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February 25, 2004

The Hon. Lew Entz, Chairman
The Hon. Jack Taylor, Vice Chairman
Senate Committee on Agriculture
Colorado State Capitol
200 E. Colfax
Denver, CO 80203

Re: Senator Andrews' Resolution, SR 04-004, Is Needed to Protect Private Property Owners

Dear Chairman Entz and Vice-Chairman Taylor:

I write today to support SR 04-004, introduced by Senate President John Andrews, which would recommend a national policy be adopted by Congress to resolve issues related to an old, repealed federal right-of-way law known as "R.S. 2477." While the law **granting rights-of-way for constructed highways** – many of them important transportation corridors – over public lands was repealed nearly 30 years ago, the assertion of bogus rights-of-way over private land threatens private property owners across Colorado. I know this from grievous personal experience.

In 1996, I bought several old mining claims adjacent to the San Juan National Forest near Dolores and built a cabin there as my home. At the time I bought the property, the sellers did not retain any easements across it, nor were any recorded in the local land office. Yet within nine months of buying the property, the sellers asked to bulldoze a road along an invisible trail they claimed had once existed to a parcel they had kept on the mountain above my property. Because the sellers had no easement to use my property, **and because the sellers could access their property another way if they chose to**, I told them I did not want a new road dug across my land.

The sellers ignored me and my property rights, and, one day when I was not at home, they simply arrived with a bulldozer. Without my permission or consent, they bulldozed a road from 16 to 100 feet wide across my property as well as across neighboring Forest Service land. **In the process they chainsawed down dozens of trees on my and on Forest Service land.** How could these people simply drive a bulldozer over my land? They argued they had a right to "maintain" a "constructed highway" over my land under the old, repealed right-of-way law. Of course, there was no real evidence of a highway: no trail, much less road, had been maintained to their uphill parcel more than sixty years, and there was no solid evidence placing the alleged trail across my property. But a lack of evidence didn't stop their proceeding. After years of lawsuits which I was forced to bring to protect my home and thousands of dollars spent on legal fees, to eliminate the scourge I was forced to purchase their parcel, now at the cost of hundreds of thousands. **In consequence, there is now no R.S. 2477 claim across my property.** However my land and home will be scarred for many decades due to those who unscrupulously used a bogus argument invoking this old law.

Something needs to be done to protect private property from this kind of vigilante bulldozing. Senator Andrews' resolution is a good start. The resolution calls attention to this old law that threatens private property rights, and it calls for a common sense solution, starting with action by the U.S. Congress. Since Congress gave us this problem law nearly 140 years ago, it's about time they helped clean up the mess.

Thank you for your attention to this issue. Please call or fax me at 970-882-8085 or 970-7728-1004 if you have questions in this matter. As well, mail reaches me more reliably at POB 119, Telluride, CO 81435 and my email is susanna@smhoffman.com.

Sincerely,
Dr. Susanna Hoffman

cc: Senate Agriculture Committee Members

