

**APPLICATION FOR RECORDABLE DISCLAIMER OF INTEREST
MANGANESE ROAD UTAH ID # RD ID: RD270063
Washington County Unique 0063
County B Road, Washington County Utah**

Date: May 9, 2019
Subject: Recordable Disclaimer of Interest

Applicants, the State of Utah (“State”) and County of Washington, Utah (“County”) hereby submit this application for a recordable disclaimer of interest from the United States pursuant to Section 315 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. § 1745), and the regulations contained in 43 CFR Subpart 1864. This recordable disclaimer of interest application, identified by Bureau of Land Management (“BLM”) Serial Number UTU-XXXXX, is for the right-of-way for the MANGANESE ROAD, Washington County, State of Utah, Washington County Unique Road Number 0063, SGID road identification number RD_ID: RD270063. This application and the documentation provided herein support the applicants’ acceptance of a right-of-way grant under Revised Statute (R.S.) 2477 (43 U.S.C. § 932, repealed October 21, 1976) on or before October 21, 1976 and thus a determination that the United States has no ownership interest in the MANGANESE ROAD right-of-way. A recordable disclaimer of interest, if issued, will confirm this determination with respect to the MANGANESE ROAD right-of-way.

I. Description of the Road

The MANGANESE ROAD, Washington County Unique Road Number 0063 and SGID road identification number RD_ID: RD270063, is, and has been since 1976, a County B road (as defined in UTAH CODE ANN. § 72-3-103), is depicted in the video (<https://youtu.be/k07vSNQ16iM>) dated 2013, and is more particularly described as follows:

Beginning at a point on the road centerline located at 37 degrees 15 minutes 43.71 seconds North Latitude and -113 degrees 52 minutes 037.3 seconds West Longitude, which can be converted to mapping accuracy State Plane Utah South Zone NAD 83 feet coordinates of X = 948,717.4 feet and Y = 10,068,114.7 feet based on the US Survey Foot conversion.

The beginning of the described centerline is located more or less North 89-36-50 East 719.86 feet and South 1-32-4 West 986.188 feet from the Northwest corner of the Southwest quarter section 33, Township 40 South, Range 18 West, Salt Lake Base Meridian. This marker is identified as the Corner Point Identifier UT260400S0180W0_300140 according to Utah’s AGRC SGID dataset PLSS Sections.

The MANGANESE ROAD has the Beginning and Ending Points in Township 40 South, Ranges 17 and 18 West as more particularly set forth on Attachment 1 hereto. The MANGANESE ROAD has a centerline description as documented in Attachment 2 hereto (and

also attached as Exhibit 38 to the Amended Complaint in the case of *State of Utah et. al. v. United States*, 2:12-cv-00471, filed in the United States District Court for the District of Utah).

One hundred percent of the MANGANESE ROAD is shown on 1976 (or earlier) USGS historic topographic maps (Attachments 3-8 hereto). One hundred percent of the MANGANESE ROAD is visible on 1976 aerial imagery from USGS (Attachments 9-11), and imagery from Google after October 21, 1976 (Attachments 12-13). One hundred percent of the MANGANESE ROAD is shown on 1976 (and earlier) State of Utah Department of Transportation Class B and Class D highway maps (Attachments 14-19). Current topographical location is shown on Attachments 20-21. The ownership of land through which the MANGANESE ROAD travels is shown on Attachment 22. The MANGANESE ROAD can also be viewed interactively on the website <http://roads.utah.gov/washington>, (the "Roads Viewer"), a site maintained by the Utah Governor's Public Lands Policy Coordinating Office. Instructions for the use of the Roads Viewer are attached hereto as Attachment 23.

The MANGANESE ROAD is, and has been since at least 1968, a county-maintained gravel and native soil surface road. The traveled surface of the road ranges from 21 feet to 68 feet wide. *See* Section V, "Evidence Regarding Scope of the Road," *infra*.

