

Mill Creek Road. The road identified as number "K3935" on "Attachment A" is the route I used from 1969 to 2006.

3. During my travels on the Bald Knoll Road between 1969 and 2006, I would see other people using the road by various means, including pickup trucks and four-wheel drive vehicles. Every time I traveled the road it was open to passage and for the public to come and go as they pleased.

4. The first time I personally drove on this road was in 1969 on a hunting trip with family members. I am very familiar with this road because my wife's great uncle, F. Mackelprang, owned private property located in Section 15 and 22 (T40S R5W) and the family often visited the ranch. I currently lease that private property.

When I began working for the BLM in 1976, I traveled this road in September with another BLM employee on an orientation trip. Between 1976 and 1980, I traveled the road on a regular basis to examine study plots, monitor wells for the Alton Coal Project and for other job related activities.

5. The time I first traveled the road in September 1976 as a BLM employee, I personally observed evidence of construction activities on the road, including dug ways, culverts, berms, and cattle guards. In the late 1970s, I personally saw the Kane County road crew using their equipment to maintain the road.

6. I am familiar with the 1972 Memorandum of Understanding between the BLM and the county because on January 4, 1988, I attended a meeting with the Kane County Commission and representatives from the BLM where we discussed the MOU of 1972 and amended on July 11, 1977, in which the Thompson Creek Road identified in the MOU was specifically mentioned. The purpose of the meeting was to clarify road

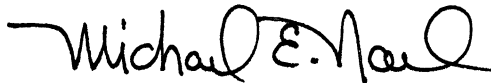
maintenance issues. By my personal knowledge, I know the road referred to in the MOU as the Thompson Creek Road is the same road known as the Bald Knoll Road today. As an employee of the BLM and an attendee of the meeting, I can clarify that all discussions during the meeting were consistent with BLM's concurrence as stated in the 1972 MOU that the road was a County maintained road for general public travel. During the meeting, the BLM consulted and coordinated with the county in assuring appropriate maintenance and cost share levels regarding the Thompson Creek Road and other roads identified in the 1972 MOU. It is my personal knowledge, as a BLM employee at the time, that between 1976 and after 1988 the BLM and County regularly maintained the roads identified in the MOU. The condition of the road varied according to weather conditions and the specific locations of the roads subject to flood, landslides, and other conditions.

Having read the 1972 MOU, personally driven the road in 1969, driven the road as a BLM employee in September of 1976, and having participated in the 1988 MOU modification process, I can confirm that the terms and conditions of the 1972 MOU were in full force and effect between September 1976 and after 1988.

7. I am familiar with the road segment depicted on the 1965 Kane County General Highway Map going through Sections 4 (T41S R5W), 33, 28, 27, 22 (corner), 23, 14, 13, 24 and back into Section 13(T40S R5W), Sections 18, 17, 8 (T40S R4 ½ W) where it intersects with Mill Creek Road. That segment was never maintained to the same higher maintenance standards as the segment depicted on "Attachment A" going through Sections 34, 27, 22 and through the corner of Section 15, which goes through private property, through Sections 14, 13 (T40S R5W) then through Sections 18, 17 and

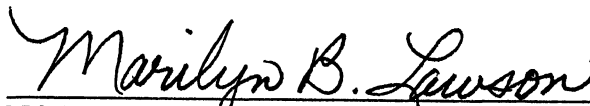
8 (T40S R4 ½ W) where it intersects with the Mill Creek Road. This route was never considered by myself, or other BLM employees I worked and traveled with, as the primary travel route between the Glendale Bench area and Mill Creek. The route depicted as "K3935" on "Attachment A" accurately reflects the route I traveled regularly from 1976 to 2006 and that I observed others regularly traveling between the Glendale Bench area and Mill Creek.

DATED THIS 27th DAY OF November, 2007.



MICHAEL E. NOEL

SUBSCRIBED AND SWORN to before me this 27th day of November, 2007.



NOTARY PUBLIC

