

**ASPEN WILDERNESS WORKSHOP  
BIODIVERSITY CONSERVATION ALLIANCE  
CENTER FOR NATIVE ECOSYSTEMS  
COLORADO ENVIRONMENTAL COALITION  
COLORADO MOUNTAIN CLUB  
COLORADO WILD  
EARTHJUSTICE  
ENVIRONMENT COLORADO  
HIGH COUNTRY CITIZENS' ALLIANCE  
NATIONAL PARKS CONSERVATION ASSOCIATION  
ROCKY MOUNTAIN RECREATION INITIATIVE  
SAN JUAN CITIZENS ALLIANCE  
SAN LUIS VALLEY ECOSYSTEM COUNCIL  
SIERRA CLUB  
SINAPU  
SOUTHERN ROCKIES ECOSYSTEM PROJECT  
WESTERN COLORADO CONGRESS  
WESTERN SLOPE ENVIRONMENTAL RESOURCE COUNCIL  
WHITE RIVER CONSERVATION PROJECT  
THE WILDERNESS SOCIETY  
WILDLANDS PROJECT**

The Honorable Bill Owens  
Governor  
State of Colorado  
136 State Capitol  
Denver, CO 80203-1792  
**ALSO DELIVERED VIA FAX: (303) 866-2003**

June 4, 2003

Dear Governor Owens:

On behalf of our tens of thousands of members across Colorado and hundreds of thousands of members across the country, we are deeply troubled that your administration has embarked on a secretive process with the Department of the Interior that could potentially turn cattle tracks and jeep trails into highways through National Parks, National Monuments, National Wildlife Refuges and Wilderness lands. We respectfully request that you publicly halt these closed-door negotiations, and meet with us and other members of the public to discuss a valid process for addressing Colorado's right-of-way claims on lands owned by all Americans.

According to a May 15<sup>th</sup> letter sent by Department of Natural Resources Director Greg Walcher to Department of Interior (DOI) Secretary Gale Norton, the State of Colorado has initiated closed discussions with DOI to "resolve" issues related to claims to rights-of-way under Revised Statute (R.S.) 2477.<sup>1</sup> This Civil War-era law granted rights-of-way for the construction of highways across public lands not set aside for other uses. We are gravely concerned by the approach suggested in Director Walcher's May 15 letter, because it suggests that:

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<sup>1</sup> A copy of the May 15 letter is attached.

- The State intends to press claims to highways through National Parks, National Monuments, National Wildlife Refuges and Wilderness lands as well as National Forests and Bureau of Land Management lands.
- Such claimed rights-of-way for constructed highways could include cattle trails, hiking trails, riverbeds, and jeep trails, and the “mere passage of vehicles”—or even no surface treatment whatsoever—could be considered as “construction” of a “highway.” (These positions are contrary not only to recent federal court decisions, but to positions taken by the Bush Administration in federal appeals court here in Colorado only five months ago.)
- The State should not be subject to federal environmental permitting requirements even in such circumstances as when an indistinct foot trail is “upgraded” into a two-lane highway across National Parks, National Monuments, National Wildlife Refuges and Wilderness lands, through sensitive wildlife habitat, through wetlands, or sensitive archeological sites.
- The State’s right-of-way claims should be permitted to expand well beyond where construction has occurred, and without the State even needing to show exactly where the right-of-way existed.

We believe the approach suggested in Director Walcher’s letter is unwise, illegal, would lead to tremendous destruction of Colorado’s environment, and is an extreme and unbalanced approach to this issue.

As you know, Title V of the Federal Land Policy & Management Act already provides a public process for states and counties to resolve legitimate right-of-way claims across public lands. If you have such claims, we urge you to instead follow the procedures provided in existing law as have other Colorado counties, including Moffat County, in the past.

Colorado’s awe-inspiring public lands – our National Parks, National Monuments, National Wildlife Refuges and Wilderness lands – are tremendously important in defining our state. These lands provide places of tranquility and beauty as our state’s development and population increases. They provide clean water for our cities and critical wildlife habitat. They provide opportunities for recreation for our families. They are crucial to our economy as they draw employers, as well as tourists, to our state. They are an asset that should be treated with great care so that they can be enjoyed by our children and our children’s children. The State of Colorado’s closed negotiations with DOI threaten these special places and the values—economic, ecological, recreational, and spiritual—that the lands provide to millions of Coloradans and to all Americans.

This threat is real. For example, Moffat County has claimed more than 2,000 miles of routes in northwest Colorado – more than enough to drive from Denver to Boston. These claims include 240 miles of highway rights-of-way cutting through Dinosaur National Monument, 53 miles within the Browns Park National Wildlife Refuge, and numerous miles within every Wilderness Study Area (WSA), citizen-proposed Wilderness, and Forest Service Roadless Area in the county. Moffat County has admitted that many of the claimed routes include pedestrian trails, horse paths, livestock trails, all-terrain vehicle tracks, and riverbeds, including a 20-mile stretch of the Yampa River inside Dinosaur National Monument. A field review has found that many of the asserted “constructed highways” are invisible on the ground, or would have to climb sheer cliffs or cross deep gullies where no path can now be seen. Director Walcher’s approach proposes that such claims be granted to Moffat County as “constructed highways” and upgraded into two-lane highways with little or no environmental or public review. The impact of such an approach is obvious and devastating.

Given these concerns, we respectfully ask that you reconsider the extreme approach suggested in Director Walcher's letter. We also request that you call a halt to your closed-door discussions with DOI, and that you meet with us and the public at large to establish an open and balanced process for addressing this issue. Please contact Suzanne Jones at The Wilderness Society at 303-650-5818, ext. 102, to schedule a meeting at your earliest convenience.

Sincerely,

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Attachments