



April 8, 2005

Utah Coal Program
Division of Oil, Gas and Mining
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file In C 01500189 Mining
Date: 04082005 Refer to:

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For additional information

Handwritten:
Mining
4/15/05
#2088

Re: Response to Rilda Canyon Road, North Rilda Canyon Project, DOGM Task ID #2088

PacifiCorp, by and through its wholly-owned subsidiary, Energy West Mining Company ("Energy West"), responds to the questions and concerns regarding the transportation and access routes to the proposed Rilda Canyon facilities.

By way of background, the public road in Rilda Canyon has been utilized for many years to provide multiple use access into the canyon and surrounding area. The uses of the road have included grazing, public utilities, recreation, mineral development, culinary water development, etc. The road is also used for access by governmental agencies such as the BLM, the U.S. Forest Service, DOGM, DWR and Emery County.

Available records indicate portions of the public road have been utilized since as early as 1935. Initial development occurred near the mouth of the canyon. In the 1950's in support of coal mining activities on Federal leases, the Forest Service authorized road development further up the canyon. The road provided access to the Helco Mine, the Leroy Mine and the Rominger Mine. As the road progressed up the canyon, multiple use of the road increased. In 1993, Emery County (through Emery County Special Service District #1 ("District")) reconstructed a two mile stretch of the road from State Road 31 to a location above the historic Leroy Mine. This activity included construction of a new bridge crossing Huntington Creek together with road re-alignment and widening.

In 1994, North Emery Water Users Association (now known as the North Emery Water Users Special Service District) completed an expansion of their spring collection system near the end of the 1993 road work to provide a more reliable supply of culinary water. This system is located below the historic Helco Mine.

In 1994, in support of increased activity in the canyon, the District also began a second phase of construction. This phase required reconstructing a 1 mile stretch of road from the end of the 1993 activity to the forks of Rilda Canyon. PacifiCorp's mining activities in the area began at this same time with the need for a ventilation breakout in the Left Fork of Rilda Canyon. By 1995, PacifiCorp had permitted and completed the development of the ventilation fan.

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DIV. OF OIL, GAS & MINING

In August 1998, a public road easement was recorded at the Emery County Recorder's Office with respect to the road. The easement was granted by the United States Forest Service in favor of Emery County. This action was taken to provide the documentary evidence of Emery County's rights as the governmental agency responsible for this class of public road. The District is involved with construction and improvement of such roads while Emery County actually owns the road and is responsible for its maintenance.

The following is the list of specific questions contained in the Division's December 16, 2004 letter and our respective responses shown in italics:

A. A legal description of the road right of way.

A legal description of the road right of way as obtained from Emery County is included as Attachment A. As mentioned above, this is an Emery County right of way crossing both Forest Service and private lands. Detailed information can be obtained by contacting the Emery County Road Department.

B. Name or numerical designation for the road.

Numerical designation is EC#306.

C. Land ownership for the road right of way.

The road right-of way is owned by Emery County. The underlying surface ownership encumbered by the right-of-way is shown on Attachment B. The owners include:

- 1. COP Coal Development Company.*
- 2. PacifiCorp (Successor of interest to Utah Power and Light Company).*
- 3. Intermountain Power Agency 50%, ANDALEX 50%*
- 4. United States Forest Service.*

D. Name of entity responsible for the alignment, construction, maintenance and liability for the road.

As explained above, the responsibilities are shared by the District and Emery County. It is our understanding that the District is responsible for construction and major improvements while the County has maintenance and liability for the road. Clarification of these shared responsibilities can be obtained from Rex Funk, Emery County Road Supervisor.

- E. Name of the entity responsible for the environmental permitting of the road.

The District.

- F. Construction standard for the road, and the entity responsible for attaining this standard.

Emery County Road Department. It is our understanding the design of the road was contracted to Johansen and Tuttle Engineering by the District. Design information can be viewed at the Emery County Road Department in Castle Dale, Utah.

- G. Maintenance schedule for the road.

As per phone conversation with Rex Funk, Emery County Road Supervisor, there is no set maintenance schedule. Maintained on an "as needed" basis only.

- H. Source of funds for construction and/or maintenance of the road.

The District will fund the reconstruction of EC#306. As mentioned above, Emery County Road Department retains the financial responsibility for maintaining the road.

- I. Examples of similar roads in Carbon and Emery Counties.

PacifiCorp is unable to determine what roads are similar and what roads are not similar when comparing EC#306 to any other road in Carbon and Emery counties. However, enclosed are two maps (see Attachment C) each representing the location of all jurisdictional roads located within Carbon and Emery counties. The information as to whom these roads serve and where they lead would be best obtained from the respective counties.

- J. Will PacifiCorp have the ability to deny use of the road? If yes, please provide a legal description for the portions of the road that are subject to exclusive use by PacifiCorp. Also please provide the basis for the exclusive use.

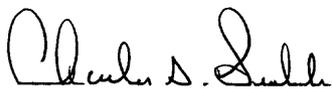
No. It is proposed, with County approval, to temporarily suspend use by the general public of a small portion of the upper road within the Emery County Road Right of Way through the area known as the proposed North Rilda Canyon Portal facilities (see Attachment B). Access through the portion subject to the temporary suspension will still be available for use by the District, North Emery Water Users Special Service District, utility providers, government and regulatory agencies. It is proposed that the suspended

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portion of the road will be converted into a portion of the area covered by the portal facilities. The portal facilities will be part of the disturbed area of the Deer Creek Mine and regulated by DOGM. At the time of reclamation, the road will be re-established at its original location and the temporary suspension removed. Interim public access for recreation and other uses will be provided through the use of a trail system on the south side of Rilda Canyon. The interim access will still allow the use of the remainder of the public road for other purposes while a portion is being used as a portal facility.

We appreciate the opportunity to provide this information regarding the Rilda Canyon road. If additional information is needed please contact me, the District or Emery County.

Sincerely,



Charles A. Semborski

Attachments

Cc: Rex Funk, Emery County Road Department
Emery County Road District
IMC
EW