

**BEFORE THE OWYHEE COUNTY BOARD OF COUNTY COMMISSIONERS,  
THE GEM HIGHWAY DISTRICT BOARD OF COMMISSIONERS,  
AND  
THE THREE CREEK GOOD ROAD DISTRICT BOARD OF COMMISSIONERS**

IN RE THE VALIDATION OF:	)	
	)	
SEVERAL RIGHTS-OF-WAY,	)	FINDINGS,
AS PUBLIC RIGHTS-OF-WAY,	)	CONCLUSIONS,
INCLUDING AS UNDER RS 2477,	)	AND ORDER
IN ACCORDANCE WITH IDAHO CODE	)	
§ 40-203A(3) AND IDAHO CODE	)	
§ 40-203A(5)	)	
	)	
	)	
_____	)	

**FINDINGS OF FACT**

**If any of Findings of Fact are deemed Conclusions of Law, they are incorporated into the Conclusions of Law section accordingly.**

1. The Owyhee County Board of County Commissioners (hereinafter “Owyhee County” or “OCBOCC”), the Gem Highway District Board of Commissioners (hereinafter “GHD”), and the Three Creek Good Road District Board of Commissioners (hereinafter “TCGRD”) (and the three Boards hereinafter referred to jointly as “The Boards”) set this Validation Hearing on their own volition as they are permitted to do so by Idaho Code 40-203A, which provides that the commissioners of the district "may initiate validation proceedings on their own resolution".
2. The Boards each enacted Resolutions setting the date, time and place for this Joint Validation Hearing and published same in accordance with the requirements of Idaho Code §40-203A(d) and §40-203(f)

3. The Boards convened the Joint Hearing at the designated date and time with OCBOCC and GHD present at the Owyhee County Courthouse in Murphy, Idaho. TCHD was present at 56562 Blossom Road in Rogerson Idaho and participating in the proceedings via teleconference to the Murphy Courthouse.
4. Present at the Owyhee County Courthouse were OCBOCC Commissioners Hoagland and Merrick, and participating by phone was OCBOCC Commissioner Aberasturi.
5. Present at the Murphy Courthouse were GHD Commissioners Giedd and Birmingham.
6. Present at 56562 Blossom Road in Rogerson Idaho were TCHD Commissioners Brackett, Robinson, and Brennan.
7. Proceedings of the Joint Hearing were managed by Hearing Officer James Desmond.
8. Hearing Officer outlined the procedure for the Hearing as; presentations of evidence interspersed with periodic opportunities for public comment.
9. Presenting evidence to be considered by The Boards were Mr. Alan Schroeder and Ms. Mary Huff. Mr. Schroeder is an Attorney engaged by The Boards. Ms. Huff is the Director of the Owyhee County Community Development Department.
10. Having been sworn, Mr. Schroeder presented testimony as to his education, experience, and expertise in matters of law.
11. Having been sworn, Ms. Huff presented testimony as to her education, experience, and expertise in matters related to her position with Owyhee

County, her expertise as the result of years of data gathering in regard to Rights of Way in Owyhee County, as well as to her other activities and expertise.

12. Mr. Schroeder presented a “Report” summarizing the actions undertaken by himself and Ms. Huff in regard to Road Rights of Way in Owyhee County and detailed the process by which evidence would be presented to The Boards.
13. Mr. Schroeder offered that the Hearing Officer admit Exhibits 1, 2, 3, 4, and 5 to the record.
14. Hearing Officer admitted the Exhibits as requested, with the caveat that they were admitted subject to potential further objection during the hearing upon challenge by a member of the public present at the Hearing.
15. Mr. Schroeder testified to the following: Under information and belief: (1) notice of the scheduled validation hearing for February 25, 2020, was timely issued as per Idaho Code § 40-203A(2)(d); (2) at the hearing, the Commissioners “shall consider all information relating to the proceedings and shall accept testimony from persons having an interest in the proposed validation” in accordance with Idaho Code § 40-203A(2)(e); and, (3) upon the conclusion of the hearing or at such other time as is necessary to review the evidence from the hearing, the Commissioners will determine whether validation of any of the several rights-of-way will be validated as public rights-of-way, including as under R.S. 2477, and whether such validation would be in the public interest in accordance with Idaho Code § 40-203A(3), and based thereon, the Commissioners may issue a joint order validating or not any or all of the several rights-of-way as public rights-of-way, including as under R.S. 2477, in accordance with Idaho Code § 40-203A(3) and Idaho Code § 40-203A(5). (See Exhibit 1A)

16. Mr. Schroeder testified from Exhibit 1A as to the specifics of the Rights of Way under consideration, as follow: This Report relates to several public rights-of-way across the public lands in Owyhee County, State of Idaho, as they exist upon public lands. *See* Idaho Code § 40-117(9) (definition of “Public right-of-way”). This Report does not intend to speak to or ask for validation of any of these roads as they may cross private land or State land, but only public lands owned by the United States of America and administered by the U.S. Department of the Interior, Bureau of Land Management. These rights-of-way provide, among other things, the necessary use and access by the road employees, law enforcement employees, other employees, contractors, agents, and citizens of Owyhee County (and other citizens) for a variety of lawful purposes upon the public lands in Owyhee County, including essential County emergency and law enforcement purposes within Owyhee County, and including the necessary use and access to mining claims, private land, and Idaho State land within Owyhee County.
17. These several public rights-of-way exist across public lands owned by the United States of America (“USA”) and administered by the U.S. Department of the Interior, Bureau of Land Management (“BLM”), within portions of the Boise BLM District and portions of the Twin Falls BLM District; all within Owyhee County. (Exhibit 1A)
18. As discussed in this Report (Exhibit 1A), the evidence demonstrates that these rights-of-way are “public right[s]-of-way” (aka “public roads), including under R.S. 2477, either created through (1) a “positive act of acceptance by the local government” before October 21, 1976, or (2) “compliance with the road creation statutes in existence at the time” before October 21, 1976. *See Flying “A” Ranch, Inc. v. County Commissioners of Fremont County*, 342 P.3d 649, 654-655 (Idaho 2015) (citing *Galli v. Idaho County*, 146 Idaho 155, 159, 191 P.3d

233, 237 (2008); *see also* Act of July 26, 1866, ch. 262, § 8, 14 Stat. 251, 253, codified at 43 U.S.C. § 932, repealed by *Federal Land Policy Management Act* of 1976 (“FLPMA”), Pub.L. No. 94-579 § 706(a), 90 Stat. 2743 (hereinafter referred to as “R.S. 2477”), subject to valid existing rights. *See County of Shoshone v. United States*, 912 F.Supp.2d 912, 915 (D.Idaho 2012) (wherein the Federal District Court stated that “[e]ven though FLPMA repealed R.S. 2477, it nonetheless preserved any rights-of-way that existed before FLPMA’s October 21, 1976 effective date, and any such qualifying rights-of-way remain valid today. *See* 43 U.S.C. § 1769(a)”).

19. Specifically, several of these public rights-of-way were created by a positive act of acceptance by Owyhee County on June 14, 1948, on December 18, 1950, and/or on December 9, 1974, as discussed in the First Group of Roads and in the Second Group of Roads, as provided for in Idaho Code § 40-202(3), which states in applicable part that “all highways ... located and recorded by order of a board of commissioners, are highways.” *See also* Idaho Session Laws approved March 9, 1950, 1<sup>st</sup> Extraordinary Session, Chapter 87, Sections 4(b), 12. Some of these rights-of-way are subject to a grant by BLM as having status under R.S. 2477, as discussed in the First Group of Roads.
20. Several of these *other* public rights-of-way were created by compliance with the road creation statute in existence on and after June 14, 1948, but before October 21, 1976, as discussed in the Third Group of Roads and the Fourth Group of Roads, as provided for in Idaho Code § 40-202(3), which states in applicable part that “all highways used for a period of five (5) years, provided they shall have been worked and kept up at the expense of the public ... are highways.” Some of these rights-of-way are subject to a grant by BLM as having status under R.S. 2477, as discussed in the Third Group of Roads.

21. Mr. Schroeder addressed “Jurisdiction” of The Boards to adjudicate and validate these rights of way.
22. The basis of jurisdiction to adjudicate and validate these several “public right[s]-of-way” (aka “public roads), including under R.S. 2477, to the extent they cross the public lands owned by the USA, is, among others, Idaho Code § 40-203A. *See also Nemeth v. Shoshone County*, 165 Idaho 851, 453 P.3d. 844, 847-848 (2019) (wherein the Idaho Supreme Court stated that “[o]n appeal, the Nemeths argue that pursuant to R.S. 2477 and Idaho Code sections 40-208(7), 40-203A, and 40-204A, counties and state courts have jurisdiction to validate a R.S. 2477 right-of-way over federal land, including the Road at issue. We agree. For the reasons explained below, we hold that (1) the QTA does not conflict with or supersede the provisions of R.S. 2477 and Idaho laws that allow for county validation of an R.S. 2477 right-of-way on federal land, and (2) Idaho Code section 40-208(7) permits a district court to validate an R.S. 2477 right-of-way through a declaratory judgment.”).
23. Testifying from Exhibit 1A, paragraphs 9, 10, and 11, Mr. Schroeder detailed the qualifications and interests of “the parties” to this action, previously identified in this document as Owyhee County, GHD and TCGRD and referred to collectively in this document as “The Boards”.
24. Testifying from Exhibit 1A, paragraphs 12, 13, 14, and 15, Mr. Schroeder detailed “Facts” related to the various Rights of Way.
25. Regarding the “Legal Description of the several Rights of Way, Mr. Schroeder testified the several public rights-of-way subject to this Report are illustrated by map on Attachment “B”, as they cross the public lands owned by the USA in Owyhee County. However, the Maps that more specifically illustrate the location and related legal descriptions of the rights of-

way subject to this Report are part of Exhibit 3, PDF #12 (Bate Stamped Numbers 0516-0618). *See also* Owyhee County's official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.) (wherein these Maps are also available for review).

26. Regarding the Land Status of the Several Rights of Way, Mr. Schroeder testified that the land status of the real property upon which the several public rights-of-way exist across the lands owned by the USA, as illustrated by map on Attachment "B", is "public lands", as defined by the *Federal Land Policy and Management Act*, 43 U.S.C. § 1702(e).
27. In regard to the Land Status, Mr. Schroeder testified, between March 4, 1863 and July 2, 1890, the real property subject to this Report was part of the Idaho Territory, since the USA officially designated the real property within what is now the State of Idaho as a territory of the United States on March 4, 1863 (12 Stat. 808), and since the USA officially established the State of Idaho as a State on July 3, 1890.
28. Mr. Schroeder further testified, that between March 4, 1863 and the date of this Report, this real property was part of the public domain (aka public lands) and remains a part of the public lands of the USA, as defined by the *Federal Land Policy and Management Act*, 43 U.S.C. § 1702(e).
29. From paragraphs 16, 17, 18, and 19 of Exhibit 1A, Mr. Schroeder detailed the history of the creation of Owyhee County and the development of the lands contained within the jurisdictions of The Boards.
30. Testifying as to the information in paragraph 19 of Exhibit 1A, Mr. Schroeder detailed the creation and use of the Oregon Trail and similar interests resulted in the settlement of the

lands within what is now the geographical boundary of Owyhee County, State of Idaho. Settlement occurred for a variety of lawful purposes, including mining, farming, ranching, and other commercial activities; resulting in citizens and Owyhee County, GHD, and TCGRD establishing several public rights-of-way across the public lands in Owyhee County, State of Idaho, through 1948.

31. Mr. Schroeder testified as to various acts by Owyhee County and the USA of abandonment and positive acts of acceptance of Rights of Way (Exhibit 1A, paragraphs 20-39).
32. Mr. Schroeder testified as to the history of abandonment of County roads in 1948 as follows: Owyhee County faced a dilemma in 1948. It was apparent that Owyhee County had more than several public rights-of-way constructed across the real property in the County to access, among other things, public lands, mining claims, homestead entries, private land, and Idaho State lands for a variety of lawful purposes. The ability to maintain these several rights-of-way was a fiscal challenge for the County, and the County did not have an individual road record for the several rights-of-way. Based thereon, the Board of County Commissioners for Owyhee County adopted “County Road OR Highway Ordinance No. 1” on May 10, 1948, wherein the Commission members were instructed to “view, describe, designate, and report to the Board of County Commissioners of Owyhee County, Idaho all roads and highways within his commissioner’s District as are necessary to the public convenience for the purpose of having said highways recorded as public highways, as provided by law.”
33. Paragraph 2 of Ordinance 1, provided that all roads not so designated be abandoned. Other paragraphs of Ordinance 1 provided for subsequent addition of new or old highways to the County road system.