II. Waiver Requests

Pursuant to 43 CFR § 1864.1-2(c)(l) and (d), unless a waiver is granted, a legal description of the lands for which a disclaimer is sought must be based on either an official United States public land survey, or a metes and bounds survey tied to the nearest corner of an official public land survey. The State of Utah is requesting a waiver of this requirement under 43 CFR § 1864.1-2(d). The MANGANESE ROAD is easily identifiable on United States Geological Survey (USGS) topographic maps submitted with this application.

III. Basis of the Request for a Recordable Disclaimer of Interest

Pursuant to 43 CFR § 1864.0-2, one of the objectives of the recordable disclaimer of interest regulations is to "eliminate the necessity for court action or private legislation in those instances where the United States asserts no ownership or record interest, based on a determination by the Secretary of the Interior that there is a cloud on the title to the lands, attributable to the United States."

The State and the County each own a joint undivided interest in the title to all rights-of-way for all county B and D roads. UTAH CODE ANN. § 72-3-103 (3); 72-3-105 (3). The MANGANESE ROAD is currently the subject of pending litigation to quiet title in favor of the State and the County (*State of Utah et. al. v. United States*, 2:12-cv-00471, filed in the United States District Court for the District of Utah), in which the State and the County have alleged that the grant of a right-of-way for the MANGANESE ROAD was accepted by the State and the County prior to October 21, 1976, that the continued management and regulation of the MANGANESE ROAD by the United States constitutes a cloud on the State's and County's title to the MANGANESE ROAD, and that the delivery of a Recordable Disclaimer of Interest by the United States will obviate the necessity of further proceedings in the pending litigation with

regard to the MANGANESE ROAD, thereby saving all parties further expenditure of time and costs in the pending litigation.

IV. Evidence that the Applicants Have Accepted the MANGANESE ROAD as an R.S. 2477 Right-of-Way under Current Law

Under federal law, the grant of an R.S. 2477 right-of-way was a “standing offer of a free right of way over the public domain.” *Lindsay Land & Livestock Co. v. Churnos*, 75 Utah 384, 285 P. 646, 648 (1929), cited with approval in *S. Utah Wilderness Alliance v. BLM*, 425 F.3d 735 (10th Cir. 2005) (“SUWA v. BLM”). The grant must be accepted by public authorities; however, acceptance does not require formal action. *Id.* In Utah, and in the absence of formal action, there are at least two separate and independent forms of acceptance.

First, a right-of-way is deemed accepted if it was constructed or maintained by the claimant public authority prior to October 21, 1976. See Memorandum Decision and Order, *Kane Co. v. United States*, Federal District Court for the District of Utah Case No. 2:08-cv-00315, Dkt.160, 2011 U.S. Dist.LEXIS 66218.

Second, in *SUWA v. BLM*, the Tenth Circuit Court of Appeals held that “federal law governs the interpretation of R.S. 2477, but that in determining what is required for acceptance of a right-of-way under the statute, federal law ‘borrows’ from long-established principles of state law, to the extent that state law provides convenient and appropriate principles of effectuating the congressional intent.” *SUWA v. BLM*, 425 F.3d at 768. In Utah, acceptance of a public highway right-of-way may be shown by “continuous public use for a period of ten years” prior to October 21, 1976. *Id.* at 771; see also *Kane County*, 2011 U.S. Dist.LEXIS 66218, at *11–12.

The MANGANESE ROAD meets both of the above tests for acceptance. The MANGANESE ROAD has been accepted by the State and the County in the following particulars:

A. Maps and County Maintenance prior to 1976:

1. The MANGANESE ROAD is shown on pre-1976 Utah Department of Transportation B road maps indicating that the MANGANESE ROAD was regularly maintained by the County by at least 1968 and continuously thereafter (see Attachments 14-19). A summary of the process by which counties in the State of Utah receive funding for maintenance of Class B roads, including the MANGANESE ROAD, is attached as Attachment 24.
2. The MANGANESE ROAD was shown on County B road maps and was considered a County B road from at least 1970. Mr. McArthur, a Washington roads superintendent, testified it was regularly maintained by Washington County throughout his tenure from 1970 from to 1990, the northern junction with Gunlock Highway to its southern junction with Jackson Road. Deposition of Ralph McArthur (May 2, 2013), 259:10-12.

