

AUG 23 2004

STATE OF COLORADO)
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COUNTY OF ROUTT)

RESOLUTION NO. 2004-060

A RESOLUTION REGARDING RIGHTS-OF-WAY ESTABLISHED OVER PUBLIC LANDS UNDER R.S. 2477

WHEREAS, CONGRESS, for the purpose of promoting human habitation and settlement in the western United States, established that "the right of way for construction of highways over public lands, not reserved for public uses, is hereby granted" (Section 8 of the Act of July 26, 1866, reenacted and recodified as Revised Statutes 2477 (R.S. 2477), 43 U.S.C. §932 (repealed Oct. 21, 1976)); and

WHEREAS, R.S. 2477 granted to the public, states and/or counties rights-of-way over unreserved federal land and where the routes were made available for public use and subsequently utilized to move people and commodities between destinations. Many of these public rights of way remain available to this day for public use; and

WHEREAS, R.S. 2477 became an encumbrance on the land, was self-executing, and did not require governmental approval or public recording of title; and

WHEREAS, the Federal Land Policy and Management Act of 1976 repealed R.S. 2477; however that repeal did not terminate any valid outstanding right-of-way claims, or provide for recordation of any such valid rights; and

WHEREAS, protecting legitimate rights-of-way for public travel is critical to protect the counties' social and economic resources, to preserve reliable transportation, and to provide adequate access for search and rescue, fire protection, health and law enforcement, and other emergency services; and

WHEREAS, R.S. 2477 highway claims made across private lands can conflict with the legitimate rights of private landowners; and



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Page: 1 of 3
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WHEREAS, Colorado's national parks, national monuments, national wildlife refuges, wilderness, wilderness study areas, and other designated pristine wildlands provide a wealth of valuable resources and services, including fish and wildlife, drinking water, recreation, scenic beauty, tourism and pride in natural heritage that benefit our state and local economies. It has been determined that these special lands being of state and national interest should be managed with special care due to their unique nature; and

WHEREAS, the issue of possible assertions of R.S. 2477 rights-of-way has created unknown encumbrances on private lands, uncertainty and confusion regarding county jurisdiction and management issues on affected public and private lands; and

WHEREAS, County maintenance of rural residential roads is difficult and costly since they are often in remote locations, have lesser construction qualities, and predominately serve a smaller number of users; and

WHEREAS, new rural residential developments do not contribute sufficient revenue to the County to cover the cost of reconstructing remote roads nor the cost of increased road maintenance; and

WHEREAS, protecting the rural character, including ranchland and open space, is a high priority in Routt County and new roads have the potential to damage that character; and

WHEREAS, it is in the public interest for this issue to be resolved nationally and expeditiously within a set time period and in a consistent manner;

THEREFORE, BE IT RESOLVED that Routt County recommends legislation be adopted or administrative policy be approved by Congress to globally resolve and address issues related to R.S. 2477 rights-of-way and that a federal standard be established that is uniform among all federal land managing agencies. State law should be applied to determine the existence and scope of RS 2477 rights-of-way to the extent consistent with federal law; and





THEREFORE, BE IT FURTHER RESOLVED such legislation or administrative policy should establish a public process by which the validity of right-of-way claims under R.S. 2477 are to be determined; and

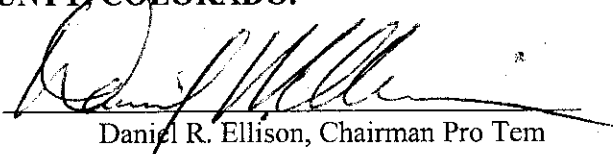
THEREFORE, BE IT FURTHER RESOLVED that Colorado's national parks, national monuments, national wildlife refuges, wilderness, roadless areas, and other pristine wildlands are of special importance to the heritage, culture, and economy of this state and County, and the assertion of R.S. 2477 highway rights-of-way claims should be held to a "higher burden of proof"; and

THEREFORE, BE IT FURTHER RESOLVED that Routt County acknowledges that any solution to the R.S. 2477 issue should provide legal standing for county governments, require minimal financial resources to complete, and allow for a reasonable level of actual identification; and

THEREFORE, BE IT FURTHER RESOLVED that Routt County acknowledges that any solution to the R.S. 2477 issue should include reasonable deadlines. Those different deadlines should include the assertion of the claim, the documentation of the assertion, and the government's certification of the assertion and documentation. Processing, verification, and certification of applications by federal entities should be undertaken in a timely fashion.

ADOPTED THIS 27th day of July, A.D., 2004

**BY THE BOARD OF COUNTY COMMISSIONERS FOR
ROUTT COUNTY COLORADO.**


Daniel R. Ellison, Chairman Pro Tem

Vote:	Nancy J. Stahoviak	<input checked="" type="radio"/> Aye	Nay	Absent
	Daniel R. Ellison	<input checked="" type="radio"/> Aye	Nay	Absent
	Doug Monger	<input checked="" type="radio"/> Aye	Nay	Absent

ATTEST:



Kay Weinland, Routt County Clerk and Recorder

by: 