

OWYHEE COUNTY COMMISSIONERS MINUTES
SPECIAL MEETING
August 16, 2016
OWYHEE COUNTY COURTHOUSE
MURPHY, IDAHO

Present were Commissioners Aberasturi, Merrick and Hoagland, Alan Schroeder, Brad Griff, Diane Griff, Mary Huff, Mitch Jaurena and Jim Desmond.

Alan provided a short, 7 minute or so, summary of RS 2477 history and current situation. Explained the current moratorium on acting on the assertions. In law, passed by the Congress in 1994. Summarized the situation in Owyhee County and Idaho re state law standard for public use and public maintenance. Explained the Owyhee County 1948 abandonment of all public roads in county, then followed by establishment a month or so later of the public roads within Owyhee County. Explained that then the window for RS 2477 is between 1948 and 1976. Alan explained the 1994 act encouraged the assertions so as to identify roads in question. County asserted on 161 map sheets. Explained the establishment under OI and the time clock running on the roads within the created Wilderness. 2009 enactment of wilderness started the ten year clock to get the claim filed in federal court on those roads. 40 of the 161 maps contain the wilderness areas. Explained how the county came to him and then the process for validation was created and put into effect.

Alan then referred to the House Bill 5760 and sec 1201 language for the roads in Utah.

SEC. 1201. RIGHTS-OF-WAY FOR CERTAIN ROADS.

(a) **IN GENERAL.**—Subject to valid existing rights and consistent with this section, the Secretary of the Interior shall acknowledge the State of Utah’s and its counties’ ownership of, and shall forever disclaim all Federal interest in, a right-of-way for public travel and access on all roads claimed as Class B, that are paved as of January 1, 2016, and identified as rights-ofway in judicial actions in the Federal court system as of January 1, 2016, in Uintah, Duchesne, Carbon, Emery, Grand, and San Juan counties, Utah.

(b) **APPLICABLE LAW.**—A right-of-way disclaimed under subsection (a) shall constitute the United States acceptance of the county’s and State’s RS 2477 ownership and that all Federal ownership authority is extinguished. The State and counties in return shall withdraw lawsuits in the Federal court system affecting those individual disclaimed roads.

(c) **ADMINISTRATION.**—

(1) Each right-of-way disclaimed by the Secretary of the Interior under the provisions covered by subsection (b) of this title shall consist of the full geographic extent authorized by Utah State law in effect as of January 1, 2016.

(2) Each right-of-way disclaimed pursuant to this title may be abandoned pursuant to Utah State law.

(3) The right-of-way area of disturbance shall generally remain the same as of January 1, 2016.

Alan and Brad continued discussion on how the language in HR 5760 would, or would not, work in Idaho. Brad asked county which roads were their priority. Answer was Categories A and B.

Brad, would want to see:

--Don't give BLM too much latitude in language. Burden on Federal Gov't to have to prove why not RS 2477 vs county have to prove it is. May need to look at the lesser categories on case by case basis.

--need to look at our process and establish a process for BLM in legislation.

--want language to be very clear, cut and dried, no room for interpretation. That's his Boss' approach.

Mitch suggested a potential bill in which to place the language. Senator Lee's bill re bicycles in Wilderness.

Brad recap of what we need to do.

Establish the process for validation in the legislation west wide.

Get the A and B roads approved for Owyhee County.

Jim summarized the public and BLM outreach that has been conducted in the process, including how the draft criteria were revised by public/agency and public/agency involvement since then.

Brad: question on after A and B resolved, how does county plan to deal with C,D,E?

Kelly: have discussed that a little with field offices re maintenance for access to water etc. BLM, under this group, would do an MRA for access. Mentions previous manager that would have been a problem based on how they interpret the Wilderness act.

Brad: potential language re "BLM shall complete an analysis to determine who to do maintenance..."

Discussion on keeping the focus initially on fixing the A and B roads for Owyhee County now and worry about the others, and other states, later –possibly in another bill.

Brad will brief Congressman Labrador, discuss possible action, and will keep Commissioners informed.

Meeting Adjourned at 4:00 pm

Dated this 22nd day of August, 2016.


Kelly R. Aberasturi, Chairman

Attest: Angela Barkell, Clerk

By: 
Brook Russell, Deputy Clerk