3. The MANGANESE ROAD was maintained by Washington County pre-1976 using public funds allocated to the maintenance of such roads by Washington County and the State of Utah Department of Transportation (“UDOT”). This maintenance is evidenced by the deposition testimony of Ralph McArthur, Charles Ron Theobald and Scott Eric Nay:
 - a. **Ralph McArthur.** In his deposition taken on May 2, 2013 (see foundation testimony, including maps, and excerpts - Attachments 25-26), Ralph McArthur testified that he was the Superintendent of Roads for Washington County from 1970 to 1990. Deposition of Ralph McArthur (May 2, 2013) (“McArthur Dep.”), 18:24. He succeeded his father, who had held the same position from 1943 to 1970. *Id.* at 11:10. As Superintendent of Roads, McArthur both oversaw and personally participated in the maintenance of all Class B road in Washington County, including the MANGANESE ROAD. *Id.* at 20:5. In determining which roads were B roads for maintenance purposes, he worked from county-wide maps sent to him periodically by the state roads department (UDOT). *Id.* at 23:4. These maps would show the B roads in the county, and, thus, the roads for which Mr. McArthur had maintenance responsibilities. *Id.* Under his supervision, the B roads were bladed by Washington County on an as needed basis, but every B road was bladed at least once a year. *Id.* at 25:24. In addition to blading, other maintenance was required for safety purposes including clearing vegetation from the sides of the roads, installing ditches, water cuts and culverts, and snow removal. *Id.* at 26:23.
 - b. **Charles Ron Theobald.** In his deposition taken on November 6, 2018 (see foundation testimony, including maps, and excerpts - Attachments 27-28), Mr. Theobald testified that he started working for the Utah Department of Transportation (“UDOT”) in 1959 as a Field Recorder. He rode with a supervisor and tracked mileage, surface types, widths and culture located along B and C roads in the State of Utah to collect information for mapping and funding purposes so the State could fund the counties for maintenance of their B roads. Deposition of Charles Ron Theobald (November 6, 2018) (“Theobald Dep.”), 9:15-20; 10:3-10, 20-21. Mr. Theobald traveled all B roads in all 29 counties of the State of Utah to collect this information on each road. This would take a 5-year period to travel the statewide system of county-maintained roads. *Id.* at 11:19-20. Mr. Theobald physically inspected the roads using a touring car. *Id.* at 12:2. “If [they] couldn't get over these roads in a touring car, [they] would tell the County Commission or the road supervisor at that time that they couldn't draw funds on that road. It had to be a maintained road [to be on the UDOT system].” After the County was informed that maintenance was needed, it “could go back in and put blades on that road and bring it back up to a standard, and at that time [UDOT] would put that on a system so they could draw funds on [the Class B road]” *Id.* at 12:3-10. In looking for an indication of maintenance, Mr. Theobald would look at whether he could drive the roads with a touring car, could see that someone had put a blade on the road and that it was still in “pretty good shape.” *Id.* at 42:2-8.

The information collected by Mr. Theobald was taken to the UDOT offices where they would take the information, identify the lengths of each of the qualifying roads, tabulate that and come up with a total mileage for that county. "Then the maps would be turned over to the [UDOT] mapping department to add all the stuff that [they] put onto the maps as far as new roads, surface type and other information so UDOT could plot them onto new maps." *Id.* at 13:20-25; 14:1-18. Mr. Theobald was a field recorder from 1959-1961 then became the inventory chief, where he was the driver. Working for UDOT in that capacity, Mr. Theobald "indicated what roads [UDOT was] going to do, when [UDOT] was going to do them, and one of the responsibilities there was working a little closer with the county, the County Commission and also whoever they assigned to go with us over these roads, and usually it was the road supervisor." *Id.* at 15:20-25. In 1965, Mr. Theobald became Field Supervisor, working with the County Commissions and determining the schedule for doing the inventory in each county. *Id.* at 18:1-5. They would take the UDOT maps and bring them up-to-date. *Id.* at 18:21-23. Mr. Theobald remained as supervisor for 13 years, until 1978. *Id.* at 20:2.

