no change in the bond amount.

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