

OWYHEE COUNTY RESOLUTION NO. 94-03

RESOLUTION PROCLAIMING PUBLIC USE FOR RIGHTS-OF-WAY  
UPON AND ACROSS FEDERALLY MANAGED AND STATE  
MANAGED LANDS IN OWYHEE COUNTY

WHEREAS, by Owyhee County Ordinance 93-02, the Board of Owyhee County Commissioners has recognized that since initial settlement of Owyhee County Lands, owners of private land and of private property interests have necessarily asserted and used rights-of-way upon and across the federally managed and state managed lands lying within the county in order to obtain beneficial and economically efficient use of their private land and property interests; and

WHEREAS, such use of private land and property interests is vital to the commerce and economic stability of Owyhee County; and

WHEREAS, the official Owyhee County Land Use Planning Committee has through its efforts made it clear that such rights-of-way are not only essential to the commerce and economic stability of Owyhee County, but also to the continuation and preservation of the custom and culture of Owyhee County because of the necessity of such rights-of-way for sustaining traditional multiple range uses such as grazing and other agricultural uses, mining uses, recreational uses such as but not limited to off highway motorized vehicles, equestrians, hunting, fishing, sight seeing, and camping, wood gathering uses and uses for access to water; and

WHEREAS, by adoption of the Owyhee County Interim Land Use Management Plan the county has provided for continued multiple use of the federally managed lands within the county and continued sustained uses for all those uses identified in the Plan and the planning process; and

WHEREAS, by Owyhee County Ordinance 93-02 the Board of County Commissioners declared it to be in the best interests of the citizens of Owyhee County to promote and foster commerce and economic stability by authorizing the County Recorder to receive and record assertions of rights-of-way upon and across the federally managed and state managed lands lying within the county; and

WHEREAS, subsequent to passage of Ordinance No. 93-02 the Idaho State Legislature made effective Idaho Code §40-204A whereby the State of Idaho recognized that the act of construction and

first use constituted acceptance of the grant of rights-of-way over federally managed lands to the public and that upon such acceptance the grant by the United States Congress evidenced by Revised Statute 2477 became effective for a perpetual term; and

WHEREAS, the Idaho State Legislature also recognized by enacting 40-204A that the only method of abandonment of such rights-of-way is by eminent domain proceedings and that neither the passage of time nor the frequency of use shall be considered a basis for abandonment of such rights-of-way; and

WHEREAS, the Idaho State Legislature has also decreed in Section 40-204A that such rights-of-way may be documented by maps, affidavits, surveys, books and other historic information; and

WHEREAS, the Idaho State Legislature has also mandated that any political subdivision of the state, which includes Owyhee County, may proclaim user rights to the rights-of-way acknowledged by the provisions of Revised Statute 2477; and

WHEREAS, the Idaho State Legislature has in Idaho Code §40-107 defined such rights-of-way to mean:

"Rights-of-way on federal land within the context of Revised Statute 2477, codified as 43 United States Code 932, and other federal access grants and shall be considered to be any road, trail, access or way upon which construction has been carried out to the standard in which public rights-of-way were built within historic context. These rights-of-way may include, but not be limited to, horse paths, cattle trails, irrigation canals, water ways, ditches, pipelines or other means of water transmission and their attendant access for maintenance, wagon roads, jeep trails, logging roads, homestead roads, mine to market roads, and all other ways.";

and

WHEREAS, the Board of County Commissioners finds that it is in the best interests of all members of the public in Owyhee County that the public use of such rights-of-way as defined by the Idaho State Legislature and as acknowledged by Revised Statute 2477 be proclaimed by the Board in its capacity as elected representatives of all members of the public of Owyhee County; and

WHEREAS, the Board of County Commissioners has reviewed United States Department of Interior Geological Survey Maps No. 1 through 161, as presented by the Office of the Assessor of Owyhee County, Idaho Land and Status Maps compiled from U.S. State and County records and dated August, September and November, 1946, as

provided by the Office of the Assessor of Owyhee County and determined that such maps are sufficient to document such rights of way;

