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EMERY COUNTY ROAD DEPARTMENT
P. O. BOX 889
CASTLE DALE, UTAH 84513
(435) 381-5450 OR FAX (435) 381-5239

INCOMING
1015 0018

CC: WAYNE H

FAX COVER SHEET

DATE: 6/30/05

TO: Wayne Hedberg

AGENCY/FIRM: DDGM

FROM: REX FUNK

PAGES TO FOLLOW: 10

COMMENTS Review these I'm still digging!

RF

REPLY REQUESTED

INFORMATION ONLY

RECEIVED

JUN 30 2005

DIV. OF OIL, GAS & MINING

PROJECT AGREEMENT

FILE

Supplement No. 2-94 to the Forest Development Road Cooperative Agreement entered into on October 20, 1977 by and between the Forest Service, U.S. Department of Agriculture and Emery County, State of Utah.

Whereas, both parties are desirous of improving and applying surfacing on the Rilda Canyon Road, FDR #50264, from the North Emery Water User Association spring development in the NW1/4 of the SW1/4 of Section 28, T. 16 S., R. 7 E., SLB&M, to the NW1/4 of the SE1/4 OF Section 29, T. 16 S., R. 7 E., SLB&M, and

To that end, it is mutually agreed that:

A project will be re-constructed from the junction with Forest Highway 7 (State Route 31) to the spring development. Said construction shall consist of reconstructing the road to a finished surface width of 20 feet plus curve and fill widening, armoring sections of the cut ditch and fill slopes, installing drainage culverts where needed, and placing 6 inches of surfacing, and it is further agreed that:

A. The County will:

1. Perform preliminary surveys and roadway design and provide plans and specification for reconstruction of the road.
2. Perform construction engineering and staking for the reconstruction of the roadway.
3. Provide all necessary personnel, equipment, surface course materials, culverts and seeding to properly perform the complete reconstruction of said road.
4. Perform the said reconstruction in reasonably close conformity to the plans and specifications approved by the Forest Service.
5. Provide a plat and right-of-way description for final easement document preparation at the completion of the entire road reconstruction.

B. The Forest Service will:

1. Review with the County the proposed work on the ground prior to the work and periodically inspect the work as it progresses to insure compliance with the terms of this agreement.
2. The Forest Service will prepare the final easement documents and grant an easement to the County for the road after completion of entire road within the Forest Boundaries.

C. Both parties mutually agree that:

1. The United States, and/or its assignees, will not be liable to the County for any damages incident to the above cooperation.

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MANTI-LA SAL NF

003-003

- 2. The reconstruction will be performed in an orderly workmanship-like manner and upon beginning the work, it will continue without disruption, except as required due to inclement weather, until the work is complete and accepted by both parties.

The parties hereto have executed this agreement on the dates shown below.

Emery County Commissioners

[Handwritten Signature]

Nov 29, 1994
Date

[Handwritten Signature]

[Handwritten Signature]

Forest Service, U.S. Department of Agriculture

[Handwritten Signature]
Forest Supervisor

Nov. 30, 1994
Date

Entered by 3A
 Filed by 3A
 Indexed by 3A
 Abstracted by 3A
 (Book 2-3)
 (Page 74-52-53)

IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF UTAH, IN AND FOR
EMERY COUNTY.

FRED COAL & COKE COMPANY,
 a corporation,

Plaintiff,

vs.

J. B. Johnson, "John Doe" Christensen:
 "John Doe" Parish, "John Doe" Clark,
 and "John Doe" Wagoner,

Defendants.

FILE

JUDGMENT

This cause came on regularly to be heard on the 12th day of June, A. D. 1935; Frank B. Hansen, Esq., of Price, Utah, appearing as counsel for the plaintiff and the defendants appearing by their attorneys, F. W. Keller of Monticello, Utah, and W. C. Peacock of Castle Dale, Utah, and counsel for the respective parties having in Open Court entered a stipulation to the effect that the Court may enter its judgment and decree declaring the hereinafter described roadway to be a public highway with the condition that no general taxes be levied and assessed embraced therein and with the further condition that the plaintiff be relieved of any and all responsibility to maintain said highway and be released from any and all responsibility for any negligent or unlawful use of said highway and with the further condition that the plaintiff shall have the use of any and all timber or any other useful product within the right-of-way hereinafter described, and that each party to this action pay its or his own cost, and to the further effect that no findings or conclusions of law shall be required in this action, NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

That that certain roadway in Hilda Canyon passing over and across the NW 1/4 SE 1/4, SW 1/4 SE 1/4, SE 1/4 SW 1/4, Section 22, and the NE 1/4 NE 1/4, Section 23, TOWNSHIP 16 SOUTH, RANGE 7 EAST, S. L. M., which follows, a course approximately as follows:

