

U.S.D.A. - FOREST SERVICE

ROAD USE PERMIT #0410-03-16  
(Ref: F.S.M. 7731.16)

Authority: Acts of 4/24/50, 10/13/64, and 8/17/7, 9/9/66, 10/22/76, 12/02/80 (16 U.S.C. 504a, 571c, 580c-580l, 581, 581l, and 532-538, and 1608, and 8210) and (P.L. 88-657, P.L. 89-564, P.L. 93-378 and P.L. 94-588, P.L. 96-487); Federal Aid Highway Act of 1968 (P.L. 90-495); Surface Transportation Assistance Act of 1978 and 1982(23 U.S.C. 101a, 201-205) (P.L. 95-599, P.L. 97-424) -

Michael L. Davis  
(435) 286-4421

Canyon Fuel Company, LLC  
397 South 800 West  
Salina, UT 84654

(Name)

(Address & Zip Code)

(hereafter called the permittee) is hereby granted use of the following road(s) or road segments:

On the Manti-LaSal National Forest:

Forest Service Road #50044 from the southern Forest Boundary northwest for 0.64 miles to the project site

subject to the provisions of this permit, including clauses 1 through 13, on page(s) 1 through 4 for the purpose of providing access to a proposed well site on private lands within the National Forest.

The exercise of any of the privileges granted in this permit constitutes acceptance of all the conditions of the permit.

1. Work Required to Accommodate Permitted Use. In accordance with this use, the permittee shall perform the work described below:

The permittee is responsible for dust control, which shall be maintained through the life of the project. The permittee shall also perform maintenance per exhibit 1 (attached).

2. Use Plans. The permittee shall notify the Ferron/Price District Ranger, 115 West Canyon Road, P.O. Box 310, Ferron Utah, 84523, telephone no. 435-384-2372, in writing of the names and addresses of permittee's contractors or agents who will use the road on behalf of the permittee, the estimated extent of use, purpose of use, and such other information relative to permittee's anticipated use as the Forest Service may from time to time reasonably request. When there is a significant change in use by the permittee, it is the permittee's responsibility to promptly notify the District Ranger in writing. The Forest Supervisor will approve plans and changes before use may commence.

3. Compliance with Laws, Regulations, and Rules Governing Use. The permittee, in exercising the privileges granted by this permit, shall comply with the regulations of the Department of Agriculture and all Federal, State, County, and Municipal laws, ordinances, or regulations which are applicable to the area or operations covered by this permit. The permittee, its agents, employees, contractors, and guests of the permittee shall comply with the rules and regulations prescribed by the Forest Service for the control and safety in the use of the road and to avoid damage to the road. Such rules and regulations shall include:

a. Closing the road or restricting the use when required by any government agency which, by law, has jurisdiction to authorize such closing or restrictions.

b. Upon reasonable notice, closing the road during periods when, in Forest Service judgment, there is extraordinary fire or avalanche danger.

c. Traffic controls which, in the judgment of the Forest Service, are required for the safe and effective use of the road by authorized users thereof.

d. The permittee shall not use chemical poison, as defined in section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act of June 25, 1945, as amended (61 Stat. 163; 73 Stat. 286; 75 Stat. 18; 75 Stat. 190), or any chemical or other road surface treatment without the approval of the Forest Supervisor. The application for approval shall be in writing and shall specify the area to be treated, the material used in the treatment, and the time, rate, and method of application.

e. Prohibition upon the loading of trucks while such trucks are standing on the roadway surface, except to recover lost material.

f. Prohibition on the operation on this road of any vehicles or equipment having cleats or other tracks which will injure the surface thereof.

g. Prohibition on the operation of hauling vehicles of a width in excess of state limit or with a gross weight of vehicles and load in excess of state permitted limit.

h. All vehicles will be operated at safe speeds for the conditions for safety and in a manner such that excessive damage to the road surface does not occur.

(1) Heavy equipment shall not be moved on Forest Development Roads on the following days:

24th of July, Labor Day Weekend, Columbus Day Weekend, opening weekends of general deer and elk hunts; "Weekend" includes Friday. If a water truck is required during these periods, it must be preceded by a pilot vehicle when hauling water for the project.

(2) Earth moving equipment shall be cleaned of dirt and sod that may be transporting weed seed prior to entering National Forest System Lands.

