

Ted Zukoski

-----Original Message-----

Dear BRC Action Alert Subscriber,

I've got some really great news for you, but I've also got what could be the **most important Action Item I've ever asked of our membership.**

The good news first:

We're just about to blast out a big press release about a ruling on R.S. 2477 from the 10th Circuit Court of Appeals in Denver. I've pasted our medial release below. This ruling is a **crushing blow** to anti-access groups and their efforts to eliminate public access rights across the hundreds of millions of acres of public lands in America.

Now for the Action Item:

CELEBRATE! *Bask in the victory.* Savor the moment!

Here's what I want you do to: Throw a 2477 pizza party! Go on a poker ride. Have a ceremonial 4x4 run ride down your favorite R.S. 2477 road. Do something in celebration of this victory!

I'm personally proud of all of the OHV organizations I'm affiliated with who are working the 2477 issue. You folks realize the importance of this issue. Each time you mention 2477 in your comments, each time you mention 2477 in your talks with politicians, and each time you join and contribute to organizations that support public access to public lands you are doing so much.

Without further adu&..**Read and enjoy!**

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FOR IMMEDIATE RELEASE

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BlueRibbon Coalition Applauds R.S. 2477 Ruling

The BlueRibbon Coalition applauded last week's 10th Circuit Court of Appeals that could bolster

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the claims of local governments and public access proponents to controversial "RS 2477 highways" criss-crossing many western lands. "This is a huge victory for millions of Americans who value access to public lands," said BlueRibbon's Public Lands Director, Brian Hawthorne.

The ruling came in an appeal from a U.S. District of Utah decision in SUWA v. Bureau of Land Management (D.C. NO. 2:96-CV-836-TC). The litigation began in 1996 when road crews employed by Utah's San Juan, Kane, and Garfield Counties graded sixteen roads located in southern Utah. The Southern Utah Wilderness Alliance (SUWA) and other anti-access groups filed suit against the Bureau of Land Management (BLM), San Juan County, Kane and Garfield Counties, alleging that the Counties had engaged in unlawful road construction activities and that the BLM had violated the law by not taking more aggressive action against the road maintenance. The BLM subsequently filed cross-claims against the Counties, alleging that their road construction activities constituted trespass and degradation of federal property. The Counties claim the road maintenance activities were lawful because the activities took place within valid "R.S. 2477" rights of way. The district court ruled that federal law, as interpreted by BLM, dictated critical legal definitions in the case relating to the establishment, scope and maintenance of the "highways."

A three-judge panel of the 10th Circuit reversed, finding that state law properly guides interpretation of the existence and scope of any 2477 roads. The case was remanded to the district court for new proceedings to address issues such as the validity of the Counties' right-of-way claims, the scope of any such rights-of-way, and whether their actions constitute "trespass" on federal lands. "It will take time to evaluate the impact of this important decision, but it appears that the Circuit Court has reversed the district court's deviation from the previously-established precedent and reminded the parties to focus on state law concepts in evaluating the counties' actions," observed Paul Turcke, General Legal Counsel to BlueRibbon. "Contrary to the cries of anti-access interest groups, I think it unlikely that a new breed of "road warriors" will spring forth as a result of this ruling," he stated. "2477 claims have always presented complex legal, factual and political challenges, and this ruling appears to only clarify the rules of the game while leaving many thorny challenges for future debate," Turcke concluded.

"R.S. 2477" refers to a now-repealed portion of the 1866 Mining Act, which states "the right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted." While this grant of highway construction authority was repealed in 1976, rights-of-way previously created under the statute can effectively remain "grandfathered" in use and available to the public today. 2477 claims have engendered great passion and confusion throughout the West, where state and local governments, federal land managers, public access proponents, wilderness advocates and private property owners have regularly taken irreconcilable positions on 2477 assertions. "For BlueRibbon members, RS 2477 can offer additional protection to public access along some of the West's most beautiful and historically-significant routes," Hawthorne noted. "While we are disappointed that BLM joined SUWA and the anti-access groups in this case, we will continue to work with federal land managers and all interested parties in seeking solutions to this and other public lands issues in Utah and beyond, whether those solutions occur through collaboration, legislation or the courts," said Hawthorne.

The BlueRibbon Coalition is a national recreation group that champions responsible use of public

and private lands, and encourages individual environmental stewardship. It represents over 10,000 individual members and 1,200 organization and business members, for a combined total of over 600,000 recreationists nationwide.
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