Beginning at a point North 43°11' West 2354.5 feet from the Section corner common to Sections 22, 23, 26, 27, Township and Range above mentioned, thence South 69°22' West 190 feet, thence South 19°08' East 220 feet; thence South 42°08' East 655 feet, thence South 31°37' West 335 feet, thence South 45°51' West 279.6 feet, thence South 49°00' West 400 feet, thence South 47°30' West 500 feet; thence South 61°45' West 1000.7 feet, thence South 69°15' West 335 feet, at which point leave West side of the NE 1/4 of the NW 1/4 of Section 27, continue South 65°15' West 300 feet, thence South 59°19' West 1217 feet at which point enter the East side of the NE 1/4 of the NW 1/4 of Section 28, continuing South 59°19' West 454 feet, at which point leave the South side of the NE 1/4 of the NE 1/4 of Section 28, continue South 59°19' West 392.3 feet, thence South 60°49' West 600 feet, thence South 85°19' West 500 feet, to hub with tack which is the end of survey; and extending a distance of twenty-five (25) feet on each side of said course, be and the same is HEREBY ADJUDGED AND DECREED, a public highway; it is provided, however, that the plaintiff, its successors and assigns may and shall have the exclusive use any timber or other valuable product growing or produced upon said right-of-way; that the acreage embraced in the said right-of-way shall not bear any general or special taxes levied by Emery County upon the lands above described; and that the plaintiff in this action, be and it is hereby relieved of every and all responsibility to maintain the said roadway and from any and all responsibility that may accrue from failure to keep said highway in a passable or safe condition for travel;

IT IS FURTHER ADJUDGED AND DECREED, that the parties to this action shall each bear their own cost.

Done in Chambers at Kanti, Utah, this 17th day of June, A. D. 1935.

Dilworth Woolley
 Judge.

STATE OF UTAH)
) 33.
 COUNTY OF EMERY)

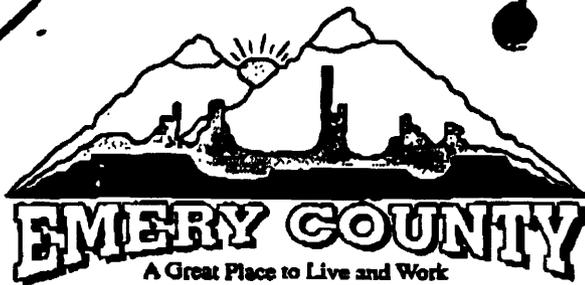
I, Hector L. Peterson, Clerk of the Seventh Judicial District Court, in and for Emery County, State of Utah, hereby certify that the foregoing is a full, true and correct copy of the original Judgment and now on file and of record in my office.

Witness my hand and seal of said
 District Court at my office in Castle
 Dale, Emery County, Utah, this 24th
 day of June, A. D. 1935.



Hector L. Peterson
 Clerk of the District Court.

Recorded at the request of Frank B. Hansen, Price, Utah, this 24th day of June 1935 at 9:30 A. M. in Book A-9 of Deeds at Page 314.



Road Department

February 12, 2004

FILE

Mesia Nyman, District Ranger
Manti-La Sal National Forest
Ferron Work Center
P. O. Box 310
Ferron, Utah 84523

Dear Ms. Nyman:

Energy West Mining Company (EWMC) has contacted us with a proposal to construct a mine surface facility in Rilda Canyon. Said facility will include customary installations such as: bathhouse, offices, shop, warehouse, etc. for coal mining operations. There is to be no coal handling and transportation at this site. In reviewing and discussing EWMC concept drawings we can see a definite conflict with the current alignment of our County Road #306 at the proposed site. This will necessitate the realignment and reconstruction of our existing road for approximately 1,500 feet (see map). The new alignment would route local traffic not commonly associated with the mine operations around the perimeter of the facility.

County Road #306, including the proposed realignment, will remain under Emery County jurisdiction and maintenance. The scope of the project also will include some widening and asphalt surfacing from the proposed facility to Highway 31 where there will also be a relocation of the road attachment to the highway. This letter is submitted as notification that we will be seeking to work with the USFS and affected agencies in acquiring any necessary permits and interagency agreements not unlike those acquired for the Rilda Canyon Road (#306) improvement project in 1994. We will be in touch with more specifics and look forward to working with you.

