

CHRIS HOLLMAN - PHOENIX (303) 675-2618

2/9/07 left msg.

5/2/07 HOLLMAN

He is meeting Thairger next week for right of way.
They have verbally agreed to port on issues should
be resolved, He will call me back

10/2/07 Chris Holman, worked out final addendum
will only when signatures are on it

10/11/07 Chris Holman - signed swap in red. Specifically covering

32-35

10/11/07 withdrawn at request for DCR per Betty
Thairger

10/22 ~~Chris~~ Chris Holman will send swap to Dennis Whistman

Phone Log

Date	Time	Name	Representing	Number	Notes	COGCC
4/27	0120	CHRIS HORMAN	DUNBAR	(303) 675 2618	MSG to FROM HORMAN. Still working on SUN & LANDMANNERS. Wants to know if we will have inside S&A or can wait a bit for yet to still work on SUN.	
4/27	0940	CHRIS HORMAN	"	"	Inform Chris about would prefer SUN to S&A, it makes sense if both parties. Indent of policy, not to hamper & running S&A, so if still working to S&A, hold off a while 150k	
5/22	0855	CHRIS HORMAN	Pioneer	(303) 675 2618	left msg He still wants, left msg still working on S&A	
5/23	0955	"	"	"	left msg	
7/7	1015	"	"	"	left msg want instruction for S&A.	
7/20	1121	"	"	(303) 675 2618	landman still working on S&A, he will call me if got to point where they just want to get it going on board	
8/9		BETSY WOOD THERAPY			See phonology	
8/9		CHRIS HORMAN	Pioneer	303 675 2618	See phonology	

9/13

We hopes to have it resolved by 10/15. I should call him the week after that if have not heard anything

Phone Log

Date	Time	Name	Representing	Number	Notes	COGCC
12/15/05	0900	Carol Jensen	Pioneer	(303) 675-2616	Informal letter of O.I.R.	
					OIR Meeting. Been contacted by Samsonite Trin. and. Set up apt for 1120 to look at well site. Led to second to state summary done. But, telephone conv. said no survey done yet 4:30-5:00 306 consultation planned for 1/10/06, @ 9:30 am. Then even part of mineral rights. Negotiations progress been on going. She will call back after the 306 consultation.	
4/11/06	0815	Betsy Thomsen	Lewinbauer	719 339 5242	Went out and looked into Pioneer work unit to enter prop. Thomsen asked for applications. 1-3 asked to put in every so no work in unit. Seems to be waiting on state for Pioneer. - Chris Hollman - Pioneer - Chris Scindler Apr. 26 - May 7 - she is gone	
4/11/06	0800	Chris Hollman	Pioneer		- 4/11 may be call. Return call. still waiting on state. Planning for another week. He will call me back next of 4/24	

Colorado Oil and Gas Conservation Commission (COGCC)
Onsite Inspection Request Form
 (Effective for APDs submitted after February 15, 2005)

As the surface owner(s) where a proposed well is being drilled, I/we are requesting that the COGCC conduct an onsite inspection. I/we did not execute a lease nor did I/we execute a surface use or other relevant agreement for the proposed well. I/we understand that good faith consultation with the operator as required under COGCC Rule 306, is required to have occurred prior to making this request to the COGCC to conduct an onsite inspection, and that this onsite inspection request must be received by the COGCC within ten (10) business days of the first day of the Rule 306 consultation.

Surface Owner Contact Information:

Name: Betsy Thomsen, Teepee Conservation Trust
 Address: 7645 N. Lincoln Blvd #104, Co Springs, CO 80920
 Telephone No. 719-339-5242
 Cell Phone No. 850-543-9083

Well Operator and Location Information:

Operator: Pioneer
 Well Name: Renee 31-35
 Location: T32S, R65W Section 35 NE 1/4
 County: Las Animas

First date Rule 306 consultation occurred: Dec 8, 2005 rec'd certified letter dated 12/5/05

Proposed two (2) dates for the COGCC onsite consultation (must be within thirty (30) days of the request)
 1st date 1/20/06 2nd date 1/27/06 spoke to Chris Hollman - he expressed to meet mid to late Jan

I would prefer to have a representative of the appropriate Local Government (COGCC Local Governmental Designee) invited to attend the onsite inspection? ☒ yes ☐ no

Briefly describe the unresolved issues related to the proposed well (The onsite inspection shall not address matters of surface owner compensation, property value diminution, future use of the property or any private party contractual issues between the operator and the surface owner.)