34. Mr. Schroeder's testimony revealed that there was such action of an addition under the provisions of Ordinance 1, on June 14, 1948 Owyhee County, in accordance with the provisions of Ordinance 1, added roads to the County Road system. (Exhibit 1A, paragraph 22)
35. The Resolution dated June 14, 1948, created by a positive act of acceptance by Owyhee County several public rights-of-way, as specifically identified in said Resolution, in accordance with applicable Idaho State law.
36. In addition, the Board of County Commissioners for Owyhee County, by a positive act of acceptance on December 18, 1950, added several other public rights-of-way, in accordance with applicable Idaho State law. (Exhibit 1A, paragraph 24)
37. The minutes dated December 18, 1950, created by a positive act of acceptance by Owyhee County for several other public rights-of-way, as specifically identified in said minutes, in accordance with applicable Idaho State law. (Exhibit 1A, paragraph 25)
38. In addition, the Board of County Commissioners for Owyhee County, by a positive act of acceptance on December 9, 1974, added several other public rights-of-way, in accordance with applicable Idaho State law. (Exhibit 1A, paragraph 26)
39. The minutes dated December 9, 1974, created by a positive act of acceptance by Owyhee County for several other public rights-of-way, as specifically identified in said minutes, in accordance with applicable Idaho State law.
40. In addition, the public continued to use and Owyhee County continued to periodically maintain several other public rights-of-way between June 14, 1948 and October 21, 1976, as provided for in Idaho Code § 40-202(3), which states in applicable part that "all highways used for a period of five (5) years, provided they shall have been worked and kept up at the

expense of the public ... are highways.” These several other public rights-of-way are further discussed in the Third Group of Roads and the Fourth Group of Roads. (Exhibit 1A, paragraph 28)

41. Given its several public rights-of-way created on June 14, 1948, and/or December 18, 1950, and/or December 9, 1974 and given the several other public rights-of-way established by use and maintenance between June 14, 1948 and October 21, 1976, the Board of County Commissioners for Owyhee County made application and assertions to the USA as to its several public rights-of-way under R.S. 2477. This occurred by at least two different means. (Exhibit 1A, paragraph 29)

42. First, as noted in Exhibit 1A, paragraph 30, this occurred by an “Application for Transportation and Utility Systems and Facilities on Federal Land” dated March 28, 1984, wherein it was stated that:

These are existing roads authorized under authority of R.S. 2477 which has been repealed, and these roads must now be recorded as rights-of-way under authority of P.L. 94-579. (List a standard width and reference the maps for location of roads.) See attached maps for location of roads which are maintained by Owyhee County Road and Bridge Department. All roads to be 60 feet in width. Roads on section lines to be 30 feet each side of section line.

43. The Application dated March 28, 1984, was submitted by Owyhee County to the USA based upon rule duly promulgated by one of its own administrative agencies, i.e. U.S. Department of the Interior - Bureau of Land Management (“BLM”). The rule stated:

In order to facilitate management of the public lands, any ... local government which has constructed public highways under the authority of R. S. 2477 (43 U.S.C. 932, repealed October 21, 1976) may file a map showing the location of such public highways with the authorized officer. Maps filed under this paragraph shall be in sufficient detail to show the location of the R. S. 2477 highway(s) on public lands in relation to State or county highway(s) or road(s) in the vicinity. The submission of such maps showing the location of R. S. 2477 highway(s) on

public lands shall not be conclusive evidence as to their existence. Similarly, a failure to show the location of R. S. 2477 highway(s) on any map shall not preclude a later finding as to their existence.

(Exhibit 1A, paragraph 31)

44. The USA reviewed the Application dated March 28, 1984, through its agency, BLM, and issued to Owyhee County an indefinite right-of-way grant under R.S. 2477 as to several of the public rights-of-way subject to this Report. (Exhibit 1A, paragraph 32)
45. This grant was confirmed via a Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline. (Exhibit 1A, paragraph 33)
46. The grant by BLM was initially made on April 3, 1984, inclusive of 67.6 miles of public rights-of-way in Owyhee County with a stated width of 60 feet. (Exhibit 1A, paragraph 34)
47. The grant by BLM is identified by BLM as right-of-way file IDI 020724 or right-of-way file I-20724. (Exhibit 1A, paragraph 35)
48. BLM uses the notation of IDI 020724 or I-20724 on its Master Title Plats within Owyhee County to report and to disclose the R.S. 2477 status of several of the public rights-of-way across the public lands in Owyhee County. (Exhibit 1A, paragraph 36)
49. The grant by BLM made in IDI 020724 was modified, in part, over time due to changes in land status of some public lands in Owyhee County. However, under information and belief, IDI 020724 remains valid as part of the records and files of BLM as of the date of this Report. (Exhibit 1A, paragraph 37)

50. The second method by which Owyhee County made application and assertions to the USA occurred by “Owyhee County Rights of Way Ordinance 93-02” dated April 12, 1993 which provided the process by which assertions of rights of way shall be filed. (Exhibit 1A, paragraph 38)
51. Like the Application dated March 28, 1984, the contemplation of these assertions by Owyhee County was encouraged by the USA through a rule promulgated by BLM. The rule stated:
- In order to facilitate management of the public lands, any ... local government which has constructed public highways under the authority of R. S. 2477 (43 U.S.C. 932, repealed October 21, 1976) may file a map showing the location of such public highways with the authorized officer. Maps filed under this paragraph shall be in sufficient detail to show the location of the R. S. 2477 highway(s) on public lands in relation to State or county highway(s) or road(s) in the vicinity. The submission of such maps showing the location of R. S. 2477 highway(s) on public lands shall not be conclusive evidence as to their existence. Similarly, a failure to show the location of R. S. 2477 highway(s) on any map shall not preclude a later finding as to their existence.  
(Exhibit 1A, paragraph 39)
52. On February 14, 1994, Board of County Commissioners for Owyhee County approved a resolution to make its assertions of its several public rights-of-way by “Owyhee County Resolution No. 94-03” which was entitled “Resolution Proclaiming Public Use for Rights-of-Way upon and across Federally Managed and State Managed Lands in Owyhee County”. (Exhibit 1A, paragraph 40)
53. On March 28, 1994, Board of County Commissioners for Owyhee County made it’s assertions of its several public rights-of-way by an “Application of Assertion Right of Way”, which under information and belief, was soon thereafter submitted to the “authorized officer” of the BLM in accordance with 43 C.F.R. § 2802.5(b) (10-1-1993 Edition and 10-1-1994 Edition). (Exhibit 1A, paragraph 41)

54. Beyond the R.S. 2477 grant made by BLM on April 3, 1984, as modified, in part, over time, the USA did not act upon (either approving or disapproving) the several other public rights-of-way asserted by Owyhee County on March 28, 1994. (Exhibit 1A, paragraph 42)
55. In the meantime, several events arose after March 28, 1994. (Exhibit 1A, paragraph 43)
56. First, Congress enacted the *Omnibus Consolidated Appropriation Act of 1997*, Public Law 104-208, 110 Stat. 3009, dated September 30, 1996, which in Section 108, prohibited “any agency of the Federal Government” from promulgating any “final rule or regulations ... pertaining to the recognition, management, or validity of a rights-of-way pursuant to Revised Statute 2477 (43 USC 932) ... unless expressly authorized by an Act of Congress subsequent to the date of enactment of this Act.” (Exhibit 1A, paragraph 44)
57. Second, Congress enacted the *Omnibus Public Land Management Act of 2009*, Public Law 111-11, 123 Stat. 991, dated March 30, 2009, which, in Subtitle F, Sections 1501-1508, Congress, among other things, established certain wilderness areas in Owyhee County, Section 1503, and prescribed that a travel management plan for motorized and mechanized off-highway vehicle recreation would be prepared, Section 1507. (Exhibit 1A, paragraph 45)
58. Third, Owyhee County was informed as part of its effort to challenge one of BLM’s travel management plans, via an administrative decision in *Owyhee County, Idaho*, 179 IBLA 18, 27, 28 (2010), that it must validate its several public rights-of-way under R.S. 2477 by a Federal Court under the *Quiet Title Act*. However, see *Nemeth v. Shoshone County*, 165 Idaho 851, 453 P.3d. 844, 847-848 (2019). (Exhibit 1A, paragraph 46)
59. Given the foregoing, Owyhee County initiated a process in 2011 to review its road assertions made on March 28, 1994, and to categorize the various assertions into the five categories identified in Exhibit 1A, paragraph 47. (Exhibit 1A, paragraph 47)

60. That process was prescribed in Owyhee County Resolution No. 2011-01 dated January 4, 2011, as supplemented by Owyhee County Resolution No. 2011-21 dated September 12, 2011, and intended to meet and confer with the publics, as well as the USA, through BLM, to prepare final maps so as to apply a category A to E for each of the road assertions made on March 28, 1994. (Exhibit 1A, paragraph 48)
61. The public exercise to catalog each of the road assertions made on March 28, 1994, was a laborious, publicly open, and exhaustive task by Owyhee County to obtain and review the available competent evidence from whatever source; whether from individual citizens to state and federal agencies. (Exhibit 1A, paragraph 49)
62. The USA, through BLM, was repeatedly invited to all of the public meetings. (Exhibit 1A, paragraph 50)
63. This public exercise consumed six years of time, i.e. 2011 to 2017; inclusive of at least eight public meetings. (Exhibit 1A, paragraph 51)
64. On March 22, 2017, Owyhee County issued a public notice, published in *The Owyhee Avalanche* on March 22, 2017 and on April 12, 2017, with separate individual notices being mailed to the Idaho State Office of BLM, Boise District Office of BLM, Owyhee Field Office of BLM, and Twin Falls District Office of BLM, and the Jarbidge Field Office of BLM. (Exhibit 1A, paragraph 52)
65. Said public notice read as follows (Exhibit 1A, paragraph 52):
- A public meeting is scheduled for April 24, 2017 at 6:00 p.m. in Courtroom #1 of the Owyhee County Courthouse located at 20381 State Highway 78 in Murphy, Idaho. The purpose of this meeting is to hear public comments, and to thereafter receive further written public comments for 60-days, on the “*Proposed Maps*” that identify the group for each of the RS2477 rights of way on the public lands depicted on 161 USGS maps within Owyhee County, State of Idaho, as per Owyhee County Resolution No. 2011-21 dated September 12, 2011, paragraphs 1-2. *See also* Owyhee County Resolution No. 11-01 dated January 4, 2011,

paragraphs 5-6. The public comments and written comments may include any omissions of any rights of way on the “*Proposed Maps*”, and if any omissions, the public comments and written comment shall include the suggested group in which that right of way should be within. *See* Owyhee County Resolution No. 11-01 dated January 4, 2011, paragraph 6. The Board of Owyhee County Commissions designated Angie Barkell to prepare such “*Proposed Maps*”, and Ms. Barkell has coordinated her efforts with the Owyhee County, Planning & Zoning Office. *See* Owyhee County Resolution No. 2011-21 dated September 12, 2011, paragraph 2.

66. On April 24, 2017, a public meeting was held. Some comments were received as to the “proposed maps.” (Exhibit 1A, paragraph 53)
67. After review and consideration of the comments given on April 24, 2017, and within the time allowed, Owyhee County officially adopted the “Final Maps”, as per Owyhee County Resolution No. 2017-21 dated July 3, 2017. (Exhibit 1A, paragraph 54)
68. On July 27, 2017, Owyhee County issued a public notice of its approval and adoption of the “Final Maps”, published in *The Owyhee Avalanche* on July 12, 2017, with separate individual notices being mailed to the Idaho State Office of BLM, Boise District Office of BLM, Owyhee Field Office of BLM, and Twin Falls District Office of BLM, and the Jarbidge Field Office of BLM. (Exhibit 1A, paragraph 55)
69. Between July 27, 2017 and December 16, 2019, Owyhee County, Gem Highway District, and Three Creek Good Road District conferred as to the “Final Maps” and organized the documentation it compiled during the process between 2011 and 2017 as to at least the Category “A” Roads on the “Final Maps”. (Exhibit 1A, paragraph 56)
70. Based thereon, Owyhee County, Gem Highway District, and Three Creek Good Road District decided to validate the several rights-of-way in at least the Category “A” Roads on the “Final Maps”, as per Idaho Code § 40-203A. (Exhibit 1A, paragraph 57)
71. Mr. Schroeder testified as to “**DISCUSSION COMMON TO ALL GROUPS OF ROADS**” and incorporated by reference paragraphs 1-58 of Exhibit 1A.