Sincerely,


Rex Funk,
Road Supervisor

attachment: map

cc Ira Hatch, County Commissioner
Gary Kofford, County Commissioner
Drew Sitterud, County Commissioner
Ray Petersen, Public Lands Director
Aaron Howe, Manti-La Sal Forest Service Engineer
Craig Johansen, Johansen & Tuttle Engineering
Chuck Semborski, Energy West Mining



United States
Department of
Agriculture

Forest
Service

Manti-La Sal
National Forest

Supervisor's Office
599 West Price River Drive
Price, UT 84501
Phone # (435) 637-2817
Fax# (435) 637-4940

File Code: 2820-4

Date: June 8, 2001

Mary Ann Wright
Utah Department of Natural Resources
Division of Oil, Gas and Mining
P.O. Box 145801
Salt Lake City, UT 84114-5801

FILE

RE: Revised Volume 11: North Rilda Area Engineering Section (R645-301-500), Page 44 Add Vehicle Use Stipulation 20, PacifiCorp, Deer Creek Mine, C/015/018, Emery County, Utah

Dear Mary Ann:

We have reviewed the subject mine plan amendment and consent to the proposal with the following conditions:

- The permit package/mine plan and permit for hauling of the longwall equipment is a one-time approval that will end on/before September 25, 2001. At such time the original volumes and restrictions regarding hauling of bulk materials (restricted to 6 loads per day and 28 loads per week, page 42), and restriction of hauling on weekends (Stipulation 1, page 42) would again be observed.
- Stipulation 6 that prohibits hauling on Federal and State holidays, including holiday weekends, will remain unchanged and must be observed. For clarification, the restriction(s) for this year include the 4th of July that falls on Wednesday; haul restriction on actual holiday only, the 24th of July State holiday that falls on a Tuesday; haul restriction from the prior Friday (July 19) through Tuesday the holiday, and September 3, Labor Day; haul restriction from the prior Friday (August 31) through Monday the holiday.
- No loading or unloading of materials will take place on the breakout access road or turnaround area.
- Hauling on the Rilda Canyon Road and State Route 31 must be consistent with Emery County Road Department and Utah Department of Transportation (UDOT) requirements, respectively, for traffic safety, traffic volume, and vehicle weight limitations.



If you have any questions, contact us at the Forest Supervisor's Office in Price, Utah

Sincerely,

FILE

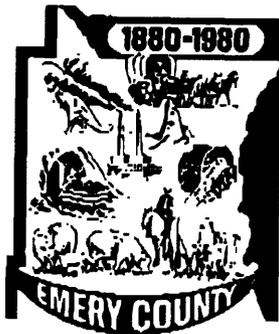


ELAINE J. ZIEROTH
Forest Supervisor

cc:
Rex Funk, Emery County
Road Department

Kleston Laws, UDOT

D-2/3



Emery County Road Department

P.O. Box 889
Castle Dale, Utah 84513

Phone (801) 381-5450 or 381-2550
Fax (801) 381-5289

March 18, 1994

FILE

Energy West Mining Company
15 West Main
Huntington, Utah 84528

Dear Mr. Payne:

Regarding your inquiry concerning Emery County Road #306 I submit the following:

1. The road in question was commonly known as Ridley Canyon probably earlier than our November 2, 1901 map.
 - a. It was commonly used by local citizens for cattle grazing and timber harvesting.
 - b. Mining claims appear to have developed at some subsequent period of time as fuel needs were recognized in the developing Huntington settlement.
2. The road seems to have been well established to within ½ mile of the forks (North Emery collection system) in 1901 then continues on as a trail.
3. For decades the county has participated in the road maintenance in one way or other (for various reasons) including coal mining.
4. Sometime in the early 30's a dispute developed between property owners and citizens utilizing Rilda Canyon Road. Apparently J.B. Johnson wanted to setup a toll across his portion of property. It went to court wherein it was "Hereby adjudged and decreed a public highway" on the 17th day of June 1935 by Judge Dilworth Wooley of the Seventh Judicial District.
5. One might reasonably assume that the county was more regularly involved in maintenance from that time on through the present.
6. In approximately 1987 I was involved in a bridge structure inventory and could not identify the source who constructed the present mud sill type bridge structure which was on top of a then still visible pole type bridge (obviously very old). I conferred with Brent Barney of the Forest Service regarding the bridge. He agreed that the bridge deck appeared to be a forest type but the steel "T" beams suggested otherwise. The forest indicated that the bridge was not constructed by them. I then contacted Co-Op Mine who emphatically denied any association with the county's bridge or roadway. The bridge, I feel, is vintage late 1950's or early 1960's and has been commonly used by citizens including North Emery Water Users, ranchers and coal interests. Because of the diverse public use we did not pursue abandonment of the road or bridge. The county authority then stems from several decades of public use combined with the adjudication of 1935 (on part of the road) and county maintenance.