Placement of well + lease of mineral rights
Access to well now disclosed

Signature(s) Betsy Thomsen Date 9 Dec 05

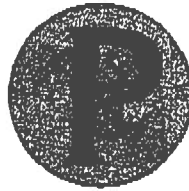
Please fax or first class mail this request for an onsite inspection to:

Colorado Oil and Gas Conservation Commission
 Attn: Permit Supervisor
 1120 Lincoln Street Suite 801
 Denver, CO 80203
 FAX (303) 894-2109

Lat 37.219371

Lon -104.637289

Oper# 100821



PIONEER
NATURAL RESOURCES USA, INC.

December 5, 2005

CERTIFIED MAIL # 91 7108 2133 3931 9312 6484

Teepe Conservation Trust
7645 N Union #104
Colorado Springs, CO 80962

RE: Surface Owner Notification
WELL NAME: Renee 31-35
T32S, R65W Section 35: NE/4
Las Animas County, Colorado


Dear Teepe Conservation Trust:

Pursuant to Rule 305 of the rules of the Colorado Oil and Gas Conservation Commission ("COGCC"), Pioneer Natural Resources USA, Inc. ("PNRUSA") provides the following information to you:

1. PNRUSA intends to commence operations for the drilling of the captioned well. We estimate that commencement of operations with heavy equipment shall occur within ~~180 days~~. However, due to equipment availability and scheduling, such operations may occur earlier, but in no event earlier than 30 days following your receipt of this letter.
2. The operator of the captioned well is PNRUSA, 1401 17th Street, Suite 1200, Denver, Colorado 80202. Please contact Elton Smith at (719) 845-4317 concerning the proposed operations.
3. The location of the captioned well is in the T32S, R65W Section 35: NW/4NE/4, Las Animas County, Colorado.
4. Under the COGCC rules, the surface owner is responsible for notifying any affected tenant of the proposed operations.
5. A return, addressed, postage prepaid postcard is enclosed upon which you may request your preference with respect to consultation under COGCC Rule 306.
6. Also enclosed is a copy of the COGCC's informational brochure for surface owners containing the rules pertaining to notice of oil and gas operations and opportunities for consultation thereon.
7. Further, enclosed is a copy of the COGCC's Onsite Inspection Policy.

Please call me at 1-800-553-1645 with any questions you have concerning the proposed operations.

Thank you,
PIONEER NATURAL RESOURCES USA, INC.


Chris Hollmann
Landman
CH/el
Enclosures

To: Chris Hollmann, Pioneer Natural Resources
From: Ron Polson and Betsy Thairgen, Trustee of Teepe Conservation Trust
Ref: Your letter of December 5, 2005
Date: December 9th, 2005

Hello Chris, I am Ron Polson and my wife is Betsy Thairgen. Thank you for returning our call yesterday evening. We look forward to working with you. We own 600 acres in Sections 26 and 35m T32S, R67W, Las Animas County, Colorado and we also own 1/4 of the minerals on 280 acres of this property. Some years ago we put the surface property into a trust (TeePe Conservation Trust) to preserve and protect that property. We are not against development of the minerals under that property but want to work with you to minimize damage to the surface.