72. Mr. Schroeder testified as to the following which are common to all groups.
73. Section 8 of the Act of July 26, 1866, codified as 43 U.S.C. § 932 (“R.S. 2477”), granted a “right of way for the construction of highways over public lands, not reserved for public uses.” (Exhibit 1A, paragraph 59)
74. While R.S. 2477 was repealed by the *Federal Land Policy and Management Act* (“FLMPA”) on October 21, 1976, FLMPA preserved “any [R.S. 2477] rights-of-way that existed before FLMPA’s October 21, 1976 effective date”. (Exhibit 1A, paragraph 60)
75. The R.S. 2477 right-of-way grant is “self-executing”, *Sierra Club v. Hodel*, 848 F.2d 1068, 1083 (10th Cir.1988), and “Congress never specified a particular method or procedure for establishing R.S. 2477 rights-of-way.” *County of Shoshone v. United States*, 912 F.Supp.2d at 915. Quoting other Federal Court cases, the U.S. District Court, District of Idaho, stated in *County of Shoshone v. United States*, 912 F.Supp.2d at 915, that:
- “the establishment of R.S. 2477 rights[-]of[-]way required no administrative formalities: no entry, no application, no license, no patent, and no deed on the federal side; no formal act of public acceptance on the part of the states or localities in whom the right was vested.” (Exhibit 1A, paragraph 61)
76. An R.S. 2477 right-of-way grant comes into existence automatically when a public road is established across the public lands in accordance with the law of the State. Whether R.S. 2477 right-of-way grant has been established is a question of State law. *See County of Shoshone v. United States*, 912 F.Supp.2d at 926 (wherein, quoting from other Federal Court cases, the U.S. District Court, District of Idaho, stated that “federal law governs the interpretation of R.S. 2477, but in determining what is required for acceptance of a right of way under the statute, federal law borrows from long-established principles of state law, to the extent that state law provides convenient and appropriate principles for effectuating congressional intent.” (internal quotation marks omitted). (Exhibit 1A, paragraph 62)



77. The “state law to be ‘borrowed’ is that of the State of Idaho.” *See County of Shoshone v. United States*, 912 F.Supp.2d at 927. (Exhibit 1A, paragraph 63)
78. As applied to the timeframe between June 14, 1948 and October 21, 1976, the Idaho State Law to be “borrowed” -- to create the several “public right[s]-of-way”, Idaho Code § 40-117(9) (definition of “Public right-of-way”), under R.S. 2477 discussed in this Report -- is either (1) a “positive act of acceptance by the local government” before October 21, 1976, i.e. Idaho Code § 40-202(3) (“... all highways ... located and record by order of a board of commissioners, are highway.”); or (2) “compliance with the road creation statutes in existence at the time” before October 21, 1976, i.e. Idaho Code § 40-202(3) (“... all highways used for a period of five (5) years, provided they shall have been worked and kept up at the expense of the public ... are highway.”). *See Flying “A” Ranch, Inc. v. County Commissioners of Fremont County*, 342 P.3d 649, 654-655 (Idaho 2015) (citing *Galli v. Idaho County*, 146 Idaho 155, 159, 191 P.3d 233, 237 (2008); *see also* Idaho Code § 40-114(3) (“‘Maintenance’ means to preserve from failure or decline, or repair, refurbish, repaint or otherwise keep an existing highway or public right-of-way in a suitable state for use including, without limitation, snow removal, sweeping, litter control, weed abatement and placement or repair of public safety signage.”) (Exhibit 1A, paragraph 64)
79. Idaho State Law prescribes that the scope of any public right-of-way in Idaho Code § 40-2312. Section 40-2312 states:
- (1) Where the width of a highway is stated in the plat, dedication, deed, easement, agreement, official road book, determination or other document or by an oral agreement supported by clear and convincing evidence that effectively conveys, creates, recognizes or modifies the highway or establishes the width, that width shall control.
  - (2) Where no width is established as provided for in subsection (1) of this section and where subsection (3) of this section is not applicable, such

highways, except bridges and those located within cities, shall be not less than fifty (50) feet wide. (Exhibit 1A, paragraph 65)

80. A Petitioner, as in this case, Owyhee County, GHD, and TCGRD, bears the burden of proving “the public status of a road by a preponderance of the evidence in a validation proceeding.” *See Flying “A” Ranch, Inc. v. County Commissioners of Fremont County*, 342 P.3d 649, 654 (fn. 4) (Idaho 2015) (citing *Floyd v. Board of Commissioners of Bonneville County*, 137 Idaho 718, 724, 159, 52 P.3d 863, 869 (2002)). (Exhibit 1A, paragraph 66)
81. Mrs. Mary Huff AICP testified from Exhibit 1B as to the following regarding the **First Group of Roads**:
82. Her testimony incorporated by reference paragraphs 1-66 of Exhibit 1A.
83. The several public rights-of-way discussed in this First Group of Roads were created by a positive act of acceptance by Owyhee County on June 14, 1948, on December 18, 1950, and/or on December 9, 1974 as provided for in Idaho Code § 40-202(3), which states in applicable part that “all highways ... located and recorded by order of a board of commissioners, are highways.” *See also* Idaho Session Laws approved March 9, 1950, 1<sup>st</sup> Extraordinary Session, Chapter 87, Sections 4(b), 12. (Exhibit 1B, paragraph 68)
84. These *same* public rights-of-way discussed in this First Group of Roads were also created by a grant issued by the USA, through BLM, on April 3, 1984, as modified, in part, over time due to changes in land status of some public lands in Owyhee County, as part of BLM’s own right-of-way file IDI 020724. (Exhibit 1B, paragraph 69)
85. These several public rights-of-way are individually and separately discussed in the sub-groups of roads below, as within the jurisdiction of Owyhee County and TCGRD. The referenced documents are included in the Exhibits to this Report. The Exhibits are summarized in Exhibit 2. (Exhibit 1B, paragraph 70)

86. Mrs. Huff testified to the specifics of the various road as follows:

87. (1) Bachman Grade Road.

The Bachman Grade Road is more specifically illustrated on the “Final Map” identified as Antelope Spring (Map #68), Oreana (Map #67), Toy Pass (Map #57), Triangle Flat (Map #47), Triangle Reservoir (Map #58), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraph 71)

88. This Road was created by a positive act of acceptance by Owyhee County on June 14, 1948, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 256-258, dated June 14, 1948. (Exhibit 1B, paragraph 72)

89. This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 73)

90. This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 2 and Map Sheet 3 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are

now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Annual Maintenance or Inventory Maps in 1957, 1960, 1969, 1970, 1976; and (k) public comments received by Owyhee County during its 2011-2017 categorization process from S. Miller dated May 12, 2014. (Exhibit 1B, paragraph 74)

- 91.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Bachman Grade Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. Exhibit 1B, paragraph 75)

**92.** (2) Clover Three Creek Road

The Clover Three Creek Road is more specifically illustrated on the “Final Map” identified as Clover Butte N. (Map #140), Clover Butte S. (Map #141), Crowbar Gulch (Map #122), Hodge Station (Map #139), Hot Springs (Map #121), Pot Hole Butte (Map #130), Winter Camp (Map #131), which are available online at Owyhee County’s official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 76, 77)

- 93.** This Road was created by a positive act of acceptance by Owyhee County on June 14, 1948, and again on December 18, 1950, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 256-258, dated June 14, 1948; *see also*

Owyhee County Commissioner Minutes, Book 11 at pages 56-57, dated December 18, 1950.  
(Exhibit 1B, paragraph 78)

94. This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 79)
95. This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948 and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 4, Map Sheet 5, and Map Sheet 9 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Annual Maintenance or Inventory Maps in 1960, 1969, 1970, 1971, 1975, 1976. (Exhibit 1B, paragraph 80)

96. Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Clover Three Creek Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 81)
97. (3) Cow Creek Road.
- The Cow Creek Road is more specifically illustrated on the “Final Map” identified as Horse Butte (Map #152), Sheaville (Map #5), Swisher Mtn. (Map #20), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 82, 83)
98. This Road was created by a positive act of acceptance by Owyhee County on June 14, 1948, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 256-258, dated June 14, 1948. (Exhibit 1B, paragraph 84)
99. This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 85)
100. This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948 and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 2 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under

authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Commissioner Minutes dated July 29, 1974, November 12, 1974, February 10, 1975, April 14, 1975 and May 12, 1975; (k) Owyhee County Annual Maintenance or Inventory Maps in 1957, 1960, 1961, 1969, 1975 and 1976; and (l) C. Kingston Letter wherein the Cow Creek Road was recognized by the BLM as part of right-of-way IDI-20724 dated April 6, 1990. (Exhibit 1B, paragraph 86)

**101.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Cow Creek Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 87)

**102.** (4) Flint Creek Road.

The Flint Creek Road is more specifically illustrated on the “Final Map” identified as Combination Ridge (Map #35), Flint (Map #34), Sugar Valley (Map #113), Triangle Flat (Map #47), which are available online at Owyhee County’s official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 88, 89)

103. This Road was created by a positive act of acceptance by Owyhee County on June 14, 1948, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 256-258, dated June 14, 1948. (Exhibit 1B, paragraph 90)
104. This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. Exhibit 1B, paragraph 91)
105. This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 2 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3,



2017; (j) Owyhee County Annual Maintenance or Inventory Maps in 1957, 1960, 1969, 1976; (k); Owyhee County Commissioner Minutes dated June 9, 1952 and June 14, 1976; and (l) public comments received by Owyhee County during its 2011-2017 categorization process from S. Miller dated May 12, 2014. (Exhibit 1B, paragraph 92)

**106.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Flint Creek Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 93)

**107.** (5) Hot Creek Road.

The Hot Creek Road is more specifically illustrated on the “Final Map” identified as Bruneau (Map #112), Sugar Valley (Map #113), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 94, 95)

**108.** This Road was created by a positive act of acceptance by Owyhee County on June 14, 1948, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 256-258, dated June 14, 1948. (Exhibit 1B, paragraph 96)

**109.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 97)

**110.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29,

1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 4 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) BLM Land Patent to State of Idaho Department of Parks and Recreation dated July 19, 1984, wherein Owyhee County was given notice of a change in ownership in a parcel of land where a portion of the Hot Creek Road right-of-way crossed the land; (f) Owyhee County Resolution No. 94-03 dated February 14, 1994; (g) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (h) Owyhee County Resolution 2011-01 dated January 4, 2011; (i) Owyhee County Resolution 2011-21 dated September 12, 2011; (j) Owyhee County Resolution 2017-21 dated July 3, 2017; (k) Owyhee County Annual Maintenance or Inventory Maps in 1960, 1968, 1969, 1970, and 1976. (Exhibit 1B, paragraph 98)

- 111.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Hot Creek Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 99)

**112.** (6) Hot Springs Road.

The Hot Springs Road is more specifically illustrated on the “Final Map” identified as Hot Springs (Map #121), Sugar Valley (Map #113), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 100, 101)

**113.** This Road was created by a positive act of acceptance by Owyhee County on June 14, 1948, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 256-258, dated June 14, 1948. (Exhibit 1B, paragraph 102)

**114.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 103)

**115.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 4 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side

of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Annual Maintenance or Inventory Maps in 1960, 1969, 1976; (k); and Owyhee County Commissioner Minutes dated February 12, 1951 and March 12, 1973. (Exhibit 1B, paragraph 104)

- 116.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Hot Springs Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 105)

**117.** (7) Jordan Creek Road

The Jordan Creek Road is more specifically illustrated on the “Final Map” identified as De Lamar (Map #33), Silver City (Map #45), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 106, 107)

- 118.** This Road was created by a positive act of acceptance by Owyhee County on June 14, 1948, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 256-258, dated June 14, 1948. (Exhibit 1B, paragraph 108)
- 119.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 109)

**120.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 2 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Letter from Connie L. Kingston, Owyhee Field Office Manager, BLM, to Owyhee County dated April 6, 1990, wherein BLM noted an amendment to IDI-20724, stating that these “roads have been determined to meet the criteria establish for acknowledgement under authority of Revised Statute 2477”; (f) Owyhee County Resolution No. 94-03 dated February 14, 1994; (g) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (h) Owyhee County Resolution 2011-01 dated January 4, 2011; (i) Owyhee County Resolution 2011-21 dated September 12, 2011; (j) Owyhee County Resolution 2017-21 dated July 3, 2017; (k) Owyhee County Commissioner Minutes dated June 8, 1953, December 4, 1967, June 10, 1968, November 12, 1974 and May 12, 1975; (l) Owyhee County Annual Maintenance or Inventory Maps in 1957, 1960, 1969, 1975 and 1976. (Exhibit 1B, paragraph 110)

- 121.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Jordan Creek Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 111)
- 122.** (8) Juniper Mountain Road.
- The Juniper Mountain Road is more specifically illustrated on the “Final Map” identified as Cliffs (Map #23), Juniper Point (Map #9), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 112, 113)
- 123.** This Road was created by a positive act of acceptance by Owyhee County on June 14, 1948, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 256-258, dated June 14, 1948. (Exhibit 1B, paragraph 114)
- 124.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 115)
- 125.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 2 and Map Sheet 6 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads

constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (k) Owyhee County Annual Maintenance or Inventory Maps in 1957, 1960, 1961, 1969 and 1976. (Exhibit 1B, paragraph 116)

- 126.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Juniper Mountain Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 117)

