

Resolution No. 2004 - 54

**Board of County Commissioners
Of the
County of Summit
State of Colorado**

Concerning the Adoption of Policies and Processes that Involve Thorough Public Input to Identify and Assert Rights-of-Way Over Federally Managed Public Lands.

WHEREAS, the United States Congress, for the purpose of promoting the settlement of the western United States by the establishment of roads, granted a right-of-way for the establishment of highways over public lands not reserved for public uses in Section 8 of the Mining Act of 1866, re-enacted and re-codified as Revised States 2477 (R.S. 2477), 43 U.S.C. sec 932 (repealed October 21, 1976); and

WHEREAS, the United States Congress enacted a law in 1997 prohibiting federal land agencies from disposing of RS 2477 claims unless and until Congress establishes a process or has approved of proposed rules and regulations concerning the process for establishing the existence and validity of RS 2477 claims, and Congress has not acted to establish such a process or approve any such rules or regulations; and

WHEREAS, the above mentioned right to establish highways across public lands, except those withdrawn from public use, effected a grant that was accepted whenever and wherever roads were constructed over unreserved federal land, and these public roads remain available to this day for public use; and

WHEREAS, the Federal Land Policy and Management Act of 1976 repealed R.S. 2477, but did not terminate any valid outstanding right-of-way claims, or provide for recordation of any such valid rights; and

WHEREAS, identifying, asserting, maintaining, and protecting legitimate rights-of-way can be useful to protect Summit County's social and economic resources and to promote public health and safety, including but not limited to 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

WHEREAS, Summit County has a critical role to play regarding the inventorying, maintenance, and vacation of roads, including R.S. 2477 rights-of way, in a manner that protects or enhances the socio-economic status of Summit County; and

WHEREAS, Summit County's abundant natural resources and public lands provide a wealth of valuable resources and services, including fish and wildlife, drinking water, recreation, scenery, and tourism, and pride in natural heritage that benefit our state and local economies; and

WHEREAS, R.S. 2477 rights-of-way across such lands could impact these enumerated values; and

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

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

THEREFORE BE IT RESOLVED that Summit County recommends a national policy be adopted by Congress to resolve and address claims that assert an ownership interest in R.S. 2477 rights-of-way; and

THEREFORE BE IT ALSO RESOLVED that Summit County acknowledges that any solution to the R.S. 2477 issue should provide a process for thorough public involvement; and

THEREFORE BE IT ALSO RESOLVED that Summit County acknowledges that any solution to the R.S. 2477 issue should include a reasonable deadline by which all R.S. 2477 highway rights-of-way claims must be asserted, in order that the issue may be resolved in a timely fashion; and

ADOPTED THIS 14th DAY OF JUNE, 2004.

**COUNTY OF SUMMIT
STATE OF COLORADO
BY AND THROUGH ITS
BOARD OF COUNTY COMMISSIONERS**

William C. Wallace, Chairman

ATTEST:

Cheri Brunvand, Clerk & Recorder