Upon the completion of the new maps, Mr. Theobald would meet with each County Commission to review the maps to make sure that UDOT had everything the county wanted on the maps. UDOT would give the county a large set of maps and some smaller maps and would also get a written statement from the county approving the maps. *Id.* at 16:8-23. The purpose of collecting the information and doing the inventory was to track all the miles within the state so UDOT would have an up-to-date mileage for each county and each county would get the proper allocation of funds. *Id.* at 33:1-4.

- c. **Scott Eric Nay.** In his deposition taken on November 1, 2018 (see foundation testimony, including maps, and excerpts - Attachments 29 -30), Scott Nay testified that he started working for UDOT in 1970 as a Chainman/Surveyor, then became an Inventory Recorder and Data Collection Specialist in 1973. Deposition of Scott Nay (November 1, 2018) ("Nay Dep."), 8:10; 9:11. His duties starting in 1973 included coding fieldwork; transcribing Class B roads onto updated general highway maps that UDOT produced for each county and city, and assisting his supervisor, Ron Theobald, to collect road data for Class B and C roads to determine road eligibility for Class B and C road funds and documenting those roads on maps. *Id.* at 9:17-24; 10:1-3. The information he collected included road surface types, road alignment, and maintenance to ascertain that the roads were being maintained by cities or counties as graded roads and that they were open to travel by passenger vehicles. *Id.* at 12:1-18; 14:17-19. The road also had to be under the jurisdiction of the city or county. *Id.* at 12:16-17. Mr. Nay's crew inventoried every B road in every county, including Washington County, in the State of Utah on a four-to five-year schedule. *Id.* at 13:1-18.

Mr. Nay described the process for each inventory as follows: prior to a county inventory, the county would be notified that an inventory was going to be done by UDOT. A set of preliminary maps was sent to the county showing its current Class B road system. Then, as the road inventory began and progressed, the field crew would be in contact with county officials and county road supervisors to determine what changes they were aware of and work together in cooperation with them through the inventory. *Id.* at 16:11-20. Next, after the notes from the field inventory were made on the set of maps to send to the county to show them what changes had been noted, a meeting with the county commission would be arranged, generally two to three weeks after the maps were sent and someone from UDOT would meet with the county commission to review the maps and have the county approve the maps for the next allocation of Class B moneys. *Id.* at 17:13-11. There would be a period of time before the UDOT mapping division would create the updated maps, generally two or three months or more, and once those new maps were printed, the Class B road system that was approved in the county commission meeting would be colored in on those maps in blue. All Class B roads were colored in blue. *Id.* at 19:9-15.

The process for the inventory of Class B roads in each county was functionally the same throughout the State of Utah. *Id.* at 21:4-6.

B. Ten years of public use prior to 1976:

The testimony of the following witnesses supports the existence and use of the MANGANESE ROAD for a period of 10 years prior to October 21, 1976:

a. **Edward Lytle Bowler.** Edward Bowler was deposed regarding his historical use (prior to October 21, 1976) of roads located in Washington County on December 8, 2016. See foundation testimony, including maps, and excerpts – Attachments 31-32. At that time, Mr. Bowler was a resident of Washington County. Deposition of Edward Bowler (December 8, 2016) (“E. Bowler Dep.”), 47:15-18. He was born in St. George, Utah on January 27, 1951. *Id.* Mr. Bowler’s ancestors originally settled in Washington County commencing in 1861. *Id.* at 5:15-16. Mr. Bowler’s family used and continue to use the MANGANESE ROAD for ranching and hunting purposes. *Id.* at 225:1-4.

