

Governor Owens' Secret Deal Threatens Colorado's National Parks and Wildlands

Conservationists Urge Him to Withdraw Proposal

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(Denver) Twenty-one local, statewide, and national conservation organizations today called upon Governor Bill Owens to retract a secret proposal to allow the State of Colorado and its counties to turn faded trails in Colorado's National Parks, National Monuments, National Wildlife Refuges, and proposed wilderness lands into paved highways. The proposal from the Owens administration, contained in a May 15th letter to Interior Secretary Gale Norton, would irreparably degrade habitat and water quality, undermine the purpose and essence of these specially designated places, and diminish Colorado's economy and quality of life, the groups charged.

The State seeks the right to build those new roads on America's public lands without environmental review, without restraint on the roads' expansion, and without even minimal standards for determining their location, their size, or the legitimacy of the claims that they even exist.

"Instead of standing up to protect Colorado's National Parks, National Monuments, National Wildlife Refuges, and potential wilderness, Governor Owens is working on back-room deals to unleash the bulldozers there," said Suzanne Jones, Assistant Regional Director for The Wilderness Society. "It's an unbalanced, illegal, and damaging proposal. He should retract it at once."

The proposal puts at risk such lands as Dinosaur National Monument and Browns Park National Wildlife Refuge in northwestern Colorado, where Moffat County has proposed taking over hundreds of miles of cattle trails, hiking paths, jeep tracks, and nearly invisible routes as "constructed highways," using a 19th century right-of-way law known as Revised Statute (R.S.) 2477.

R.S. 2477, a one-line directive included in the Mining Law of 1866, was intended to promote settlement of western territories: "The right-of-way for the construction of highways over public lands, not reserved for public uses, is hereby granted." Congress repealed R.S. 2477 in 1976, but some routes constructed before that date could still be claimed. Opponents of federal land preservation continue attempts at using that loophole to preclude wilderness designations and to open already protected areas to development.

Colorado Department of Natural Resources Director Greg Walcher sent a letter to the Secretary of the Interior on May 15th asking that Colorado and Interior cut a closed-door deal on routes claimed under the ancient, repealed law. The State's letter suggests that:

- the State intends to press claims to highways through National Parks, National Monuments, National Wildlife Refuges, and Wilderness Study Areas, as well as national forests and Bureau of Land Management lands;

- the State's claims for rights-of-way for 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 when routes as vague as indistinct foot trails are "upgraded" into two-lane highways across National Parks, National Monuments, National Wildlife Refuges, and proposed wilderness, through sensitive wildlife habitat, wetlands, or sensitive archeological sites; and
- the State's right-of-way claims should be permitted to expand well beyond where construction has occurred and that the State need not even show exactly where the right-of-way existed.

Federal courts have held that a highway must have been built while the public land was unreserved for some other specific purpose, must have actually been constructed, and must have been a public highway meant to carry goods and people to specific destinations.

"The Owens administration defies common sense in sending this letter," said former Moffat County Commissioner Neil McCandless. "Cows and hikers don't construct highways, and we don't need hundreds of miles of roads in the middle of spectacular landscapes like Dinosaur National Monument."

"Americans love their western national parks for their beauty and their sense of wildness," added Liz Raisbeck of the National Parks and Conservation Association. "County road graders shouldn't be building roads in lands set aside to protect their natural values. What kind of legacy will we leave for our children if our magnificent national parks are crisscrossed with roads and development?"

"I worked in Dinosaur for nearly 29 years and, having seen Moffat County's claims, I can tell you that many of the claims in the monument are nothing more than cow trails," said Steve Petersburg, retired Resource Management Specialist at Dinosaur National Monument.

The Colorado proposal comes soon after an agreement reached in March between the State of Utah and the federal government regarding R.S. 2477 right-of-way claims. That agreement has prompted significant bad publicity for Utah and threatens that state's valuable recreation businesses. Conservationists consider Colorado's new proposal to be even more radical and destructive than Utah's.

"This proposal doesn't bode well for businesses like mine," said Clay Patton, who owns a mountain guide service in Durango, Colorado. "People visit Colorado to see its scenic and undisturbed landscapes, supporting a lot of businesses in the state. Wild lands are like a bank account - we ought to be saving them for everyone, but the Owens administration would rather squander them by building more roads."

Vera Smith, conservation director of the Colorado Mountain Club, agreed. "It's ironic that Governor Owens is, on the one hand, spending \$10 million provided by the state legislature to promote Colorado's scenic attractions while, on the other hand, initiating a contrary scheme to destroy the very places he wants to promote." Smith noted that the Outdoor Industry Association recently threatened to move its \$20 million annual convention out of Utah in response to that state's deal with the federal government on R.S. 2477 and other land protection issues.

One hundred members of Congress recently wrote Secretary Norton criticizing the Utah agreement, and Congressman Mark Udall of Colorado has introduced legislation that would provide a fair and timely approach to resolving outstanding R.S. 2477 claims.

In addition, existing law provides a public process for states and counties to resolve legitimate right-of-way claims across public lands, a procedure that counties such as Moffat have used in the past.

"Clearly, outstanding claims must resolved," said Steve Smith, staff for Western Colorado Congress in Glenwood Springs, "but the way to do it is not through an attack on the lands Coloradans cherish most, but through a public process with well-defined standards and criteria."

The twenty-one conservation groups asked Governor Owens to abandon the proposal outlined in the May 15 letter, and to meet with citizens to discuss setting up a fair, open process.

"Some of Colorado's wildest, most remote lands are at stake. These public lands are a heritage owned by all Americans," said Pete Kolbenschlag with the Colorado Environmental Coalition. "Like citizens across the nation, Coloradans love the natural values of these lands and deserve a seat at the table to decide how they will be managed and protected. They are not the Governor's to simply give away."

A copy of the State's letter and photographs of some bogus "constructed highway" claims made by Moffat County are available from Suzanne Jones, The Wilderness Society at (303) 650-5818 x102.

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