(3) Hauling is restricted to normal dry season July 1 to October 1. If hauling is necessary beyond October 1, operations shall be restricted to periods when the roadbed is in a dry or frozen condition to prevent excessive roadbed damage.

4. Use Nonexclusive. The privileges granted in this road use permit, including use when the road is closed to public use, is not exclusive. The Forest Service may use the road and authorize others to use the road at any and all times. The permittee shall use the road in such a manner as will not unreasonably or unnecessarily interfere with the use thereof, by other authorized persons including the Forest Service.

5. Insurance. The permittee shall bear the expense to carry public liability damage insurance for the operation of vehicles, in the amount established by applicable State laws, cooperative agreements, or easements issued on the subject road or roads. In any event, the permittee must carry liability insurance and property damage insurance of not less than \$100,000 for injury or death to one person, \$300,000 for injury or death to two or more persons, and \$50,000 for damage to property. Proof of satisfactory insurance may be required by the Forest Service prior to hauling over this road and will be for the duration of the permit.

6. Maintenance. The permittee shall bear the expense of maintenance proportionate to his use. This expense will be borne by the permittee, its agents, operators, and/or contractors.

Where road maintenance standards required by the permittee are above those required by the Forest Service, the permittee shall bear the total incremental cost of maintaining the road to the higher standard. The Forest Service financial responsibility is limited to a commensurate share of those maintenance activities required to be performed for the maintenance level assigned to the road prior to the commercial use.

Work in lieu of payment shall be performed on FSR 50044 as outlined in Exhibit 1. The estimated cost of this work is \$1,077.

Maintenance shall be performed in accordance with Forest Service Specifications or requirements for maintenance as hereinafter listed, or as may be mutually agreed upon from time to time and shall consist of (1) current maintenance as necessary to preserve, repair, and protect the roadbed, surface and all structures and appurtenances, and (2) resurfacing equivalent in extent to the wear and loss of surfacing caused by operations authorized in this permit.

7. Performance Bond. In the event the permittee is to perform road maintenance, road resurfacing, or betterment, as determined by the Forest Supervisor, the Forest Service may require as a further guarantee of the faithful performance of such work that the permittee furnish and maintain a surety bond satisfactory to the Forest Service in the sum of two thousand dollars (\$2,000), or in lieu of a surety bond, deposit into a Federal depository, as directed by the Forest Service, and maintain therein cash in the sum of two thousand dollars (\$2,000), or negotiable securities of the United States having market value at the time of deposit of not less than two thousand dollars (\$2,000). As soon as security for the performance of road maintenance or the settlement of claims incident thereto is completed, unencumbered cash guarantees or negotiable securities deposited in lieu of surety bond will be returned to the permittee.

8. Fire Prevention and Suppression. The permittee shall take all reasonable precautions to prevent and suppress forest fires. No material shall be disposed of in open fires during the closed fire season established by law or regulation, without a written permit from the Forest Service.

9. Damages. The permittee shall exercise diligence in protecting from damage the land and property of the United States covered by and used in connection with this permit, and shall promptly repair or upon demand, pay the United States for any damage resulting from negligence, or from violation of the terms of this permit or of any law or regulation applicable to the National Forests, by the permittee, or by his agents, contractors, or employees of the permittee acting within the scope of their agency, contract, or employment.

10. Officials Not to Benefit. No member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this agreement or any benefit that may arise herefrom unless it is made with a corporation for its general benefit.

11. Outstanding Rights. This permit is subject to all outstanding rights.

12. Suspension. Upon the failure of the permittee, its agents, employees or contractors to comply with any of the requirements of this permit, the officer issuing the permit may suspend operations in pursuance of this permit.

13. Termination. This permit shall terminate on October 1, 2003. It may be terminated upon breach of any of the conditions herein. This permit shall be reviewed annually and is subject to revision at such time as conditions of use change.

This permit is accepted subject to all of its terms and conditions.

KEVIN E. MAY  
APPROVED Permittee (Name and Signature)

WIKI MANACKR  
Title

1/22/03  
Date

AARON L. HOWE  
APPROVED Issuing Officer (Name and Signature)

ACTING FOREST SUPERVISOR  
Title

1/22/03  
Date

## MAINTENANCE REQUIREMENTS

### EXHIBIT I

Road Maintenance. Road maintenance is defined as the performance of work on the entire road facility commensurate with permittee's use. This work consists of restoration and preservation of surface, shoulders, roadsides, structures, drainage, sight distance, and such traffic control devices as are necessary for prevention of excessive erosion damage to the facility and adjacent lands.