**127.** (9) McBride Creek Road

The McBride Creek Road is more specifically illustrated on the “Final Map” identified as Piute Butte (Map #18), Rockville (Map #4), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 118, 119)

- 128.** This Road was created by a positive act of acceptance by Owyhee County on December 18, 1950, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 57-58, dated December 18, 1950. (Exhibit 1B, paragraph 120)
- 129.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 121)
- 130.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between December 18, 1950, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 1 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Commissioner Minutes dated December 18, 1950; (k) Owyhee County Annual Maintenance or Inventory Maps in 1969 and 1976; (l) BLM Compliance



Check dated September 13, 2006 stating that this road, as a portion of Owyhee County's recognized R.S. 2477 assertion, is in compliance. (Exhibit 1B, paragraph 122)

**131.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the McBride Creek Road -- as it exists across the lands owned by USA -- is a "public right-of-way" under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 123)

**132.** (10) Mecham Road

The Mecham Road is more specifically illustrated on the "Final Map" identified as Bruneau Dunes (Map #120), which is available online at Owyhee County's official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 124, 125)

**133.** This Road was created by a positive act of acceptance by Owyhee County on December 9, 1974, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 190-192. (Exhibit 1B, paragraph 126)

**134.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 127)

**135.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 128)

**136.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29,

1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 4 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Commissioner Minutes dated December 9, 1974; (k) Owyhee County Annual Maintenance or Inventory Maps in 1974 and 1975. (Exhibit 1B, paragraph 129)

- 137.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Mecham Creek Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 130)
- 138.** (11) Mud Flat Road

The Mud Flat Road is more specifically illustrated on the “Final Map” identified as Big Springs Ranch (Map #71), Chalk Hills (Map #97), Clover Mtn. (Map #70), Grand View (Map #96), Hurry Up Creek (Map #59), Perjue Canyon (Map #88), Rough Mnt. NE (Map #78), Snow Creek (Map #80), Wagon Box Basin (Map #60) which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 131, 132)

139. This Road was created by a positive act of acceptance by Owyhee County on June 14, 1948, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 256-258, dated June 14, 1948. (Exhibit 1B, paragraph 133)
140. This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 134)
141. This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 2 and Map Sheet 3 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are

now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Annual Maintenance or Inventory Maps in 1957, 1960, 1961, 1962, 1964, 1969, 1976; and (k) Owyhee County Commissioner Minutes dated June 13, 1949, August 18, 1949, and May 8, 1961. (Exhibit 1B, paragraph 135)

- 142.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Mud Flat Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 136)

- 143.** (12) Oreana Loop Road (aka Browns Creek Road).

The Oreana Loop Road, or the Browns Creek Road, is more specifically illustrated on the “Final Map” identified as Castle Butte (Map #77), Oreana (Map #67), which are available online at Owyhee County’s official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 137, 138)

- 144.** This Road was created by a positive act of acceptance by Owyhee County on June 14, 1948, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 256-258, dated June 14, 1948. (Exhibit 1B, paragraph 139)

- 145.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 140)
- 146.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 3 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (k) Owyhee County Commissioner Minutes dated March 14, 1949 and December 7, 1959; (l) Owyhee County Annual Maintenance or Inventory Maps in 1969, 1970, 1971 and 1976. (Exhibit 1B, paragraph 141)
- 147.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Oreana Loop Road, or the Browns

Creek Road, -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line.

(Exhibit 1B, paragraph 142)

**148.** (13) Pleasant Valley Road.

The Pleasant Valley Road is more specifically illustrated on the “Final Map” identified as Jordan Valley (Map #7), Parsnip Peak (Map #8), Stonehouse Creek (Map #21), which are available online at Owyhee County’s official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 143, 144)

**149.** This Road was created by a positive act of acceptance by Owyhee County on June 14, 1948, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 256-258, dated June 14, 1948. (Exhibit 1B, paragraph 145)

**150.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 146)

**151.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948 and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 2 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager,

BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Commissioner Minutes dated March 10, 1958, June 13, 1960 and October 8, 1962; (k) Owyhee County Annual Maintenance or Inventory Maps in 1957, 1960, 1965 and 1976. (Exhibit 1B, paragraph 147)

- 152.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Pleasant Valley Road-- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 148)

- 153.** (14) Poison Creek Cutoff Road.

The Poison Creek Cutoff Road is more specifically illustrated on the “Final Map” identified as Castle Butte (Map #77), Perjue Canyon (Map #88), Rough Mountain (Map #79), Rough Mtn. NE (Map #78), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 149, 150)

- 154.** This Road was created by a positive act of acceptance by Owyhee County on June 14 1948, and again on December 18, 1950, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 256-258, dated June 14, 1948; *see also* Owyhee County Commissioner Minutes, Book 11 at pages 56-57, dated December 18, 1950. (Exhibit 1B, paragraph 151)
- 155.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 152)
- 156.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 3 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3,



2017; (j) Owyhee County Commissioner Minutes dated December 18, 1950; (k) Owyhee County Annual Maintenance or Inventory Maps in 1969, 1970 and 1976. (Exhibit 1B, paragraph 153)

**157.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Poison Creek Cutoff Road-- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 154)

**158.** (15) Rabbit Creek Road.

The Rabbit Creek Road is more specifically illustrated on the “Final Map” identified as Murphy (Map #55), Reynolds (Map #44), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 155, 156)

**159.** This Road was created by a positive act of acceptance by Owyhee County on June 14, 1948, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 256-258, dated June 14, 1948. (Exhibit 1B, paragraph 157)

**160.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 158)

**161.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on

Map Sheet 1 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Annual Maintenance or Inventory Maps in 1969, 1970, 1976; (k); Owyhee County Commissioner Minutes dated December 18, 1961; and (l) public comments received by Owyhee County during its 2011-2017 categorization process from S. Miller dated May 12, 2014. (Exhibit 1B, paragraph 159)

- 162.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Rabbit Creek Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 160)
- 163.** (16) Reynolds Creek Road (aka Road #1).

The Reynolds Creek Road, or Road #1, is more specifically illustrated on the “Final Map” identified as Reynolds (Map #44), Wilson Peak (Map #43), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 161, 162)

164. This Road was created by a positive act of acceptance by Owyhee County on June 14, 1948, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 256-258, dated June 14, 1948. (Exhibit 1B, paragraph 163)
165. This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 164)
166. This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 1 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) BLM Land Patent to James A. Hackler and W. Irene Hackler dated

July 19, 1984, wherein Owyhee County was given notice of a change in ownership in a parcel of land where a portion of the Reynold's Road right-of-way crossed the land; (f) Owyhee County Resolution No. 94-03 dated February 14, 1994; (g) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (h) Owyhee County Resolution 2011-01 dated January 4, 2011; (i) Owyhee County Resolution 2011-21 dated September 12, 2011; (j) Owyhee County Resolution 2017-21 dated July 3, 2017; (k) Owyhee County Commissioner Minutes dated June 12, 1950, June 26, 1950, February 12, 1951, April 14, 1952, June 9, 1958 and May 13, 1974; (l) Owyhee County Annual Maintenance or Inventory Maps in 1963, 1969 and 1976. (Exhibit 1B, paragraph 165)

**167.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Reynolds Creek Road, or Road #1, -- as it exists across the lands owned by USA -- is a "public right-of-way" under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 166)

**168.** (17) River Road (aka Road #9).

The River Road (aka Road #9) is more specifically illustrated on the "Final Map" identified as CJ Strike (Map #104), Grand View (Map #96), which are available online at Owyhee County's official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 167, 168)

- 169.** This Road was created by a positive act of acceptance by Owyhee County on June 14, 1948, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 256-258, dated June 14, 1948. (Exhibit 1B, paragraph 169)
- 170.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 170)
- 171.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 4 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; and (j) Owyhee County Annual Maintenance or Inventory Maps in 1960, 1962, 1964, 1969, 1976. Exhibit 1B, paragraph 171)

- 172.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the River Road (aka Road #9) -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 172)
- 173.** (18) Rowland Route Road
- The Rowland Route Road is more specifically illustrated on the “Final Map” identified as Antelope Creek (Map #118), Black Leg Creek (Map #119), Buster Butte (Map #117), Grasmere Reservoir (Map #109), Triguero Lake (Map #126), Triplet Butte (Map #127), which are available online at Owyhee County’s official website:
- <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 173, 174)
- 174.** This Road was created by a positive act of acceptance by Owyhee County on June 14, 1948, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 256-258, dated June 14, 1948. (Exhibit 1B, paragraph 175)
- 175.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 176)
- 176.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 8 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs”

aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Annual Maintenance or Inventory Maps in 1960, 1969, 1975 and 1976. (Exhibit 1B, paragraph 177)

- 177.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Rowland Route Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 178)

**178.** (19) Shoofly Cutoff Road

The Shoofly Cutoff Road is more specifically illustrated on the “Final Map” identified as Chalk Hills (Map #97), Little Valley (Map #105), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 179, 180)

- 179.** This Road was created by a positive act of acceptance by Owyhee County on June 14, 1948, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 256-258, dated June 14, 1948. (Exhibit 1B, paragraph 181)
- 180.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 182)
- 181.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 3 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; and (j) Owyhee County Annual Maintenance or Inventory Maps in 1960, 1969, 1970, 1976. (Exhibit 1B, paragraph 183)



- 182.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Shoofly Cutoff Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 184)
- 183.** (20) Short Cut Road (aka Road 7a)
- The Short Cut Road (aka Road 7a) is more specifically illustrated on the “Final Map” identified as Castle Butte (Map #77), Oreana (Map #67), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). Exhibit 1B, paragraphs 185, 186)
- 184.** This Road was created by a positive act of acceptance by Owyhee County on June 14, 1948, and again on December 18, 1950, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 256-258, dated June 14, 1948; *see also* Owyhee County Commissioner Minutes, Book 11 at pages 56-57, dated December 18, 1950. (Exhibit 1B, paragraph 187)
- 185.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 188)
- 186.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 3 on such Application; (c) Short Note Transmittal dated April 2, 1984, from

Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) BLM Land Patents both “subject to those rights for an existing highway exercised under R.S. 2477 and noted under serial number I-20724” dated December 23, 1985 and January 13, 1986 respectively; (f) Owyhee County Resolution No. 94-03 dated February 14, 1994; (g) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (h) Owyhee County Resolution 2011-01 dated January 4, 2011; (i) Owyhee County Resolution 2011-21 dated September 12, 2011; (j) Owyhee County Resolution 2017-21 dated July 3, 2017; and (k) Owyhee County Annual Maintenance or Inventory Maps in 1969, 1970, 1971, 1976. (Exhibit 1B, paragraph 189)

- 187.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Short Cut Road (aka Road 7a) -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 190)
- 188.** (21) Silver City Road.

The Silver City Road is more specifically illustrated on the “Final Map” identified as Murphy (Map #55), Silver City (Map #45), Sinkers Canyon (Map #56), which are available online at Owyhee County’s official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 191, 192)

189. This Road was created by a positive act of acceptance by Owyhee County on June 14, 1948, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 256-258, dated June 14, 1948. (Exhibit 1B, paragraph 193)
190. This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 194)
191. This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 1, Map Sheet 2, and Map Sheet 3 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-

03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Annual Maintenance or Inventory Maps in 1957, 1960, 1969, 1976; (k); Owyhee County Commissioner Minutes dated May 8, 1950, January 8, 1951, April 9, 1956, August 8, 1966, December 4, 1967, and July 14, 1969; and (l) C. Kingston Letter wherein the Silver City Road was recognized by the BLM as part of right-of-way IDI-20724 dated April 6, 1990. (Exhibit 1B, paragraph 195)

- 192.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Silver City Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 196)

- 193.** (22) South Mountain Road (aka Road 6a)

The South Mountain Road, or Road 6a, is more specifically illustrated on the “Final Map” identified as Cliffs (Map #23), Jordan Valley (Map #7), Stonehouse Creek (Map #21), Williams Creek (Map #22), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 197, 198)

- 194.** This Road was created by a positive act of acceptance by Owyhee County on June 14, 1948, and again on December 18, 1950, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 256-258, dated June 14, 1948; *see also*

Owyhee County Commissioner Minutes, Book 11 at pages 56-57, dated December 18, 1950.  
(Exhibit 1B, paragraph 199)

- 195.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 200)
- 196.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 2 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Commissioner Minutes dated December 18, 1950, July 9, 1951, August 13, 1951, June 9, 1952 and March 10, 1958. (k) Owyhee County Annual

Maintenance or Inventory Maps in 1957, 1960, 1961, 1969 and 1976. (Exhibit 1B, paragraph 201)

**197.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the South Mountain Road, or Road (6)a, -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 202)

**198.** (23) Triangle Road.

The Triangle Road is more specifically illustrated on the “Final Map” identified as Toy Pass (Map #57) Triangle Flat (Map #47), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 203, 204)