Mr. Bowler first used the road when he was 7 or 8 years of age (1958-59). *Id.* at 224:23. Throughout his and his family’s use of the MANGANESE ROAD, the road was dirt (native soil) and graded. *Id.* at 225:8. Mr. Bowler used other roads several times a year that started or ended on the MANGANESE ROAD, including the Lime Kiln Road (RID 0127) and Road 0128. *Id.* at 229:4-23; 178:7-23.

b. **Lewis Fenton Bowler.** Fenton Bowler was deposed regarding his historical use (prior to October 21, 1976) of roads located in Washington County on April 29, 2013. See foundation testimony, including map, and excerpts – Attachments 33-34. Deposition of Lewis Bowler (April 29, 2013) (“L. Bowler Dep.”), 12:7. At that time,

Mr. Bowler was a resident of Washington County, Utah. *Id.* He was born in St. George, Utah on June 19, 1933. *Id.* at 7:19. His great-grandfather brought his family from England to settle in the Gunlock-Veyo area of Washington County and his grandfather and father owned a ranch, Bigelow Ranch, from which they each ran a cattle operation near Gunlock in Washington County. *Id.* at 8:8-25.

When Mr. Bowler first used the MANGANESE ROAD in the early 1940s in conjunction with the family cattle operation, the road surface was dirt (native soil) and maintained. *Id.* at 124:13-24. Mr. Bowler testified that the MANGANESE ROAD was a throughway transportation road that transported people in Washington County from Point A to Point B and was one of the main arteries in the section of Washington County in which the MANGANESE ROAD is located. *Id.* at 125:12-14. Mr. Bowler has observed other people using the MANGANESE ROAD for cattle, hunting, wood, prospecting, and sightseeing purposes. *Id.* Mr. Bowler used other roads several times a year that started or ended on the MANGANESE ROAD, including Road 0125, on which a Mr. Jack Holt maintained a deer camp, Road 0127, and Road 0128. *Id.* at 126:9-13; 125:15-21.

c. **Jack E. Holt.** Jack Holt was deposed regarding his historical use (prior to October 21, 1976) of roads located in Washington County on May 1, 2013. See foundation testimony, including maps, and excerpts – Attachments 35-36. Mr. Holt is a resident of Washington County, Utah and was born in St. George, Utah on January 24, 1929. Deposition of Jack Holt (May 1, 2013) (“Holt Dep.”), 15:18-24. Mr. Holt used the MANGANESE ROAD many times through the years commencing in the 1940s for deer hunting purposes, recreation, to go to Red Ledges (a recreational location), and to spend Easter. *Id.* at 174:12-25; 175:1-12.

When Mr. Holt first used the MANGANESE ROAD, it was in “very good condition” and was a maintained road. *Id.* at 174:16. Mr. Holt observed many other people using the road to recreate, stating, “That road is a very popular road. It’s used a tremendous amount.” *Id.* at 175:24-25. Mr. Holt testified that BLM drilled an oil well near the MANGANESE ROAD and that a scout camp was going to be built at Red Ledges. *Id.* at 175:2-9. Mr. Holt observed people using the road for cattle operation purposes. *Id.* at 176:1-3.

d. **Marvin Jones.** Marvin Jones was deposed regarding his historical use (prior to October 21, 1976) of roads located in Washington County on May 8, 2013. See foundation testimony, including maps, and excerpts – Attachments 37-38. At that time, Mr. Jones was a resident of Washington County, Utah. He was born in St. George, Utah on July 2, 1931. Deposition of Marvin Jones (May 8, 2013) (“Jones Dep.”), 5:8-11. His grandfather was a cattle rancher around Gunlock, Utah. *Id.* at 7:4-9. His father held various jobs including mining in Pioche at the Apex Mine. *Id.* at 10:9-15. Mr. Jones was raised in Gunlock and graduated from Dixie High School in 1948. *Id.* at 11:6-12. Mr. Jones worked briefly for the roads department constructing a bridge in Washington County, as well as working for multiple dairy farms as a ranch hand. *Id.* at 11:22-25. While he worked for a Nevada ranching operation Mr.

Jones would regularly cross the border back into Utah to retrieve lost cows. *Id.* at 26:19-25. Mr. Jones was drafted in 1950 and returned from service in 1953 to reside in St. George, Utah. *Id.* at 14:6-19. Mr. Jones worked a variety of jobs, including working for the city of St. George as a public works director before retiring in 1993. *Id.* at 16:7-13.