NOW, THEREFORE, IT IS HEREBY RESOLVED, that the Board of Owyhee County Commissioners proclaims user rights in behalf of the public to all rights-of-way as defined by the Idaho State Legislature in Idaho Code §40-107 and as historically recognized and acknowledged by Revised Statute 2477, and as shown on United States Department of Interior Geological Survey Maps No. 1 through 161 as attached to this Resolution, and by Idaho Land and Status Maps compiled from U.S. State and County records, and dated August, September and November, 1946 as attached to this Resolution, to the full extent of their existence, historically;

IT IS HEREBY FURTHER RESOLVED by the Board of Owyhee County Commissioners that the Chairman of said Board be authorized and directed to execute an assertion of right-of-way form as provided by the Owyhee County Recorder and to file said form asserting rights-of-way in conformance with this Resolution with said Owyhee County Recorder.

DATED this 14 day of February, 1994.

OWYHEE COUNTY BOARD OF  
COMMISSIONERS

Richard Bass  
Richard Bass, Chairman

Chester Sellman  
Chester Sellman, Member

Harold Tolmie  
Harold Tolmie, Member

ATTEST:

Barbara Jayo  
Barbara Jayo, Clerk

Date: 2-14-94

APPLICATION OF  
**ASSERTION OF RIGHT OF WAY**

Owyhee County, Idaho

1. Name of Applicant OWYHEE COUNTY  
2. Address P. O. Box 128  
Murphy, Idaho 83650  
3. Telephone Number \_\_\_\_\_

Location of right-of-way asserted and its point of commencement and end (general township, range and section if known) All roads, trails, ways, livestock trails etc. on United States Department of the Interior Geological survey quadrangle maps attached and made a part of this document and listed as Exhibit A

(Reference should be made to map sheet on which the right-of-way is drawn, i.e. USGS 7½ minute quadrangle or USFS Map No.)

Identify, to the best of your knowledge, the date or time that the right-of-way was first used by the public From 1863 to 1976

Identify the method of construction used on the right-of-way From hand labor to modern equipment

(Note as many features as possible, including cut banks, bridges, fords, water bars or other work on the right-of-way.)

County of Owyhee        }  
                                  } ss  
State of Idaho         }

We, The Owyhee County Board of Commissioners, do hereby assert and certify to the best of our knowledge that the aforementioned right-of-way is valid under RS 2477 and that the information contained within this assertion is true and complete under penalty of perjury.

ATTEST:

Barbara Jayo  
Barbara Jayo, Clerk

BOARD OF COUNTY COMMISSIONERS

Richard Bass  
Richard Bass, Chairman

Harold Tolmie  
Harold Tolmie, Commissioner

Chester W. Sellman  
Chester W. Sellman, Commissioner

Subscribed and Sworn to before me this 28th day March, 19 94

Notary Public For Idaho Angela Edwards  
Residing At Homestead, Id.  
Commission Expires 12/15/98