I. Description. Maintenance work to be done currently during the periods of use by the permittee shall include:

- A. Removal of slides and boulders, which obstruct safe sight distance.
- B. Adequate blading and shaping of roadway surfaces, ditches, and grade dips to maintain the original cross-sections.
- C. Removal of earth and debris from ditches and culverts so that the drainage systems will function efficiently at all times.
- D. Prevention of excessive dusting of road surface materials.
- E. Repair of damages to fences, cattleguards, culverts, and other roadway structures including traffic regulatory and directional signs.
- F. Restoration of eroded fills and repair and protection of shoulder berms, berm outlets, stabilized waterways, vegetated slopes, and other erosion control features.
- G. Removal of snow from roadway surface.
- H. Replacement of roadway and/or surfacing material worn out and lost through use of the roadway.

II. Performance. All items of maintenance work shall be done currently as necessary to insure safe, efficient transportation and to protect roads, streams, and adjacent lands from excessive damage. Work shall be done in accordance with the following minimum standards of performance.

- A. Removal of Material. Earth, rocks, trees, brush, and debris removed from roadways and ditches shall not be deposited in stream channels or upon slope stabilization and erosion control features.
- B. During roadway blading and shaping operations, banks shall not be undercut nor shall gravel or other selected surfacing material be bladed off the roadway surface. The original crown or slope of the road shall be preserved. Mud, debris, and oversize material shall be deposited outside the roadway by hand or by careful blading, and these materials shall not be mixed with the road surfacing material.
- C. Ditches, culverts, drop inlets, trash racks, downspouts, and splatter structures shall be kept clear of earth, slash, and other debris so that drainage systems will function efficiently during, and immediately following, periods of road use by permittees. This includes correcting and eliminating causes of erosion or plugging of the structure, and actual repair of the structure and riprap if damages.
- D. Fugitive dust shall be controlled to prevent hazardous driving conditions or loss of road surface or binder material.

E. Permittee shall promptly repair all damages, caused by the permittee's operations, to the road surface or to any structures in or adjacent to the roadways. To transport any overweight loads (those that exceed HS-20 loading) will require five (5) days notice prior to transporting on Forest Roads. An inspection of drainage and other structures (bridges, etc.) will be made to determine if the structure can safely accommodate the load.

F. Any washing or settling of roadway fills shall be corrected promptly to prevent additional soil erosion or roadway damage. Shoulder berms, berm outlets, and stabilized waterways shall be protected during road maintenance operations and, if damaged, such structures shall be promptly restored to their original condition, including repair and reseeding of vegetation established to control slope erosion. No earth, rocks, or other debris shall be deposited upon any roadside slope stabilization structure or feature.

### G. Snow Removal

#### 1. Requirements

a. Sanding of hazardous areas shall be with sand. Coal dust, chemicals, or salt are not to be used.

b. Equipment - The equipment should be in sound operating condition, be equipped with angle blade or adequate grousers or traction tires, and be operated by a fully qualified operator.

#### c. Removal

Width - Snow will be removed to the full width of the road plus any turnouts and ditch lines. Through-cuts will be allowed only after snow depths exceed the height of the cab or across flat ground. Disposal shall always be to the outside or downhill side of the road.

Outlets - Outlets for surface runoff shall be placed in all snow through-cuts at points where water can flow off the road surface at the following intervals:

8% or less grades - 500 feet center to center minimum.

8% and up grades - 300 feet center to center minimum.

Snow Floor - A four to six-inch snow floor shall be allowed to accumulate on the roadbed to prevent removal of roadbed surfacing.

Cattleguards - Crawler tractors will not be operated across cattleguards.

Culvert Cleaning - Culvert heads and outlets shall be cleaned of snowpack by hand.

Tree Damage - Snow should not be pushed, blown, or stacked on trees along the roadside. Care will be taken to avoid scarring trees with equipment.

#### 2. Travel

a. The road may be used while a snow floor remains intact or under frozen conditions.

b. All travel must cease when temperatures allow the road to thaw and rutting of the road surface is occurring.

c. This closure will be in effect until the surface dries or refreezes.

3. Inspections

- a. Intermittent inspections may be made during snow removal operations.
- b. Final inspection will be made to check for full compliance and damages.