To be frank we believe that PNRUSA and EVERGREEN have **not** made the good faith efforts as is required by Colorado Law to develop the minerals on this property. Please let me explain:

- **In early January of 2001** we received a registered letter from Matthew Johnson, Land Manager, for Evergreen expressing a desire to lease our minerals. We both called and spoke with Mr. Johnson and followed our call with a registered letter. In brief we had a few questions and expressed a desire to negotiate subsurface and surface issues jointly for our property. We never received any reply.
- **In Nov of 2001** we received a letter from John Buckley, Land Manager, for Evergreen expressing a desire to lease our minerals along with a \$2,800.00 bonus for signing the attached lease. We left several voice messages for Mr. Buckley and then followed up with a registered letter to him with a copy of the earlier correspondence.
- **In late May of 2002** we received a second letter from Mr. Buckley asking us to "advise (Evergreen) of the status of our response" to the November, 2001 lease offer. We then made contact with Mr. Buckley (by phone and letter) expressing our dismay that all of our correspondences were being ignored. We then traveled to Evergreen offices in Denver where we met with both Matthew Johnson and John Buckley. They were very friendly, but the upshot is that we were told that "Evergreen was primarily planning on putting wells on BLM property and had no current plans to develop minerals on us". We followed up that meeting with a registered letter expressing the same questions and desires aired at the meeting, but once again we never received any further communication from these gentlemen, or anyone else at Evergreen.
- **In July of 2002** we have received a letter from Matthew Johnson, Landman for Evergreen, informing us of a desire to survey the property for a well placement. We spoke with him (and followed up in writing) and the COGCC expressing that we wished to be present when anyone entered our property. Tricia Beaver, of the COGCC, spoke with Evergreen and

- obtained an agreement from Evergreen to not enter our property without our presence. Evergreen never contacted us about entering the property. In July of 2004 we receive a letter from Sharon Hanson, Landman for PNRUSA, about a desire to survey for a well placement. We contacted her and provided copies of earlier correspondence and agreements. We also once again expressed our desire to negotiate mineral and surface rights conjointly. She arranged for us to meet Jim Dickson, of PNRUSA, in November. We met him in Trinidad and went out to our property. He was very nice but said he was unsure of were PNRUSA wanted to place wells and said he knew nothing about leasing our minerals. Mr Dickson told us that he was leaving the next day for the Holidays but promised to get back to us after the first of the year. We followed this meeting up with a letter to him, and par for the course, we have never heard from him again

Now, we have received a letter from you. I'm sure you can see why we are frustrated and do not believe your company has met the requirements of Colorado Law. Good faith efforts require more than form letters. We are willing to put off the past as that and move forward with you but need some indication that your company really wants to comply with State Law. First we would like you to agree in writing to **not proceed** with any surveys or well development until we can work on an agreement together. Second we would like a reply to a few questions:

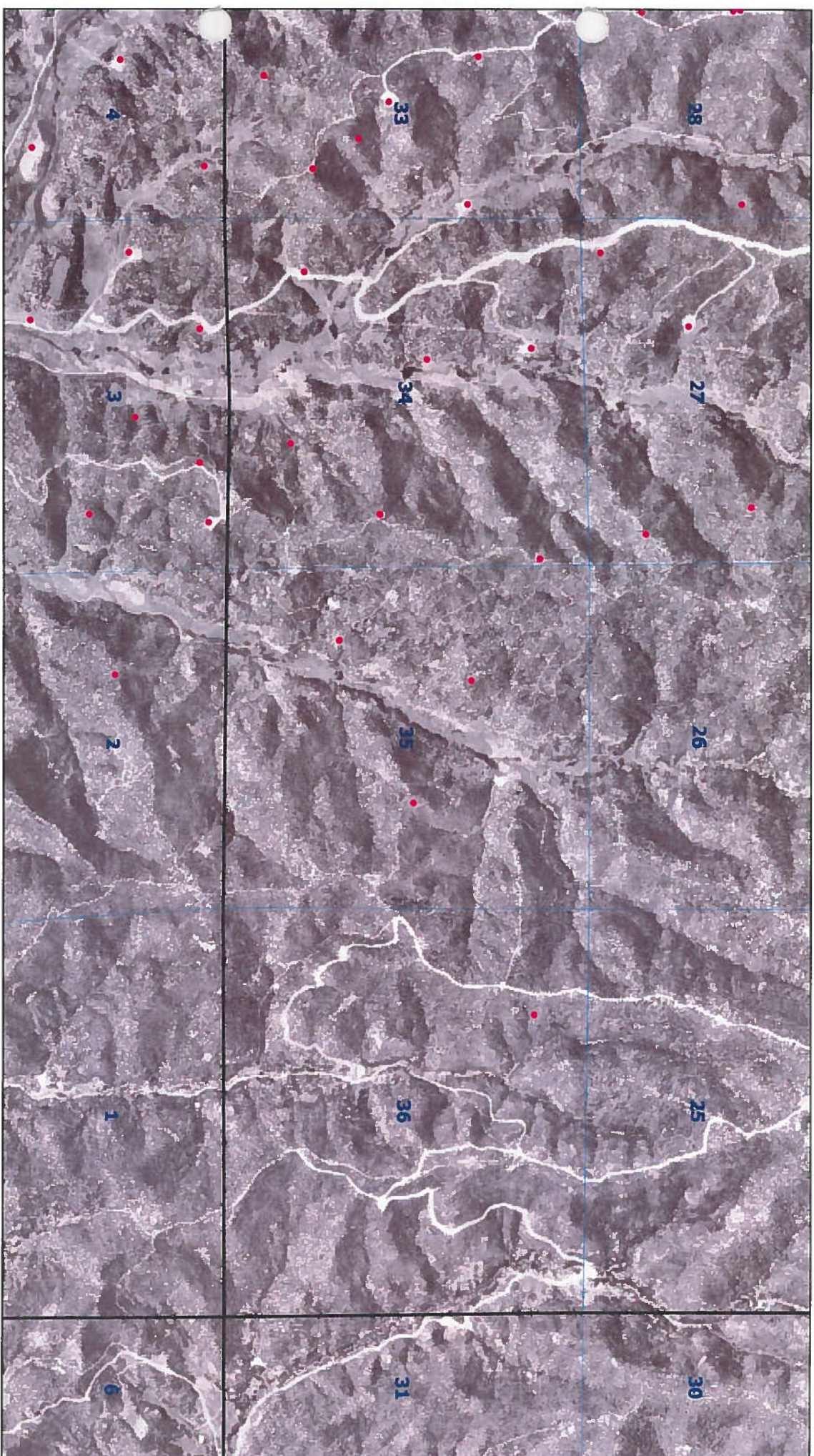
1. Have you entered our property in violation of the agreement with COGCC?
2. Is our property part of a Federal Area? If so did you represent to the COGCC that you had obtained a lease from us and the other individuals/companies who own minerals under our property in order to include it in a Federal Area?
3. If our property is in a Federal Area, that is probably water under the proverbial bridge, however, you should have been escrowing funds due us for the minerals. Have you done so, and how much is this?
4. Have you not replied to us because we have not had the correspondences come from our Attorney? Would it help us wrap this up by getting him involved?

We have other questions (as earlier correspondence indicates) but do not feel we need to repeat them here. Once again we want to express our desire to work with you but need your cooperation to do so. We hope to avoid the expense of litigation and believe we can do so if you will just talk to us. I hope that this time around we can achieve all of our goals together. Thank you again for your time. We would like to meet with you after Jan 15th of next year (as discussed with you last night) as we are out of town until then.