**199.** This Road was created by a positive act of acceptance by Owyhee County on June 14, 1948, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 256-258, dated June 14, 1948. (Exhibit 1B, paragraph 205)

**200.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 206)

**201.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 2 on such Application; (c) Short Note Transmittal dated April 2, 1984, from

Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Annual Maintenance or Inventory Maps in 1957, 1960, 1969 and 1976; (k) public comments received by Owyhee County during its 2011-2017 categorization process from S. Miller dated May 12, 2014. (Exhibit 1B, paragraph 207)

- 202.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Triangle Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 208)

**203.** 24) Trout Creek Road

The Trout Creek Road is more specifically illustrated on the “Final Map” identified as Jordan Valley (Map #7), Stonehouse Creek (Map #21), Swisher Mtn. (Map #20), which is available online at Owyhee County’s official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 209, 210)

- 204.** This Road was created by a positive act of acceptance by Owyhee County on June 14, 1948, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 256-258, dated June 14, 1948. (Exhibit 1B, paragraph 211)
- 205.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 212)
- 206.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 2 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3,



2017; (j) Owyhee County Commissioner Minutes dated May 12, 1975, December 8, 1975 and October 18, 1976. (k) Owyhee County Annual Maintenance or Inventory Maps in 1957, 1960, 1965 and 1976; (l) C. Kingston Letter wherein the Trout Creek Road was recognized by the BLM as part of right-of-way IDI-20724 dated April 6, 1990. (Exhibit 1B, paragraph 213)

**207.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Trout Creek Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 214)

**208.** Mrs. Huff testified and provided evidence in the form of the admitted exhibits on the First Group of Roads which lie within the jurisdiction of Three Creek Good Road District as follows:

**209.** (25) Clover-Three Creek Road

The Clover-Three Creek Road is more specifically illustrated on the “Final Map” identified as Clover Butte N (Map #140), Clover Butte S. (Map #141), Crowbar Gulch (Map #122), Hodge Station (Map #139), Hot Springs (Map #121), Pot Hole Butte (Map #130), Winter Camp (Map #131), which are available online at Owyhee County’s official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 215, 216)

**210.** This Road was created by a positive act of acceptance by Owyhee County on June 14 1948, and again on December 18, 1950, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 256-258, dated June 14, 1948; *see also*

Owyhee County Commissioner Minutes, Book 11 at pages 56-57, dated December 18, 1950.  
(Exhibit 1B, paragraph 217)

211. This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 218)
212. This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road; (c) Three Creek Highway District Annual Maintenance or Inventory Maps in 1958, 1960, 1962, 1964, 1969, 1971, 1975 and 1976; (d) statements issued by Chet Brackett, specifically that Three-Clover Creek Road “. . .received maintenance twice a year, were graded, drained and had borrow pits. These were official roads that were turned into the State of Idaho for maintenance reimbursement” dated January 31, 2017; (e) public comments issued by Chet Brackett, specifically that Clover-Three Creek Road was “okay” and maintained as needed, dated January 23, 2017. (Exhibit 1B, paragraph 219)
213. Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Clover-Three Creek Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 220)
214. Having completed testimony and presentation of evidence process used and on the First Group of Roads, the Hearing Officer called for questions by Commissioners of The Boards.
215. There were none.

216. The Hearing Officer called for questions by members of the public present either at the Murphy location or the Three Creek Good Roads District Location.
217. There were none.
218. Mrs. Huff presented testimony and evidence in the form of the Exhibits on the **Second Group of Roads** which validate “**PUBLIC[S] RIGHT-OF-WAY” VIA DEDICATION BY OWYHEE COUNTY**, as follows:
219. Mrs. Huff incorporated paragraphs 1-66 of Exhibit 1A by reference and testified that the several public rights-of-way discussed in this Second Group of Roads were created by a positive act of acceptance by Owyhee County on June 14, 1948, and/or on December 18, 1950, as provided for in Idaho Code § 40-202(3), which states in applicable part that “all highways ... located and recorded by order of a board of commissioners, are highways. *See also* Idaho Session Laws approved March 9, 1950, 1<sup>st</sup> Extraordinary Session, Chapter 87, Sections 4(b), 12. (Exhibit 1B, paragraph 222)
220. These several public rights-of-way are individually and separately discussed in the sub-groups of roads below, as within the jurisdiction of Owyhee County and GHD. The referenced documents are included in the Exhibits to this Report. The Exhibits are summarized in Exhibit 2. (Exhibit 1B, paragraph 223)
221. The following roads lie within the jurisdiction of Owyhee County.
222. (26) Antelope Springs Road.
- The Antelope Springs Road is more specifically illustrated on the “Final Map” identified as Clover Mtn. (Map #70), Hurry Up Creek (Map #59), Triangle Flat (Map #47), Triangle Reservoir (Map #58), which are available online at Owyhee County’s official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 224, 225)

- 223.** This Road was created by a positive act of acceptance by Owyhee County on December 18, 1950, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 56-57, dated December 18, 1950. (Exhibit 1B, paragraph 226)
- 224.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between December 18, 1950, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Resolution No. 94-03 dated February 14, 1994; (c) Owyhee County Resolution 2011-01 dated January 4, 2011; (d) Owyhee County Resolution 2011-21 dated September 12, 2011; (e) Owyhee County Resolution 2017-21 dated July 3, 2017; (f) Owyhee County Commissioner Minutes dated December 18, 1950; (g) Owyhee County Annual Maintenance or Inventory Maps in 1957, 1960 and 1969 (h) public comments received by Owyhee County during its 2011-2017 categorization process from S. Miller dated May 12, 2014. (Exhibit 1B, paragraph 227)
- 225.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Antelope Springs Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 228)
- 226.** (27) Balanced Rock Road.
- The Balanced Rock Road is more specifically illustrated on the “Final Map” identified as Castleford Butte (Map #157), Crows Nest Butte (Map #145), which is available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community->

development/rs2477-project/ (last checked on February 23, 2020 @ 12:43 P.M.) (Exhibit 1B, paragraphs 229, 230)

- 227.** This Road was created by a positive act of acceptance by Owyhee County on December 18, 1950, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 56-57, dated December 18, 1950. (Exhibit 1B, paragraph 231)
- 228.** This Road maintained its status as public right-of-way under Idaho Law and under RS 2477 between December 18, 1950, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 5 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) BLM Land Patent wherein Owyhee County was given notice of a change in ownership in a parcel of land where a portion of the Balanced Rock Road right-of-way crossed the land dated May 10, 1996 at page 11. (f) Owyhee County Resolution No. 94-03 dated February 14, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Commissioner Minutes dated

December 18, 1950; (k) Owyhee County Annual Maintenance or Inventory Maps in 1969 and 1975; (l) Statements issued by Chet Brackett, specifically that Balanced Rock Road was “. . . used annually and continually from 1948 through 1976” and “maintained as needed, certainly more than 5 times between 1948 and 1976” dated January 31, 2017. (Exhibit 1B, paragraph 232)

**229.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Balanced Rock Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width, as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 233)

**230.** (28) Bates Creek Road

The Bates Creek Road is more specifically illustrated on the “Final Map” identified as Oreana (Map #67), Sinker Canyon (Map #56), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 234, 235)

**231.** This Road was created by a positive act of acceptance by Owyhee County on December 18, 1950, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 56-57, dated December 18, 1950. (Exhibit 1B, paragraph 236)

**232.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between December 18, 1950, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Resolution No. 94-03 dated February 14, 1994; (c) Owyhee County Resolution 2011-01 dated January 4,

2011; (d) Owyhee County Resolution 2011-21 dated September 12, 2011; (e) Owyhee County Resolution 2017-21 dated July 3, 2017; (f) Owyhee County Commissioner Minutes dated December 18, 1950; (g) Owyhee County Annual Maintenance or Inventory Maps in 1969. (Exhibit 1B, paragraph 237)

- 233.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Bates Creek Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 238)

**234.** (29) Castleford Road

The Castleford Road is more specifically illustrated on the “Final Map” identified as Black Butte East (Map #144) Black Butte West (Map #138), Clover Butte N. (Map #140), Crowbar Gulch (Map #122), Crows Nest (Map #151), Crows Nest Butte (Map #145), Juniper Butte (Map #147), Juniper Ranch (Map #146), Mosquito Lake Butte (Map #148), Murphy Hot Springs (Map #149), Pot Hole Butte (Map #130), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 239, 240)

- 235.** This Road was created by a positive act of acceptance by Owyhee County on June 14, 1948, and again on December 18, 1950, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 256-258, dated June 14, 1948; *see also* Owyhee County Commissioner Minutes, Book 11 at pages 56-57, dated December 18, 1950. (Exhibit 1B, paragraph 241)

- 236.** This Road was subject of an Application for Transportation and Utility Systems and Facilities on Federal Land dated March 28, 1984, wherein Owyhee County applied for R.S. 2477 status for this road, though, under information and belief, the USA did not include a right-of-way grant under R.S. 2477 as to this road on or after April 3, 1984, as the USA did as to other roads subject to this Report and right-of-way file IDI 020724. It is unknown the reason for the omission by the USA in not including this road in right-of-way file IDI 020724, and it is apparent to Owyhee County that the omission was advertent by the USA. (Exhibit 1B, paragraph 242)
- 237.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 5 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution



2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Annual Maintenance or Inventory Maps in 1960, 1969 and 1975. (Exhibit 1B, paragraph 243)

**238.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Castleford Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width, i.e., as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 244)

**239.** (30) Highway 78

The Highway 78 is more specifically illustrated on the “Final Map” identified as Bruneau (Map #112), Bruneau Dunes (Map #120), Castle Butte (Map #77), CJ Strike (Map #104), Givens Hot Springs (Map #42), Grand View (Map #96), Indian Cove (Map #128), Jackass Butte (Map #86), Marsing (Map #29), Murphy (Map #55), Opalene Gulch (Opalene) (Map #30), Oreana (Map #67), Sinker Butte (Map #66), Walters Butte (Map #54), Wilson Peak (Map #43), which are available online at Owyhee County’s official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 245, 246)

**240.** This Road was created by a positive act of acceptance by Owyhee County on June 14, 1948, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 256-258, dated June 14, 1948. (Exhibit 1B, paragraph 247)

**241.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Commissioner Minutes

dating from 1948 to 1973; (c) Owyhee County Resolution No. 94-03 dated February 14, 1994; (d) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (e) Owyhee County Resolution 2011-01 dated January 4, 2011; (f) BLM Land Patent to J. R. Simplot Company dated March 17, 1998, wherein Owyhee County was given notice of a change in ownership in a parcel of land where a portion of Highway 78 right-of-way crossed the land; (g) Owyhee County Resolution 2011-21 dated September 12, 2011; (h) Owyhee County Resolution 2017-21 dated July 3, 2017; (i) Owyhee County Annual Maintenance or Inventory Maps in 1969, 1973, 1975, and 1976. (Exhibit 1B, paragraph 248)

**242.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Highway 78 Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 249)

**243.** (31) Indian Cove Bridge Road

The Indian Cove Bridge Road is more specifically illustrated on the “Final Map” identified as Indian Cove (Map #128), which is available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 250, 251)

**244.** This Road was created by a positive act of acceptance by Owyhee County on June 14, 1948, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 256-258, dated June 14, 1948. (Exhibit 1B, paragraph 252)

**245.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as

demonstrated by: (a) continued public use; (b) Owyhee County Commissioner Minutes dating from 1949 to 1964; (c) Owyhee County Resolution No. 94-03 dated February 14, 1994; (d) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (e) Owyhee County Resolution 2011-01 dated January 4, 2011; (f) Owyhee County Resolution 2011-21 dated September 12, 2011; (g) Owyhee County Resolution 2017-21 dated July 3, 2017. (Exhibit 1B, paragraph 253)

**246.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Indian Cove Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 254)

**247.** (32) Rye Patch Road

The Rye Patch Road is more specifically illustrated on the “Final Map” identified as Oreana (Map #67), which is available online at Owyhee County’s official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 255, 256)

**248.** This Road was created by a positive act of acceptance by Owyhee County on December 9, 1974, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 190-192, dated December 9, 1974. (Exhibit 1B, paragraph 257)

**249.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on

Map Sheet 3 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Commissioner Minutes dated December 9, 1974. (Exhibit 1B, paragraph 258)

**250.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Rye Patch Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width, as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 259)

**251.** (33) State Highway 51

The State Highway 51 is more specifically illustrated on the “Final Map” identified as Bruneau (Map #112), Bruneau Dunes (Map #120), Grasmere (Map #108), Grasmere Reservoir (Map #109), Hole In Rock (Map #106), Little Blue Table (Map #101), Little

Valley (Map #105), Riddle (Map #102), Sugar Valley (Map #113), Wickahoney Crossing (Map #107), which are available online at Owyhee County's official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 260, 261)