Mr. Val Payne
March 18, 1994
Page 2

FILE

7. Active county maintenance is from the Highway 31 connection to the springs used by North Emery Water Users. The grader turnaround is very visible and it is apparent where our active maintenance ends.
8. The state recognizes this as a valid county roadway including the bridge.
9. The earliest county road log available to me is 1968 wherein the road is called Rilda Canyon #H-23, 2.0 miles long.
10. The 1973 county road log names this road Rilda Canyon and Trail Canyon #306, 2.3 miles long. the Trail Canyon .3 miles across highway 31 was added to the original 2.0 miles (of Rilda Road) and labeled road #306.

It is not the counties intention to relinquish any authority regarding the roadway or the bridge; in fact it is our intent to improve the existing road with culverts, gravel and rip rap (as needed) including a new bridge structure. This of course is long over due and is a much needed improvement. I am particularly pleased to see the bridge replaced and I'm sure North Emery Water Users and the "citizens" in general will be pleased with the new gravel and culverts. We intend to stay on the present alignment except at the bridge crossing where we shift the new structure a little to the west for better road alignment and attachment to Highway 31.

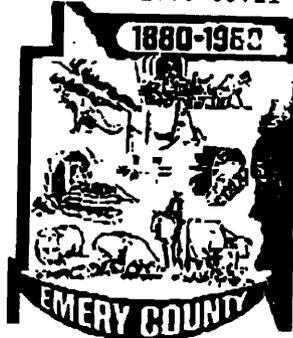
If I can be of further assistance please call.

Sincerely,

Rex Funk,
Road Supervisor

RF/ls

a/16.94



Emery County Road Department

P.O. Box 889
Castle Dale, Utah 84513

Phone (801) 381-5450 or 381-2550
Fax (801) 381-5239

May 9, 1994

FILE

Mr. Charles Jankiewicz/Price Ranger
U. S. Forest Service
599 Price River Drive
Price, Utah 84501

Dear Mr. Jankiewicz:

Enclosed please find three (3) sets of blue prints for Rilda Canyon Road #306 situated in Huntington Canyon. We currently recognize this roadway in two portions; upper and lower. The lower portion begins at Highway 31 and ends at North Emery Water Users collection system and the upper portion begins at the collection system and ends at the Forks.

The scope of maintenance on the lower portion will be of a routine nature where the road bisects Forest Service jurisdiction consisting of:

1. Blading and sloping of the existing roadway to a consistent 20' width (currently averages 16'-20") crowning of the existing road in preparation for 6" of Permazyme treated road base. The alignment will not be changed; we will stay on top of the old road template.
2. Several culvert crossings will be installed and engineered to eliminate the north shoulder scour and erosion while presenting minimal impact to the servient estate. Of course our engineers (J&T Engineers) will work closely with your engineers to achieve optimum results for your processes. The repaired shoulder will be armored with small rock where to the worse problems have been.
3. The small stream encroachment against the existing roadway will of necessity need rip rap. This will be on the south edge of the road and identified on the enclosed drawings. Mark Page has been contracted and permits are being processed.
4. The termination zone will be at the North Emery Water Users Collection system and a proper road access will be constructed at that point.

Letter to Charles Jankiewicz
May 10, 1994
Page Two

As mentioned we view the above items as essential maintenance and look forward to your co-operation and assistance. In an earlier conversation with Brent Barney and Aaron Howe, Emery County desires permanent easement for the already mentioned lower portion of Rilda Canyon Road.

At the April 20th Commission meeting, Commissioners approved annexation for the upper portion of Rilda Canyon to the Forks, in the vicinity of the Energy West proposed fan portal. They feel that the diverse public uses already recognized on the upper portion of road sufficiently justifies a request to the Forest Service for annexation. Of course this arrangement is subject to Forest Service approval and a subsequent easement agreement. We are therefore requesting road construction and permanent easements for the upper Rilda road. We have directed J&T Engineers to survey and design a roadway which is shown on the attached blueprints.

We recognize that there are several "hoops" to jump through (NEPA & etc.) to acquire permanent easements and would appreciate your assistance to that end. I have also instructed J&T Engineering to provide you with surveys and legal descriptions for both the lower and upper portions of Rilda Canyon Road in hope that both can ultimately be combined into one agreement with the Forest Service. We have enjoyed years of good relationship with the Forest Service and look forward to many more. The descriptions will be sent to you very soon. Thank you for your help.

Sincerely,



Rex Funk,
Road Supervisor

enclosure
cjw

29.94