Mr. Jones is an avid hunter and started hunting when he was six years old. *Id.* at 17:23-24. His grandfather maintained a deer camp during the hunting season for out of town hunters. *Id.* at 18:7-13. Mr. Jones continued to run the deer camp for several years after he returned from service. *Id.* at 19:20-25; 20:1-6. Except for the years 1950-1953, Mr. Jones never missed a deer hunt. *Id.* at 23:7-8. Mr. Jones and his family would also cut and haul wood for their wood burning stove in his childhood. *Id.* at 26:1-4.

Mr. Jones first started using the MANGANESE ROAD in the 1950s when he went out with his grandfather who “more or less” guided deer hunters in the area of the MANGANESE ROAD and other areas and later hunted the area with friends from California. *Id.* at 18:12-16. He also used the MANGANESE ROAD to collect wood in the area in a pickup truck. *Id.* at 32:9-13. Mr. Jones testified that the MANGANESE ROAD has been there for a long time. *Id.* at 77:12-15. He used the MANGANESE ROAD to access other roads connected to the MANGANESE ROAD to hunt through the 1960s. *Id.* at 2:5-11.

e. **Ralph McArthur.** Ralph McArthur was deposed regarding his historical use (prior to October 21, 1976) of roads located in Washington County on May 2, 2013. See Attachments 25-26 above. At that time, Mr. McArthur was a resident of Washington County, Utah. He was born in St. George, Utah on May 14, 1943. Deposition of Ralph McArthur (May 2, 2013) (“McArthur Dep.”), 6:13-14. Except for sixteen months spent in Korea, Mr. McArthur lived in St. George, Utah his entire life. *Id.* at 6:17-20. His family were original settlers in St. George, Utah, going back to his great-great-grandparents. *Id.* at 7:1-8. His great-grandfather was a farmer, his grandfather was a rancher with property by the Virgin River, and Mr. McArthur recalls his grandfather driving a grader to aid in oiling an otherwise unpaved street. *Id.* at 8:10-15. His father went on to work for the state road department as roads supervisor while maintaining a farm along the river. *Id.* at 11:13-15. Mr. McArthur graduated from Dixie High School in 1950. *Id.* at 13:3-5. Before serving in Korea, Mr. McArthur used the roads in Washington County as a freight delivery driver. *Id.* at 13:20-21. Mr. McArthur worked a number of jobs after returning to St. George and maintained a small amount of farmland. *See generally*, McArthur Dep. 15-18.

In April of 1970, Mr. McArthur became the roads supervisor for Washington County. *Id.* at 18:19-24. Mr. McArthur was responsible for grading and maintaining B roads within the county. *Id.* at 23:14-18. Mr. McArthur personally handled the equipment necessary for maintenance and was often on the roads running graders, sealcoating roads, or occasionally installing culverts. *Id.* at 27:2-17. When Mr. McArthur took over as roads supervisor in 1970, Washington County was maintaining the

MANGANESE ROAD. *Id.* at 259:6-9. Mr. McArthur continued to maintain or supervise the maintenance of the entire length of the MANGANESE ROAD from the Gunlock Highway/0138 to Jackson Road/0011 throughout his tenure as Roads Supervisor. *Id.* at 259:10-12.

V. Evidence Regarding the Scope of the Road

Witness testimony, measurements taken by the County, aerial photographs, and other evidence demonstrate that the representative width of the MANGANESE ROAD ranges from 21 feet to 68 feet wide, with actual measurements taken from the outside edges of the disturbed surface in 43 different segments along the length of the MANGANESE ROAD as shown on Attachment 39. The County has provided regular maintenance on the MANGANESE ROAD, using its own funds and funds allocated to it by the Utah Department of Transportation for such purposes. Prior to October 21, 1976 and continuing since that date, the County has provided the following maintenance activities relative to the scope of the MANGANESE ROAD, including, but not limited to:

1. Regular blading of the entire length of the MANGANESE ROAD;
2. Installation of culverts to deal with flash flood problems and other water issues;
3. Removal of silt, build-up, debris, and other materials within culverts and from areas leading to and from culvert entrances and exits;
4. To meet the exigencies of increased and safe travel, maintaining a width sufficient for two vehicles to safely pass each other;
5. To allow for clear sight visibility, keeping the MANGANESE ROAD and the sides of the MANGANESE ROAD clear of brush and vegetation;
6. Other activities reasonable and necessary to accommodate the pre-1976 existing uses of the MANGANESE ROAD.