EXHIBIT A  
 UNITED STATES  
 DEPARTMENT OF THE INTERIOR  
 GEOLOGICAL SURVEY

Map Name: Quadrangle:	Map. No.	Map Name: Quadrangle	Map No.
Adrian	1	Graveyard Point	2
Pole Creek Top	3	Rockville	4
Sheaville	5	Hooker Creek	6
Jordan Valley	7	Parsnip Peak	8
Juniper Point	9	Brewster Reservoir	10
Deacon Crossing	11	Beaver Charlie Breaks	12
<del>Defeat Butte</del>	<del>13</del>	<del>Star Valley Knoll</del>	<del>14</del>
Wilder	15	Homedale	16
Jump Creek	17	Piute Butte	18
Captain Butte	19	Swisher Mountain	20
Stonehouse Creek	21	Williams Creek	22
Cliffs	23	Fairylawn	24
Bedstead Ridge	25	Bull Basin Camp	26
Spring Creek Basin	27	Star Valley-Owyhee Co.	28
Marsing	29	Opalene	30
Soldier Cap	31	Rooster Comb Peak	32
DeLamar	33	Flint	34
Combination Ridge	35	Indian Meadows	36
Pleasant Valley	37	Smith Creek	38
Red Basin	39	Grassy Ridge	40
Coyote Hole	41	Givens Hot Springs	42
Wilson Peak	43	Reynolds	44
Silver City	45	Cinnabar Mountain	46
Triangle Flat	47	Wickiup Creek	48
Slack Mountain	49	Castro Table	50
Brace Flat	51	Piute Basin-West	52
Bull Camp Butte	53	Walters Butte	54
Murphy	55	Sinker Canyon	56
Toy Pass	57	Triangle Reservoir	58
Hurry Up Creek	59	Wagon Box Basin	60
Dickshooter Reservoir	61	Dickshooter Ridge	62
Piute Basin East	63	Four Corners	64
Initial Point	65	Sinker Butte	66
Oreana	67	Antelope Springs	68
Pixley Basin	69	Clover Mtn.	70
Big Springs Ranch	71	Frying Pan Basin	72
Battle Creek Basin	73	Jarvis Pasture	74
Juniper Basin	75	Wild Horse Butte	76
Castle Butte	77	Rough Mountain NE	78
Rough Mountain	79	Snow Creek	80
Crab Spring Butte	81	Lost Valley	82
Shoofly Springs	83	Ross Lake	84
Juniper Basin SE	85	Jackass Butte	86
Vinson Wash	87	Perjue Canyon	88
O X Lake	89	Sugarloaf	90

Page 2  
 United States  
 Department of the Interior  
 Geological Survey

Quadrangle	Map No.	Quadrangle	Map No.
Turner Table	91	Nichol Flat	92
Flying H Ranch	93	Mountain View Lake	94
Dorsey Butte	95	Grand View	96
Chalk Hills	97	Big Horse Basin Cap	98
Hill Pasture	99	Wickahoney Point	100
Little Blue Table	101	Riddle	102
Three Forks	103	C.J. Strike Dam	104
Little Valley	105	Hole In Rock	106
<del>Wickahoney Crossing</del>	<del>107</del>	<del>Grasmere</del>	<del>108</del>
Grasmere Reservoir	109	Buckhorn	110
Indian Hay Meadows	111	Bruneau	112
Sugar Valley	113	Broken Wagon Flat	114
Table Butte	115	Blackstone Reservoir	116
Buster Butte	117	Antelope Creek	118
Black Leg Creek	119	Bruneau Dunes	120
Hot Spring	121	Crowbar Gluch	122
Austin Butte	123	Cave Draw	124
Indian Hot Springs	125	Triguero Lake	126
Triplet Butte	127	Indian Cove	128
Pence Butte	129	Pot Hole Butte	130
Winter Camp	131	Stiff Tree Draw	132
Inside Lakes	133	The Arch	134
Cowan Reservoir	135	Hammett	136
Pot Hole Canyon	137	Black Butte West	138
Hodge Station	139	Clover Butte North	140
Clover Butte South	141	Poison Butte	142
Dishpan	143	Black Butte East	144
Crows Nest Butte	145	Juniper Ranch	146
Juniper Butte	147	Mosquito Lake Butte	148
Murphy Hot Springs	149	Notch Butte	150
Crows Nest	151	Horse Butte	152
Coonskin Butte	153	Salls Crossing	154
Three Creek	155	Crows Nest NE	156
Castleford Butte	157	Coonskin Butte NE	158
Big Bend Crossing	159	Grassy Hills	160
Curtis Draw	161		

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FILED-RECORDED

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DEPARTMENT OF THE INTERIOR

Geological Survey

REQUEST OF  
 Charles C. Bond of Iowa.  
 REF.