- 252.** This Road was created by a positive act of acceptance by Owyhee County on June 14, 1948, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 256-258, dated June 14, 1948. (Exhibit 1B, paragraph 262)
- 253.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) BLM Land Patent to Idaho Parks and Recreation dated May 10, 1996, wherein Owyhee County was given notice of a change in ownership in a parcel of land where a portion of the State Highway 51 right-of-way crossed the land; (c) Owyhee County Commissioner Minutes dating from 1949 to 1952; (d) Owyhee County Resolution No. 94-03 dated February 14, 1994; (e) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (f) Owyhee County Resolution 2011-01 dated January 4, 2011; (g) Owyhee County Resolution 2011-21 dated September 12, 2011; (h) Owyhee County Resolution 2017-21 dated July 3, 2017; and (i) Owyhee County Annual Maintenance or Inventory Maps in 1960 and 1976. (Exhibit 1B, paragraph 263)
- 254.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the State Highway 51 Road -- as it exists across the lands owned by USA -- is a "public right-of-way" under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 264)

255. Mrs. Huff testified and provided evidence in regard to the following road within Second Group of Roads which lie within the jurisdiction of the Three Creek Good Road District.
256. (34) Balanced Rock Road.
- The Balanced Rock Road is more specifically illustrated on the “Final Map” identified as Coonskin Butte NE (Map #158) which is available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.) (Exhibit 1B, paragraphs 265, 266)
257. This Road was created by a positive act of acceptance by Owyhee County on December 18, 1950, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 56-57, dated December 18, 1950. (Exhibit 1B, paragraph 267)
258. This Road maintained its status as public right-of-way under Idaho Law and under RS 2477 between December 18, 1950, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 5 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) BLM Land Patent wherein Owyhee County was given notice of a

change in ownership in a parcel of land where a portion of the Balanced Rock Road right-of-way crossed the land dated May 10, 1996 at page 11. (f) Owyhee County Resolution No. 94-03 dated February 14, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Commissioner Minutes dated December 18, 1950; (k) Owyhee County Annual Maintenance or Inventory Maps in 1969 and 1975; (l) Statements issued by Chet Brackett, specifically that Balanced Rock Road was “. . . used annually and continually from 1948 through 1976” and “maintained as needed, certainly more than 5 times between 1948 and 1976” dated January 31, 2017. (Exhibit 1B, paragraph 268)

**259.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the time of the hearing on February 25, 2020, the Balanced Rock Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 269)

**260.** Mrs. Huff testified and provided evidence in regard to the following road within Second Group of Roads which lie within the jurisdiction of the Gem Highway District.

**261.** (35) Highway 78

The Highway 78 Road is more specifically illustrated on the “Final Map” identified as Marsing (Map #29), Opalene Gulch (Opalene) (Map #30), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 270, 271)

- 262.** This Road was created by a positive act of acceptance by Owyhee County on June 14, 1948, as provided for in Idaho Code § 40-202(3). *See* Owyhee County Commissioner Minutes, Book 11 at pages 256-258, dated June 14, 1948. (Exhibit 1B, paragraph 272)
- 263.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Resolution No. 94-03 dated February 14, 1994; (c) Owyhee County Resolution 2011-01 dated January 4, 2011; (d) Owyhee County Resolution 2011-21 dated September 12, 2011; (e) Owyhee County Resolution 2017-21 dated July 3, 2017; (f) Gem Highway District Annual Maintenance or Inventory Maps in 1958 and 1969. (Exhibit 1B, paragraph 273)
- 264.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Highway 78 -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of at least 50 feet in width as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 274)
- 265.** Having completed testimony and presentation of evidence process used and on the Second Group of Roads, the Hearing Officer called for questions by Commissioners of The Boards.
- 266.** There were none.
- 267.** The Hearing Officer called for questions, additional evidence, or disputes to the testimony and exhibits by members of the public present either at the Murphy location or the Three Creek Good Roads District Location.
- 268.** There were none.



269. Testimony and Evidence was provided by Mrs. Huff as to the **Third Group of Roads**, i.e. **“THIRD GROUP OF ROADS – VALIDATE “PUBLIC[S] RIGHT-OF-WAY” VIA PUBLIC USE & MAINTANENACE AND VIA GRANT BY THE U.S. DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT”**
270. Paragraph 1-66 of Exhibit 1A, were incorporated by reference.
271. The several public rights-of-way discussed in this Third Group of Roads were created by compliance with the road creation statute in existence on and after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3), which states in applicable part that “all highways used for a period of five (5) years, provided they shall have been worked and kept up at the expense of the public ... are highways.” *See also* Idaho Code § 40-114(3) (“‘Maintenance’ means to preserve from failure or decline, or repair, refurbish, repaint or otherwise keep an existing ... public right-of-way in a suitable state for use including, without limitation, snow removal, sweeping, litter control, weed abatement and placement or repair of public safety signage.”) (Exhibit 1B, paragraph 276)
272. These *same* public rights-of-way discussed in this Third Group of Roads were also created by a grant issued by the USA, through BLM, on April 3, 1984, as modified, in part, over time due to changes in land status of some public lands in Owyhee County, as part of BLM’s own right-of-way file IDI 020724. (Exhibit 1B, paragraph 277)
273. These several public rights-of-way are individually and separately discussed in the sub-groups of roads below, as within the jurisdiction of Owyhee County, TCGRD, and GHD. The referenced documents are included in the Exhibits to this Report. The Exhibits are summarized in Exhibit 2. (Exhibit 1B, paragraph 278)

- 274.** Testimony and evidence were provided in regard to roads grouped in the Third Group of Roads which lie within the jurisdiction of Owyhee County.
- 275.** (36) Black Sands Road
- The Black Sands Road is more specifically illustrated on the “Final Map” identified as CJ Strike (Map #104), which is available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 279, 280)
- 276.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 281)
- 277.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 282)
- 278.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Resolution No. 94-03 dated February 14, 1994; (c) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (d) Owyhee County Resolution 2011-01 dated January 4, 2011; (e) Owyhee County Resolution 2011-21 dated September 12, 2011; (f) Owyhee County Resolution 2017-21 dated July 3, 2017; (g) Owyhee County Annual Maintenance or Inventory Maps in 1969 and 1976. (Exhibit 1B, paragraph 283)
- 279.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Black Sands Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the

rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 284)

**280.** (37) Bruneau Sand Dunes Road

The Bruneau Sand Dunes Road is more specifically illustrated on the “Final Map” identified as Bruneau Dunes (Map #120), which is available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 285, 286)

**281.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 287)

**282.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 288)

**283.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 4 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are

now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Annual Maintenance or Inventory Maps in 1960, 1968, 1969 and 1976. (Exhibit 1B, paragraph 289)

**284.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Bruneau Sand Dunes Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 290)

**285.** (38) Cottonwood Road

The Cottonwood Road is more specifically illustrated on the “Final Map” identified as CJ Strike (Map #104), which is available online at Owyhee County’s official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 291, 292)

**286.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 293)

**287.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 294)

- 288.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 4 on such Application; (c) Owyhee County Resolution No. 94-03 dated February 14, 1994; (d) Owyhee County Application of Assertion of Right of Way dated March 28, 1994 (e) Owyhee County Resolution 2011-01 dated January 4, 2011; (f) Owyhee County Resolution 2011-21 dated September 12, 2011; (g) Owyhee County Resolution 2017-21 dated July 3, 2017; (h) Owyhee County Annual Maintenance or Inventory Maps in 1960, 1969, and 1976; (i) email from C. Werven, Realty Specialist for the BLM, dated January 31, 2011 stating Owyhee County claimed Cottonwood Road “. . . as part of the RS-2477 assertion filed with the BLM and it was recognized as a pre-FLPMA existing road Right-of-Way for public transportation purposes.” (Exhibit 1B, paragraph 295)
- 289.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Cottonwood Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 296)
- 290.** (39) Crane Falls Road
- The Crane Falls Road is more specifically illustrated on the “Final Map” identified as Bruneau (Map #112), which is available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 297, 298)

- 291.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). Exhibit 1B, paragraph 299)
- 292.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 300)
- 293.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 4 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Annual Maintenance or Inventory Maps in 1960, 1968, 1969, 1974, 1975, and 1976. (Exhibit 1B, paragraph 301)

- 294.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Crane Falls Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 302)
- 295.** (40) Falls Road
- The Falls Road is more specifically illustrated on the “Final Map” identified as Bruneau (Map #112), which is available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 303, 304)
- 296.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 305)
- 297.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 306)
- 298.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 4 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager,

BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Annual Maintenance or Inventory Maps in 1960, 1968, 1969 and 1976. (Exhibit 1B, paragraph 307)

- 299.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Falls Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 308)

**300.** (41) Horse Butte Road

The Horse Butte Road is more specifically illustrated on the “Final Map” identified as Coonskin Butte (Map #153), Crows Nest (Map #151), Crows Nest Butte (Map #145), Horse Butte (Map #152), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 309, 310)



- 301.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 311)
- 302.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 312)
- 303.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 5 and Map Sheet 9 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Annual Maintenance or Inventory Maps in 1975; and (k)

Statements by Chet Brackett signed January 31, 2017, wherein use and maintenance is discussed. (Exhibit 1B, paragraph 313)

**304.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Horse Butte Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 314)

**305.** (42) Mormon Boulevard Road

The Mormon Boulevard Road is more specifically illustrated on the “Final Map” identified as CJ Strike (Map #104), which is available online at Owyhee County’s official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 315, 316)

**306.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). Exhibit 1B, paragraph 317)

**307.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. Exhibit 1B, paragraph 318)

**308.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) BLM Land Patent to David L. Lahtinen and Barbara M. Lahtinen dated August 9, 1996, wherein Owyhee County was given notice of a change in ownership in a parcel of land where a portion of the Mormon Boulevard right-of-way crossed the land; (c) Owyhee County Resolution No. 94-03 dated February 14, 1994;

(d) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (e) Owyhee County Resolution 2011-01 dated January 4, 2011; (f) Owyhee County Resolution 2011-21 dated September 12, 2011; (g) Owyhee County Resolution 2017-21 dated July 3, 2017; (h) Owyhee County Annual Maintenance or Inventory Maps in 1968, 1969 and 1976. (Exhibit 1B, paragraph 319)

**309.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Mormon Boulevard Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 320)

**310.** (43) Pothole Road

The Pothole Road is more specifically illustrated on the “Final Map” identified as Black Butte West (Map #138), Indian Cove (Map #128), Pence Butte (Map #129), Pot Hole Butte (Map #130), Pot Hole Canyon (Map #137), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 321, 322)

**311.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 323)

**312.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 324)

- 313.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 5 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Annual Maintenance or Inventory Maps in 1960, 1969, 1970, 1975, and 1976. (Exhibit 1B, paragraph 325)
- 314.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Pothole Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 326)

**315.** (44) Robinson Road

The Robinson Road is more specifically illustrated on the “Final Map” identified as Castle Butte (Map #77), Jackass Butte (Map #86), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 327, 328)

**316.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 329)

**317.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 330)

**318.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 3 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side

of existing centerline; (e) BLM C. Miracle Letter and EnviroSAFE Land Patent wherein Owyhee County was given notice of a change in ownership in a parcel of land where a portion of the Robinson Road right-of-way crossed the land dated May 10, 1996; (f) Owyhee County Resolution No. 94-03 dated February 14, 1994; (g) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (h) Owyhee County Resolution 2011-01 dated January 4, 2011; (i) Owyhee County Resolution 2011-21 dated September 12, 2011; (j) Owyhee County Resolution 2017-21 dated July 3, 2017; (k) Owyhee County Annual Maintenance or Inventory Maps in 1967, 1969 and 1976; (l) statement from M. Robinson dated March 31, 2016, as to use and maintenance; and (m) statement from C. Boland dated March 31, 2016, as to use and maintenance. (Exhibit 1B, paragraph 331)

- 319.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Robinson Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 332)

- 320.** (45) Ruby to Silver Road

The Ruby to Silver Road is more specifically illustrated on the “Final Map” identified as Silver City (Map #45), which is available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 333, 334)

- 321.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 335)

- 322.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 336)
- 323.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (c) Owyhee County Resolution No. 94-03 dated February 14, 1994; (d) Owyhee County Resolution 2011-01 dated January 4, 2011; (e) Owyhee County Resolution 2011-21 dated September 12, 2011; (f) Owyhee County Resolution 2017-21 dated July 3, 2017; (g) Citizen Affidavits in which Linda Jantz, Carol Leonard, Paul Nettleton, Jim Hyslop, Pat Ihli, Jerry Hoagland, and Jan Beckwith state that they personally traveled on Ruby to Silver Road, owned property surrounding the Road, or witnessed Owyhee County maintaining the Road, dated July 16, 2016; (h) Owyhee County Annual Maintenance or Inventory Maps in 1957, 1960, 1969 and 1976; (i) C. Kingston Letter dated April 6, 1990, wherein the Ruby to Silver City Road was recognized by the BLM as part of right-of-way IDI-20724. (Exhibit 1B, paragraph 337)
- 324.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Ruby to Silver Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 338)
- 325.** (46) Soldier Cap Unnamed Road 06S08E18
- The Soldier Cap Unnamed Road 06S08E18 is more specifically illustrated on the “Final Map” identified as Indian Cove (Map #128), Pence Butte (Map #129), Pot Hole Canyon

(Map #137), which are available online at Owyhee County's official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 339, 340)

- 326.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 341)
- 327.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 342)
- 328.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 5 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution



2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Annual Maintenance or Inventory Maps in 1969 and 1976.