The scope of the MANGANESE ROAD includes, but is not limited to, areas reasonable and necessary for routine maintenance activities required for the physical upkeep and repair of existing pavement, guardrails, striping, signing, clear zones, borrow areas, drainage facilities, bridges, culverts and riprap, and removal of snow. *See* IM 2008-1974, Exhibit B. “As explained in *SUWA v. BLM*, [425 F.3d 735 (10th Cir. 2005)]; ‘routine maintenance’ includes work that is reasonably necessary to preserve the existing road in its present condition, including the physical upkeep or repair of wear or damage whether from natural or other causes, maintaining the shape of the road, grading it, making sure that the shape of the road permits drainage, and keeping drainage features open and operable – essentially preserving the status quo.” IM 2008-1974.

Based on the evidence provided, the scope of the MANGANESE ROAD consists of a travel surface of 21 to 68 feet wide as more particularly described in Attachments 39 above, which is reasonable and necessary for all highway uses as of October 21, 1976, and which may have been widened since October 21, 1976 as necessary to meet the exigencies of increased travel, at least to the extent of a two-lane road, see *Sierra Club v. Hodel*, 848 F.2d 1068, 1083-84 (1988), and includes areas necessary for routine maintenance activities reasonably necessary to preserve the existing road in its present condition. IM 2008-1974; IM 2008-1975.

VI. Other Known Interested Parties

The MANGANESE ROAD crosses property owned by a third-party private property owner in the southeast corner of Section 29, Township 40 South, Range 18 West, Salt Lake Base and Meridian. The Applicants are not asking for a disclaimer from the United States regarding the segment of the MANGANESE ROAD where it crosses property owned by this third party.

This Recordable Disclaimer of Interest shall apply to the segments of the road that traverse land owned by the Bureau of Land Management, United States Department of the Interior, and does not apply to segments of the road that traverse land owned by any other person or entity.

VII. Certification Regarding Restricted Indian Lands

Pursuant to 43 CFR § 1864.1-3(b)(2), the BLM is prohibited from approving applications that “pertain to trust or restricted Indian lands.” The MANGANESE ROAD does not pertain to, cross or involve federal trust or restricted Indian lands.

VIII. Consultation with Other Federal Agencies

Pursuant to 43 CFR § 1864.1-4, BLM will not issue a recordable disclaimer of interest over the valid objection of another land managing agency having administrative jurisdiction over the affected lands. The MANGANESE ROAD does not traverse any lands managed by a federal agency other than BLM.

IX. Application Fee and Cost Recovery

Pursuant to 43 CFR § 1864.1-42(b), the State of Utah and Washington County, Utah have submitted a nonrefundable fee of \$100.00 contemporaneously with the filing of this specific application.

Sections 43 CFR § 1864.1-3(c) and (d) provide that BLM will determine the amount of deposit needed to cover the administrative costs of processing the application and issuing this Recordable Disclaimer of Interest. The State and County will pay the deposit in this instance and with regard to this specific Recordable Disclaimer of Interest covering the MANGANESE ROAD upon determination by the BLM.

X. Addresses

State Address: c/o Kathleen Clarke, 5110 State Office Building, Salt Lake City, UT 84114.

County Address: c/o Washington County Commission, 197 East Tabernacle, St. George, UT 84770.

(Signature block on following page.)

STATE OF UTAH

By: 
Kathleen Clarke, Director
Public Lands Policy Coordinating Office

WASHINGTON COUNTY, UTAH

By: 
Dean Cox, Chair
Washington County Commission