

CCI

Colorado Counties, Inc.

800 Grant Street • Suite 500 • Denver, Colorado 80203
Phone: 303.861.4076 • Fax: 303.861.2818
www.ccionline.org

August 9, 2004

Russell George, Executive Director
Colorado Department of Natural Resources
1313 Sherman, Rm 718
Denver CO 80203

Dear Mr. George:

On behalf of Colorado Counties, Inc., I present to you CCI's position on RS 2477 right-of-ways.

I. Roles for Recognizing RS 2477 Right-of-ways

- 1) Federal legislation and/or administrative policy is needed to address RS 2477 right-of-ways (ROWs) to establish a federal standard that is uniform among all federal land managing agencies.
- 2) State law should be applied to determine the existence and scope of RS 2477 ROWs to the extent consistent with federal law.
- 3) The county role is to hold public hearings. The county may initiate the process for assertion, vacation, use and maintenance. Counties should have standing on RS 2477 ROWs claims.
- 4) The public should have a role in documenting ROWs. The public's role may differ depending on whether or not an RS 2477 ROW is being claimed on currently reserved or unreserved lands.
- 5) The asserting party is responsible for the burden of proof.

II. Process: Nuts and Bolts

- 1) There may be different processes related to currently reserved, unreserved, and private lands because of the different issues involved. Consideration and resolution on unreserved lands may and should take priority over currently reserved lands. Given the importance and value of special areas of public land, including national parks, wilderness, national wildlife refuges and roadless areas, a higher standard of proof should be required for these areas.
- 2) Concerning documentation of RS 2477 ROWs claims, the federal process should *not* include a surveying requirement, but should allow for any evidence tending to establish the existence and location of an RS 2477 ROW. RS 2477 ROWs that have been adjudicated need to be recognized.
- 3) There shall be no application fee for local governments but there may be fees for private parties.
- 4) Any entity or individual may assert a claim.
- 5) Any deadlines established for asserting claims at the county level should not place an undue burden on the county. The process should be handled in a defined, expedited manner at the lowest administrative level possible. The federal government should act in a reasonable time to filed claims. If the federal process includes deadlines, different deadlines



should be established for: 1) identifying potential RS 2477 ROWs, 2) asserting claims and 3) allowing the appropriate federal agency to rule on the claim.

- 6) Appeals process should be available.
- 7) Definitions should reference state law to the extent consistent with federal law.

This position statement results from rigorous review of the issues surrounding RS 2477 right-of-ways. It reflects the careful consideration of professional opinions and scholarly reflection on a controversial issue that is of utmost concern to Colorado's people, economy and environment.

Please consider CCI's position on RS 2477 right-of-ways as discussions on this issue continue. CCI is eager to be an active participant in finding balanced solutions to RS 2477 right-of-ways claims. In the meantime, our member counties will continue to implement RS 2477 Inventory and Maintenance Protocols as determined locally.

Sincerely,



Don Davis
Public Lands Steering Committee, Chair
Rio Blanco County Commissioner