

PASSED NR COMMITTEE 6/20(?)

PROPOSED CLUB 20 RESOLUTION

A RESOLUTION RECOGNIZING RIGHTS-OF-WAY ESTABLISHED OVER PUBLIC LANDS UNDER R.S. 2477

WHEREAS, the United States Congress, for the purpose of promoting the settlement of the western United States by establishment of highways, granted a right-of-way for the construction of highways over public lands, not reserved for public uses in Section 8 of the Mining Act of 1866, reenacted and recodified as Revised Statutes 2477 (R.S. 2477), 43 U.S.C. §932 (repealed Oct. 21, 1976); and

WHEREAS, the above-mentioned right to pass across public lands, except those withdrawn from public use effected a grant, which was accepted whenever and wherever roads and ways were established over unreserved federal land by construction or otherwise and were available for public use, and these public highways remain available to this day for public use; and

WHEREAS, Secretary Norton negotiated a Memorandum of Understanding for Acknowledging R.S. 2477 Rights of Way in Utah in 2003, and has invited other states to propose their own agreements with the Secretary of Interior.

WHEREAS, identifying, asserting, maintaining, and protecting these rights-of-way is necessary to protect the County's social and economic resources and to promote public health and safety, including but not limited to, search and rescue, fire protection, health and law enforcement, and other emergency services; and

WHEREAS, local jurisdictions (i.e. Counties) can set policy regarding the inventorying, maintenance, and abandonment of roads, including R.S. 2477 Rights of Way, in manners which protect or enhance each local jurisdictions socio-economic status and custom and cultures.

THEREFORE BE IT RESOLVED, In response to the Secretary of Interior's request for states to propose agreements with the Department of Interior to acknowledge R.S. 2477 Rights of Way, Club 20 recommends a policy be issued by the Secretary of Interior to acknowledge R.S. 2477 Rights of Way throughout Department of Interior managed lands, however, in the absence of a policy, Club 20 recommends a contract with the State of Colorado to provide the conduit to acknowledge R.S. 2477 Rights of Way;

THEREFORE BE IT ALSO RESOLVED, Club 20 supports R.S. 2477 Rights of Way being defined by locally derived and supported R.S. 2477 Inventory, Maintenance, and Abandonment Protocols established through thorough public input processes. R.S. 2477 Rights of Way may include, but are not limited to, pedestrian trails, horse paths, livestock trails, wagon roads, jeep trails, logging roads, homestead roads, mine-to-market roads, alleys, tunnels, bridges, dirt or gravel roads, paved roads, and all other ways and their attendant access for maintenance, reconstruction, and construction; and

THEREFORE BE IT ALSO RESOLVED, R.S. 2477 Rights of Way exist and Club 20 recognizes them on all Department of Interior and U.S. Forest Service managed lands so long as

the Right of Way existed prior to reservation of those lands or at the repeal of R.S. 2477 by the Federal Land Policy and Management Act of 1976.

THEREFORE BE IT ALSO RESOLVED, Club 20 recognizes the mere use by the public of a right of way constitutes construction of that right of way. Bulldozers, graders or other forms of mechanical maintenance are not necessary for the construction or maintenance of an R.S. 2477 Right of Way.

THEREFORE BE IT ALSO RESOLVED, The width of a Right of Way is determined by a reasonable and necessary standard regarding the use of a given route. Club 20 opposes ~~reducing the width of a right of way to the mechanically disturbed portion of a road.~~ Club 20 acknowledges the County's right, title, and interest in R.S. 2477 Rights-of-Way including the right to evaluate and perform construction, reconstruction, and maintenance which is reasonable and necessary for safe passage.

THEREFORE BE IT ALSO RESOLVED, Club 20 recommends the cost of processing R.S. 2477 assertions be born by those processing the assertions (i.e. federal agencies) or those challenging the assertions. Club 20 acknowledges that once the public established a road or trail it became the public's vested right and the burden of processing or formally recognizing these vested rights should fall upon the agency or organization that must implement regulations to address the long existing rights.

THEREFORE BE IT ALSO RESOLVED, Club 20 recognizes it is generally not necessary to identify the exact meets and bounds or a centerline of an R.S. 2477 Right of Way to map its existence. Generally government maps, aerial photos, affidavits, or photographs represent the physical location necessary to document the existence of a right of way.