Ron Polson and Betsy Thairgen

Betsy Thairgen

719-339-5242
7645 N. Union Blvd #104
Co Springs, Co 80920



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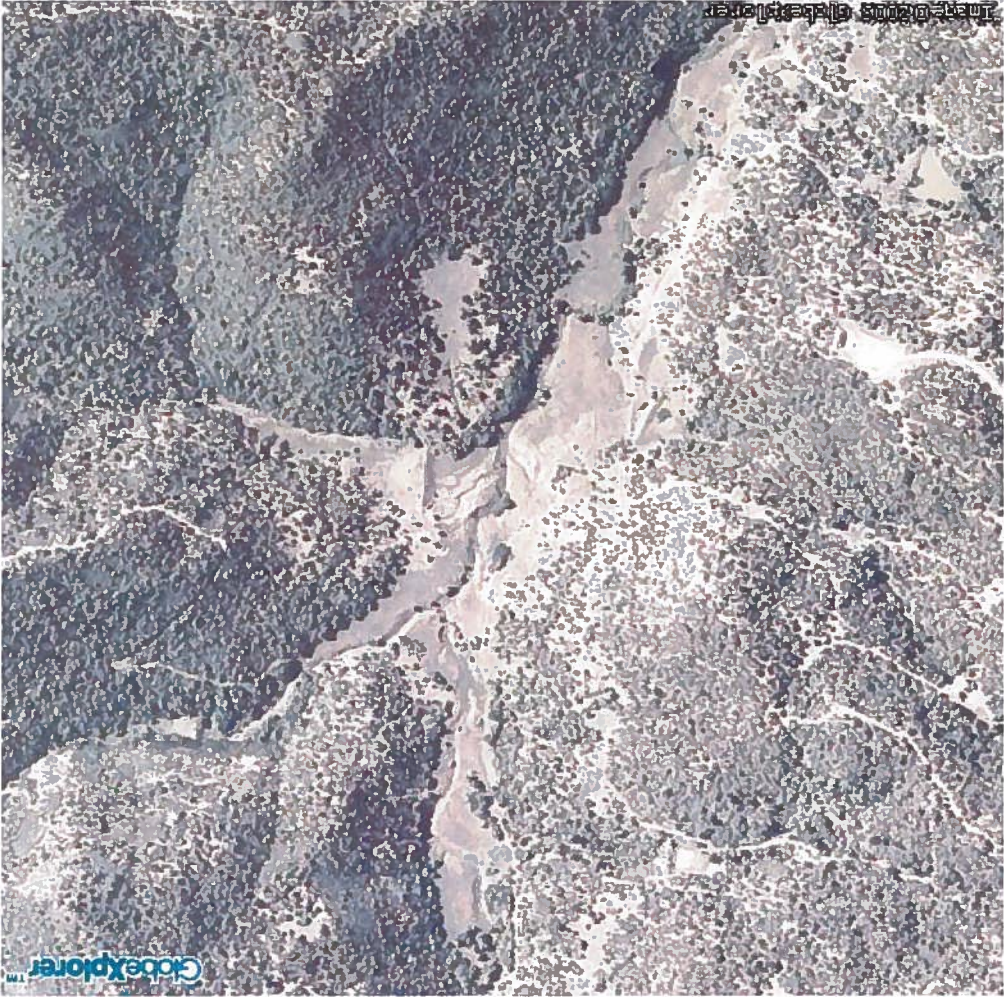


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Attention S. Lindblom ext. 114 From
Betsy
Thairgen

DISTRICT COURT, LAS ANIMAS COUNTY COLORADO Court Address: 200 E. 1 st St. Suite 304, Trinidad, CO 81082 Phone Number: (719) 846-3316 Fax Number: (719) 846-9367 Plaintiff: RICHARD ROYBAL vs. Defendant: BETSY E. THAIRGEN Attorney: Gary E. Hanisch 418 Main St. Walsenburg, CO 81089 Phone Number: (719) 738-1290 Fax Number: (719) 738-1293 E-mail: Capthanisch@webcoast2coast.com Atty. Reg. #8308	▲ COURT USE ONLY ▲ Case Number: 02 CV 64 Div.: Ctrm.:
BRIEF IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT	

COMES NOW Defendant, Betsy E. Thairgen, by and through her attorney, Gary E. Hanisch, filing this her Brief in Support of Motion for Summary Judgment and would state the following:

1. It is clear that the road following Phelps Canyon from Section 10, Township 33 South, Range 65 West of the 6th P.M. meandering in a northeasterly direction reaching the Defendant's property in Section 26, Township 32 South, Range 65 West of the 6th P.M. has been in existence since at least 1897.
2. It is further beyond dispute that prior to 1905 the land through which the Phelps Canyon Road meanders was government land with the exception of the NE1/4, Section 10, Township 33 South, Range 65 West of the 6th P.M. owned by Jonathan Darling.
3. In 1866 Congress enacted 43 U.S.C.A. Section 932 which provided "the right of way for the construction of roads over public land not reserved to public uses is hereby granted". This statutory provision enabled all homesteaders to gain access to and from their property. There followed in 1921 an enactment by the Colorado legislature which is set forth at Section 43-1-202 C.R.S. which provides that all roads and highways which are on May 4, 1921, by law

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open to public traffic shall be public highways. There is no doubt that the road in question was open to public travelers along with the homesteaders and their friends and neighbors for social and business purposes. The Colorado law thereby made the subject roadway a public road pursuant to legislative action. It is clear that the Federal statute is controlling in this instance and establishes conclusively the fact that the Phelps Canyon Road is a public road pursuant to said statute. Brown vs. Jolley, 387 P.2d 278 (1963). Section 43-1-202 while not controlling clearly provides a secondary means to establish the public nature of the road. The road in question was first created "by law" that being federal law. Therefore Section 43-1-202 applies, as it is without dispute that this road was in existence in 1921 and therefore pursuant to statute is a public road. Martino vs. Board of County Commissioners, 360 P.2d 804 (1961).

4. Rule 56 C.R.C.P. provides that Summary Judgment may be granted to the moving party when there are no material facts in dispute and those facts entitle the moving party to a judgment as a matter of law. The lands originally homesteaded by Lazaro Gonzales and Ventura Lovato are as to the relevant tracts now owned by the Plaintiff. The Plaintiff has asserted that the Phelps Canyon Road, as it meanders through his property, is a private road and therefore he claims a right to close the road. However, based on public records, the road in question was established as a public way pursuant to Federal Statute enacted in 1866. It is undisputed that the road has continued to exist from some unknown date prior to 1897 until today's date. It is also clear that notwithstanding the Federal enactment which gave the road its public character, that the State of Colorado in 1921 enacted Section 43-1-202 C.R.S. which establishes all roads that are open to the public, by law, to be public roads. These issues alone make the Plaintiff's claim as a matter of law baseless and without foundation. Therefore as to the ultimate issue, there is no genuine issue of material fact in dispute and therefore Summary Judgment is proper. Varela vs. Colorado Milling & Elevator Co., 499 P.2d 1206 (Colo. App. 1972); Abrahamsen vs. Mountain States Tel. & Tel. Co., 494 P.2d (1972).

Respectfully submitted,

Gary E. Hanisch, #8308

CERTIFICATE OF MAILING

The undersigned hereby certifies that a true and correct copy of the foregoing

2

DISTRICT COURT, LAS ANIMAS COUNTY COLORADO Court Address: 200 E. 1 st St. Suite 304, Trinidad, CO 81082 Phone Number: (719) 846-3316 Fax Number: (719) 846-9367 <hr/> Plaintiff: RICHARD ROYBAL vs. Defendant: BETSY E. THAIRGEN <hr/> Attorney: Gary E. Hanisch 418 Main St. Walsenburg, CO 81089 Phone Number: (719) 738-1290 Fax Number: (719) 738-1293 E-mail: CaptHanisch@webcoast2coast.com Atty. Reg. #8308	 ▲ COURT USE ONLY ▲ <hr/> Case Number: 02 CV 64 Div.: Ctrm.:
MOTION FOR SUMMARY JUDGEMENT	

COMES NOW Defendant, Betsy E. Thairgen, by and through her attorney, Gary E. Hanisch, filing this Motion for Summary Judgement pursuant to Rule 56 C.R.C.P. and as grounds therefore would state the following:

1. That the road here in dispute meanders along the Phelps Canyon located in Las Animas County, Colorado.
2. That 43 U.S.C.A. Section 932 was enacted in 1866 which provided "the right of way for the construction of highways over public lands not reserved for public uses is hereby granted".
3. That Section 43-1-202 C.R.S. provides "all roads and highways which are, on May 4, 1921, by law open to public traffic shall be public highways within the meaning of this part 2".
4. That the roadway which is the subject of this action is depicted on the June 1897 U.S. Geological Survey Map and the 1951 Madrid, United States Department of the Interior Geological Survey Map. (See Exhibits "A" & "B" attached hereto and incorporated herein. The roads are yellow highlighted for convenience of location.)