(Exhibit 1B, paragraph 343)

**329.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Soldier Cap Unnamed Road 06S08E18 - - as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 344)

**330.** (47) Steiner Road

The Steiner Road is more specifically illustrated on the “Final Map” identified as Sugar Valley (Map #113), which is available online at Owyhee County’s official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 345, 346)

**331.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 347)

**332.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 348)

**333.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on

Map Sheet 4 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Annual Maintenance or Inventory Maps in 1960, 1973 and 1976; (k) Karl Steiner Letter stating that Owyhee County periodically maintained Steiner Road, dated May 17, 2016. (Exhibit 1B, paragraph 349)

**334.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Steiner Road-- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 350)

**335.** (48) Wilson Cemetery Road

The Wilson Cemetery Road is more specifically illustrated on the “Final Map” identified as Wilson Peak (Map #43), which is available online at Owyhee County’s official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 351, 352)

- 336.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 353)
- 337.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 354)
- 338.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 1 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3,

2017; (j) Owyhee County Annual Maintenance or Inventory Map in 1969. (Exhibit 1B, paragraph 355)

**339.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Wilson Cemetery Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 356)

**340.** (49) Wilson Creek Road

The Wilson Creek Road is more specifically illustrated on the “Final Map” identified as Wilson Peak (Map #43), which is available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 357, 358)

**341.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 359)

**342.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 360)

**343.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 1 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs”

aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Annual Maintenance or Inventory Maps in 1974, 1975 and 1976; (k) Richard Brandau Affidavit dated July 25, 2016 stating that the Wilson Creek Road was used by the public between 1948 and 1976, specifically for property access, access for firefighters and used by hunters, additionally, the BLM used county funds to pave portions of the road. (Exhibit 1B, paragraph 361)

- 344.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Wilson Creek Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 362)
- 345.** Mrs. Huff testified and provided evidence in regard to the following road within Third Group of Roads which lie within the jurisdiction of the Three Creek Good Road District as follows.

**346.** (50) Airport Road

The Airport Road is more specifically illustrated on the “Final Map” identified as Murphy Hot Springs (Map #149), which is available online at Owyhee County’s official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 363, 364)

**347.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 365)

**348.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 366)

**349.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road; (c) Three Creek Highway District Annual Maintenance or Inventory Maps in 1962, 1975 and 1976; (d) Chet Brackett Affidavit wherein he stated that Airport Road was “[g]raded annually to maintain access to state funded airport” dated March 3, 2017; (e) statements issued by Chet Brackett, specifically that Airport Road “. . .received maintenance twice a year, were graded, drained and had borrow pits. These were official roads that were turned into the State of Idaho for maintenance reimbursement” dated January 31, 2017; (f) public comments issued by Chet Brackett, specifically that Airport Road received maintenance in 1968, dated January 23, 2017. (Exhibit 1B, paragraph 367)

**350.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Airport Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 368)

**351.** (51) Big Bend Road

The Big Bend Road is more specifically illustrated on the “Final Map” identified as Big Bend Crossing (Map #159), Coonskin Butte (Map #153), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 369, 370)

**352.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 371)

**353.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 372)

**354.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road; (c) statements issued by Chet Brackett, specifically that Big Bend Road was “. . . used annually and continually from 1948 through 1976” and “maintained as needed, certainly more than 5 times between 1948 and 1976” dated January 31, 2017; (d) public comments issued by Chet

Brackett, specifically that Big Bend Road received maintenance, dated January 23, 2017.  
(Exhibit 1B, paragraph 373)

**355.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Big Bend Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 374)

**356.** (52) Blossom Lane Road

The Blossom Lane Road is more specifically illustrated on the “Final Map” identified as Three Creek (Map #155), which is available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 375, 376)

**357.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 377)

**358.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 378)

**359.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Three Creek Highway District Annual Maintenance or Inventory Maps in 1960, 1962, 1964, 1969, 1975 and 1976; (c) statements issued by Chet Brackett, specifically that Blossom Lane Road “. . . received maintenance twice a year, [was] graded, drained, had borrow pits [and] were official roads that were



turned into the State of Idaho for maintenance reimbursement” dated January 31, 2017. (Exhibit 1B, paragraph 379)

**360.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Blossom Lane Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 380)

**361.** (53) Crawfish Loop Road

The Crawfish Loop Road is more specifically illustrated on the “Final Map” identified as Salls Crossing (Map #154), Three Creek (Map #155), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 381, 382)

**362.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 383)

**363.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 384)

**364.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road; (c) Three Creek Highway District Annual Maintenance or Inventory Maps in 1958, 1960, 1961, 1962, 1964,

1968, 1969, 1975 and 1976; (d) statements issued by Chet Brackett, specifically that Crawfish Loop Road “. . .received maintenance twice a year, were graded, drained and had borrow pits. These were official roads that were turned into the State of Idaho for maintenance reimbursement” dated January 31, 2017; (e) public comments issued by Chet Brackett, specifically that Crawfish Loop Road was scheduled for a validation hearing, dated January 23, 2017. (Exhibit 1B, paragraph 385)

**365.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Crawfish Loop Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 386)

**366.** (54) Deadwood Lane Road

The Deadwood Lane Road is more specifically illustrated on the “Final Map” identified as Curtis Draw (Map #161), which is available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 387, 388)

**367.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 389)

**368.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 390)

**369.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as

demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road; (c) Three Creek Highway District Annual Maintenance or Inventory Maps in 1960, 1962, 1964, 1969, 1975 and 1976; (d) statements issued by Chet Brackett, specifically that Deadwood Lane Road “. . .received maintenance twice a year, were graded, drained and had borrow pits. These were official roads that were turned into the State of Idaho for maintenance reimbursement” dated January 31, 2017; (e) public comments dated January 23, 2017, issued by Chet Brackett, specifically that Deadwood Lane was given to Owyhee County for maintenance from the BLM. (Exhibit 1B, paragraph 391)

**370.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Deadwood Lane Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 392)

**371.** (55) Elk Mountain Road

The Elk Mountain Road is more specifically illustrated on the “Final Map” identified as Three Creek (Map #155), which is available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 393, 394)

**372.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 395)

- 373.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 396)
- 374.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road; (c) Three Creek Highway District Annual Maintenance or Inventory Maps in 1958, 1960, 1961, 1962, 1964, 1965, 1969, 1975 and 1976; (d) statements issued by Chet Brackett, specifically that Elk Mountain Road “. . .received maintenance twice a year, were graded, drained and had borrow pits. These were official roads that were turned into the State of Idaho for maintenance reimbursement” dated January 31, 2017. (Exhibit 1B, paragraph 397)
- 375.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Elk Mountain Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 398)
- 376.** (56) Grassy Hills Road
- The Grassy Hills Road is more specifically illustrated on the “Final Map” identified as Coonskin Butte (Map #153), Grassy Hills (Map #160), Salls Crossing (Map #154), which are available online at Owyhee County’s official website:
- <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 399, 400)

- 377.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 401)
- 378.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 402)
- 379.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road; (c) Three Creek Highway District Annual Maintenance or Inventory Maps in 1975; (d) statements issued by Chet Brackett, specifically that Grassy Hills Road was “. . . used annually and continually from 1948 through 1976” and “maintained as needed, certainly more than 5 times between 1948 and 1976” dated January 31, 2017; (e) public comments issued by Chet Brackett, specifically that portions of Grassy Hills Road was maintained as needed, dated January 23, 2017. (Exhibit 1b, Paragraph 403)
- 380.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Grassy Hills Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 404)
- 381.** (57) Horse Butte Road
- The Horse Butte Road is more specifically illustrated on the “Final Map” identified as Coonskin Butte (Map #153), Crows Nest (Map #151), Crows Nest Butte (Map #145), Horse

Butte (Map #152), which are available online at Owyhee County's official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last

checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 405, 406)

- 382.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 407)
- 383.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 408)
- 384.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road; (c) Three Creek Highway District Annual Maintenance or Inventory Maps in 1975; (d) statements issued by Chet Brackett, specifically that Horse Butte Road was “. . . used annually and continually from 1948 through 1976” and “maintained as needed, certainly more than 5 times between 1948 and 1976” dated January 31, 2017; (Exhibit 1B, paragraph 409)
- 385.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Horse Butte Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 410)
- 386.** (58) Jarbidge Canyon Road

The Jarbidge Canyon Road is more specifically illustrated on the “Final Map” identified as Dishpan (Map #143), Murphy Hot Springs (Map #149), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 411, 412)

This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 413)

- 387.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 414)
- 388.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road; (c) Three Creek Highway District Annual Maintenance or Inventory Maps in 1958, 1960, 1962, 1964, 1969, 1970, 1971, 1975 and 1976; (d) statements issued by Chet Brackett, specifically that Jarbidge Canyon Road “. . . received maintenance twice a year, [was] graded, drained, had borrow pits [and] were official roads that were turned into the State of Idaho for maintenance reimbursement” dated January 31, 2017; (e) public comments issued by Chet Brackett, specifically that Jarbidge Canyon Road received some maintenance from Owyhee County, dated January 23, 2017. (Exhibit 1B, paragraph 415)
- 389.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Jarbidge Canyon Road -- as it exists

across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 416)

**390.** (59) Kinyon Road

The Kinyon Road is more specifically illustrated on the “Final Maps” identified as Clover Butte N (Map #140) and Clover Butte S. (Map #141) which is available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on August 19, 2019 @ 4:01 P.M.). (Exhibit 1B, paragraphs 417, 418)

**391.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 419)

**392.** This Road maintained its status as public right-of-way under Idaho Law and under RS 2477 between June 14, 1948, and October 21, 1976, and even through the date of filing of this Complaint, as demonstrated by: (a) continued public use; (b) Three Creek Highway District Annual Maintenance or Inventory Maps in 1975; (c) Chet Brackett Statements wherein he states that Kinyon Road was “. . . used annually and continually from 1948 through 1976 [and] maintained as needed, certainly more than five times between 1948 and 1976” dated January 31, 2017; (e) public comments issued by Chet Brackett, specifically that maintenance was completed on Kinyon Road, dated January 23, 2017. (Exhibit 1B, paragraph 420)

**393.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at trial, the Kinyon Road -- as it exists across the lands owned by USA -- is a



“public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 421)

**394.** (60) Pole Creek Road

The Pole Creek Road is more specifically illustrated on the “Final Map” identified as Three Creek (Map #155) which is available online at Owyhee County’s official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 422, 423)

**395.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 424)

**396.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 425)

**397.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road; (c) Three Creek Highway District Annual Maintenance or Inventory Maps in 1958, 1962, 1964, 1969, 1975 and 1976; (d) statements issued by Chet Brackett, specifically that Pole Creek Road “. . . received maintenance twice a year, [was] graded, drained, had borrow pits [and] were official roads that were turned into the State of Idaho for maintenance reimbursement” dated January 31, 2017. (Exhibit 1B, paragraph 426)

- 398.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Pole Creek Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 427)
- 399.** (61) Salls Road
- The Salls Road is more specifically illustrated on the “Final Map” identified as Mosquito Lake Butte (Map #148), Salls Crossing (Map #154), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 428, 429)
- 400.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 430)
- 401.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 431)
- 402.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road; (c) Three Creek Highway District Annual Maintenance or Inventory Maps in 1958, 1960, 1962, 1964, 1968, 1969, 1970, 1971, 1975 and 1976; (d) statements issued by Chet Brackett, specifically that Salls Road “. . . received maintenance twice a year, [was] graded, drained, had borrow pits

[and] were official roads that were turned into the State of Idaho for maintenance reimbursement” dated January 31, 2017. (Exhibit 1B, paragraph 432)

**403.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Salls Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 433)

**404.** (62) Summer Camp Road

The Summer Camp Road is more specifically illustrated on the “Final Map” identified as Three Creek (Map #155), which is available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 434, 435)

**405.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 436)

**406.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 437)

**407.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road; (c) Three Creek Highway District Annual Maintenance or Inventory Maps in 1962, 1964, 1969, 1975, and 1976; (d) statements issued by Chet Brackett, specifically that Summer Camp Road “. . .

received maintenance twice a year, [was] graded, drained, had borrow pits [and] were official roads that were turned into the State of Idaho for maintenance reimbursement” dated January 31, 2017; (e) public comments issued by Chet Brackett, specifically that Summer Camp Road received some maintenance from Owyhee County, dated January 23, 2017. (Exhibit 1B, paragraph 438)

**408.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Summer Camp Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 439)

**409.** (63) Three Creek Road

The Three Creek Road is more specifically illustrated on the “Final Map” identified as Curtis Draw (Map #161), Murphy Hot Springs (Map #149), Three Creek (Map #155), which are available online at Owyhee County’s official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 440, 441)

**410.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 442)

**411.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 443)

**412.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as

demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road; (c) Three Creek Highway District Annual Maintenance or Inventory Maps in 1958, 1962, 1964, 1965, 1967, 1968, 1969, 1970, 1975 and 1976. (Exhibit 1B, paragraph 444)

**413.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Three Creek Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 445)

**414.** (64) Walters Road

The Walters Road is more specifically illustrated on the “Final Map” identified as Three Creek (Map #155), which is available online at Owyhee County’s official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 446, 447)

**415.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 448)

**416.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 449)

**417.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road; (c) Three Creek

Highway District Annual Maintenance or Inventory Maps 1960, 1962, 1964, 1969, 1975 and 1976; (d) statements issued by Chet Brackett, specifically that Walters Road “. . . received maintenance twice a year, [was] graded, drained, had borrow pits [and] were official roads that were turned into the State of Idaho for maintenance reimbursement” dated January 31, 2017. (Exhibit 1B, paragraph 450)

**418.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Walters Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 451)

**419.** Mrs. Huff testified and provided evidence in regard to the following road within Third Group of Roads which lie within the jurisdiction of the Gem Highway District as follows.

