

October 8, 2004

Mr. Dale Bosworth
Chief, USDA Forest Service
Washington, D.C. 20250

Dear Chief Bosworth:

We strongly agree with you that the Forest Service must take steps now to more effectively manage motorized vehicles and support your efforts in this area.

However, we have noted with concern that the Forest Service's proposed new travel management rules, as published in the Federal Register on July 15, 2004, included a provision that would allow an "authorized officer" to "ascertain" whether a particular route on national forest lands is a right-of-way granted by the United States pursuant to section 2477 of the Revised Statutes (R.S. 2477) "based on available evidence."

Current law -- Section 108 of Public Law 104-208 (the appropriations bill for the Interior Department and Related Agencies for Fiscal Year 1997) -- prohibits the issuance of any final regulation "pertaining to the recognition, management, or validity" of R.S. 2477 claims without specific Congressional authorization.

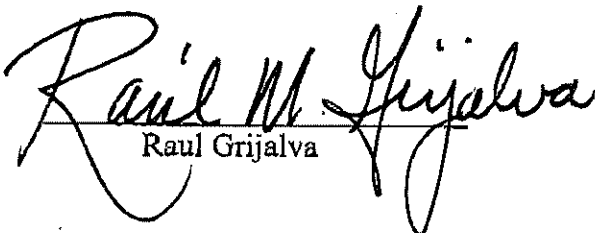
We think it is clear that any regulation authorizing a decision that would "ascertain" that a route is an R.S. 2477 right-of-way would be within the scope of that prohibition and thus beyond the scope of the Forest Service's legal authority. So, inclusion of any such provision will mire the Service's efforts in unnecessary controversy and leave the rule vulnerable to litigation and delay.

Accordingly, we urge that the final travel management regulations not include any such provision. The final rule should instead confirm the agency's duty to manage existing easements and routes in a manner that provides all appropriate protection for the natural resources and the users of the national forests..

Sincerely,


Mark Udall


Nick J. Rahall


Raul Grijalva


Tom Udall