5. That the disputed portion of the roadway passes through Section 35, and Section 26, Township 32 South, Range 65 West of the 6th P.M.
6. That both aforementioned Sections are serviced by but one road, that being the road that follows Phelps Canyon. (See Exhibit "C" attached hereto and incorporated herein.)

Ours [7. That the SE1/4, Section 26, Township 32 South, Range 65 West of the 6th P.M. was homesteaded by Abran Lopez who received a patent on February 2, 1920. (See Exhibit "D" attached hereto and incorporated herein.)

Ours [8. That the NE1/4, Section 35, Township 32 South, Range 65 West of the 6th P.M. was homesteaded by Jacinto Santisteven who received a patent on October 10, 1905. (See Exhibit "E" attached hereto and incorporated herein.)

9. That the NW1/4, Section 35, Township 32 South, Range 65 West of the 6th P.M. was homesteaded by Lazaro Gonzales who received a patent on May 16, 1918. (See Exhibit "F" attached hereto and incorporated herein.)

Ours [10. That the W1/2SW1/4, Section 35, Township 32 South, Range 65 West of the 6th P.M. was homesteaded by Alcarita Montoya who received a patent on April 12, 1920. (See Exhibit "G" attached hereto and incorporated herein.)

Ours [11. That the E1/2SW1/4, Section 35, Township 32 South, Range 65 West of the 6th P.M. was homesteaded by Ventura Lovato who received a patent on July 12, 1918. (See Exhibit "H" attached hereto and incorporated herein.)

12. That the NW1/4NW1/4, Section 2, Township 33 South, Range 65 West of the 6th P.M. was homesteaded by Oliver M. Ladd who received a patent on September 11, 1905. (See Exhibit "I" attached hereto and incorporated herein.)

13. That the SW1/4NW1/4, and W1/2SW1/4, Section 2, Township 33 South, Range 65 West of the 6th P.M. was homesteaded by Juan Roybal who received a patent on August 21, 1916. (See Exhibit "J" attached hereto and incorporated herein.)

14. That the SE1/4, Section 3, Township 33 South, Range 65 West of the 6th P.M. was homesteaded by Candido Martinez who received a patent on August 19, 1916. (See Exhibit "K" attached hereto and incorporated herein.)

15. That the NE1/4, Section 10, Township 33 South, Range 65 West of the 6th P.M. was homesteaded by Jonathan Darling who received a patent on April 28, 1888. (See Exhibit "L" attached hereto and incorporated herein.)

16. That all the aforementioned homesteaders utilized the aforementioned road for ingress and egress.
17. That the U.S. Congress passed the act of May 20, 1862, "to secure Homesteads to actual Settlers on the Public Domain" which required settlers to reside, improve and cultivate the land for at least 5 years prior to filing for a patent.
18. That there is no genuine issue as to material facts related to establishing the Phelps Canyon Road as a public roadway.
19. That the granting of Summary Judgment is authorized by Rule 56, C.R.C.P.

WHEREFORE It is respectfully prayed that this Court find that the road in question is a public road and grant Defendant's Motion for Summary Judgment, awarding Defendant her costs and attorney's fees and for such other relief as the Court may deem proper.

Respectfully submitted,

Gary E. Hanisch, #8308

CERTIFICATE OF MAILING

The undersigned hereby certifies that a true and correct copy of the foregoing Motion for Summary Judgement, was mailed this ____ day of September, 2003 by depositing same in the U. S. Mail, postage prepaid thereon addressed as follows:

Dennis Michael Malone, Esq.
100 E. Main St., Suite 209
Trinidad, CO 81082