**420.** (65) Rats Nest/Clark Road

The Rates Nest/Clark Road is more specifically illustrated on the “Final Map” identified as Opalene Gulch (Opalene) (Map #30), which is available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 452, 453)

**421.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 454)

**422.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 455)

- 423.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road; (c) Owyhee County Resolution No. 94-03 dated February 14, 1994; (d) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (e) Owyhee County Resolution 2011-01 dated January 4, 2011; (f) Owyhee County Resolution 2011-21 dated September 12, 2011; (g) Owyhee County Resolution 2017-21 dated July 3, 2017; (h) Gem Highway District Annual Maintenance or Inventory Maps in 1958, 1961, 1969, 1972 and 1976; (i) Commissioner Minutes wherein Rats Nest/Clark Road was reestablished dated June 14, 1948. (Exhibit 1B, paragraph 456)
- 424.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Rats Nest/Clark Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 457)
- 425.** (66) Sommer Camp Road
- The Sommer Road is more specifically illustrated on the “Final Map” identified as Opalene Gulch (Opalene) (Map #30), which is available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 458, 459)

- 426.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 460)
- 427.** This Road was given R.S. 2477 status by grant issued by the USA, through BLM, via its right-of-way file IDI-020724, on April 3, 1984. (Exhibit 1B, paragraph 461)
- 428.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road; (c) Owyhee County Resolution No. 94-03 dated February 14, 1994; (d) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (e) Owyhee County Resolution 2011-01 dated January 4, 2011; (f) Owyhee County Resolution 2011-21 dated September 12, 2011; (g) Owyhee County Resolution 2017-21 dated July 3, 2017; (h) Gem Highway District Annual Maintenance or Inventory Maps in 1958, 1961, 1966, 1969, and 1976; (i) Commissioner Minutes wherein Sommer Road was reestablished dated June 14, 1948; (j) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477.” (Exhibit 1B, paragraph 462)
- 429.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Sommer Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 60 feet in width, i.e., 30-feet on each side of center line. (Exhibit 1B, paragraph 463)



430. Having completed testimony and presentation of evidence process used and on the Third Group of Roads, the Hearing Officer called for questions by Commissioners of The Boards.
431. There were none.
432. The Hearing Officer called for questions, additional evidence, or disputes to the testimony or exhibits by members of the public present either at the Murphy location or the Three Creek Good Roads District Location.
433. There were none.
434. Testimony and Evidence was provided by Mrs. Huff as to the **Fourth Group of Roads**, i.e. **“FOURTH GROUP OF ROADS – VALIDATE “PUBLIC[S] RIGHT-OF-WAY” VIA PUBLIC USE & MAINTANENACE”**
435. Paragraph 1-66 of Exhibit 1A, were incorporated by reference. (Exhibit 1B, paragraph 464)
436. The several public rights-of-way discussed in this Fourth Group of Roads were created by compliance with the road creation statute in existence on and after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3), which states in applicable part that “all highways used for a period of five (5) years, provided they shall have been worked and kept up at the expense of the public ... are highways.” *See also* Idaho Code § 40-114(3) (“‘Maintenance’ means to preserve from failure or decline, or repair, refurbish, repaint or otherwise keep an existing ... public right-of-way in a suitable state for use including, without limitation, snow removal, sweeping, litter control, weed abatement and placement or repair of public safety signage.”) (Exhibit 1B, paragraph 465)
437. These several public rights-of-way are individually and separately discussed in the sub-groups of roads below, as within the jurisdiction of Owyhee County, TCGRD, and GHD.

The referenced documents are included in the Exhibits to this Report. The Exhibits are summarized in Exhibit 2. (Exhibit 1B, paragraph 466)

**438.** Mrs. Huff testified and provided evidence in regard to the following roads within the Fourth Group of Roads which lie within the jurisdiction of Owyhee County as follows.

**439.** (67) Blackstone Grasmere Road

The Blackstone Grasmere Road is more specifically illustrated on the “Final Map” identified as Austin Butte (Map #123), Blackstone Reservoir (Map #116), Broken Wagon Flat (Map #114), Buster Butte (Map #117), Cave Draw (Map #124), Crowbar Gulch (Map #122), Grasmere Reservoir (Map #109), Hot Springs (Map #121), Sugar Valley (Map #113), Table Butte (Map #115), which is available online at Owyhee County’s official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.) (Exhibit 1B, paragraphs 467, 468)

**440.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 469)

**441.** This Road maintained its status as public right-of-way under Idaho Law and under RS 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 4 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to

Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994 (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Annual Maintenance or Inventory Maps in 1960 and 1969. (Exhibit 1B, paragraph 470)

**442.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at time of the hearing on February 28, 2020, the Blackstone Grasmere Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width, as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 471)

**443.** (68) Buckhorn Road

The Buckhorn Road is more specifically illustrated on the “Final Map” identified as Buckhorn (Map #110), Riddle (Map #102), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 472, 473)

- 444.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 474)
- 445.** This Road was subject of an Application for Transportation and Utility Systems and Facilities on Federal Land dated March 28, 1984, wherein Owyhee County applied for R.S. 2477 status for this road, though, under information and belief, the USA did not include a right-of-way grant under R.S. 2477 as to this road on or after April 3, 1984, as the USA did as to other roads subject to this Report and right-of-way file IDI 020724. It is unknown the reason for the omission by the USA in not including this road in right-of-way file IDI 020724, and it is apparent to Owyhee County that the omission was advertent by the USA. (Exhibit 1B, paragraph 475)
- 446.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 7 and Map Sheet 8 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side

of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Annual Maintenance or Inventory Maps in 1975, 1976, 1960, 1969, 1971, 1972, 1975 and 1976. (Exhibit 1B, paragraph 476)

**447.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Buckhorn Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width, as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 477)

**448.** (69) Coonskin Road

The Coonskin Road is more specifically illustrated on the “Final Map” identified as Castleford Butte (Map #157), Coonskin Butte (Map #153), Crows Nest (Map #151), and Horse Butte (Map #152), which is available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 478, 479)

**449.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 480)

**450.** This Road maintained its status as public right-of-way under Idaho Law and under RS 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29,

1984, wherein Owyhee County claimed R.S. 2477 status as to such road; (c) Three Creek Highway District Annual Maintenance or Inventory Maps in 1975; (d) statements issued by Chet Brackett, specifically that Coonskin Road was “used annually and continually from 1948 through 1976 [and] maintained as needed, certainly more than five times between 1948 and 1976.”; (e) public comments issued by Chet Brackett, specifically that Owyhee County was responsible for maintenance on Coonskin Road, dated January 23, 2017. (Exhibit 1B, paragraph 481)

**451.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at time of the hearing on February 25, 2020, the Coonskin Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 482)

**452.** (70) Crows Nest Road

The Crows Nest Road is more specifically illustrated on the “Final Map” identified as Black Butte East (Map #144), Crows Nest (Map #151), Crows Nest Butte (Map #145), and Crows Nest NE (Map #156), which is available online at Owyhee County’s official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.) (Exhibit 1B, paragraphs 483, 484)

**453.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 485)

**454.** This Road maintained its status as public right-of-way under Idaho Law and under RS 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as

demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 5 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994 (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Annual Maintenance or Inventory Maps in 1969, 1971, 1975 and 1976. (Exhibit 1B, paragraph 486)

- 455.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at time of the hearing on February 25, 2020, the Crows Nest Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width, as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 487)
- 456.** (71) Duncan Butte

The Duncan Butte Road is more specifically illustrated on the “Final Map” identified as Grasmere (Map #108), Hill Pasture (Map #99), Lost Valley (Map #82), Turner Table (Map #91), Wickahoney Crossing (Map #107), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 488, 489)

- 457.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 490)
- 458.** This Road was subject of an Application for Transportation and Utility Systems and Facilities on Federal Land dated March 28, 1984, wherein Owyhee County applied for R.S. 2477 status for this road, though, under information and belief, the USA did not include a right-of-way grant under R.S. 2477 as to this road on or after April 3, 1984, as the USA did as to other roads subject to this Report and right-of-way file IDI 020724. It is unknown the reason for the omission by the USA in not including this road in right-of-way file IDI 020724, and it is apparent to Owyhee County that the omission was advertent by the USA. (Exhibit 1B, paragraph 491)
- 459.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 7 and Map Sheet 8 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to



the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Annual Maintenance or Inventory Maps in 1960, 1969 and 1975; (k) email from M. Rieske to M. Huff discussing production of a shape file showing the roads Northwest Pipeline LLC has traditionally used to access their pipeline Right-of-Way for maintenance and repairs dated April 24, 2017. (Exhibit 1B, paragraph 492)

**460.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Duncan Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width, as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 493)

**461.** (72) Mary’s Creek Road

The Mary’s Creek Road is more specifically illustrated on the “Final Map” identified as Buster Butte (Map #117), Grasmere Reservoir (Map #109), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community->

development/rs2477-project/ (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 494, 495)

- 462.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). Exhibit 1B, paragraph 496)
- 463.** This Road was subject of an Application for Transportation and Utility Systems and Facilities on Federal Land dated March 28, 1984, wherein Owyhee County applied for R.S. 2477 status for this road, though, under information and belief, the USA did not include a right-of-way grant under R.S. 2477 as to this road on or after April 3, 1984, as the USA did as to other roads subject to this Report and right-of-way file IDI 020724. It is unknown the reason for the omission by the USA in not including this road in right-of-way file IDI 020724, and it is apparent to Owyhee County that the omission was advertent by the USA. (Exhibit 1B, paragraph 497)
- 464.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 8 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are

being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Annual Maintenance or Inventory Maps in 1960, 1969, 1975 and 1976. (Exhibit 1B, paragraph 498)

**465.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Mary’s Creek Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width, as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 499)

**466.** (73) McDonald Creek Road

The McDonald Creek Road is more specifically illustrated on the “Final Map” identified as Black Leg Creek (Map #119), which is available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 500, 501)

**467.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 502)

**468.** This Road was subject of an Application for Transportation and Utility Systems and Facilities on Federal Land dated March 28, 1984, wherein Owyhee County applied for R.S.

2477 status for this road, though, under information and belief, the USA did not include a right-of-way grant under R.S. 2477 as to this road on or after April 3, 1984, as the USA did as to other roads subject to this Report and right-of-way file IDI 020724. It is unknown the reason for the omission by the USA in not including this road in right-of-way file IDI 020724, and it is apparent to Owyhee County that the omission was advertent by the USA. (Exhibit 1B, paragraph 503)

- 469.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 8 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j)

Owyhee County Annual Maintenance or Inventory Maps in 1960, 1969, 1975 and 1976.

(Exhibit 1B, paragraph 504)

- 470.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the McDonald Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width, as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 505)

- 471.** (74) Murphy Flat Road

The Murphy Flat Road is more specifically illustrated on the “Final Map” identified as Murphy (Map #55), Sinker Butte (Map #66), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 506, 507)

- 472.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 508)

- 473.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 3 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority

of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Commissioner Minutes dated February 14, 1972; (k) Owyhee County Commissioner Minutes dated July 14, 1975; and (l) Owyhee County Annual Maintenance or Inventory Maps in 1965, 1967, 1969, 1971, 1972, 1974, 1975 and 1976. (Exhibit 1B, paragraph 509)

**474.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Murphy Flat Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width, as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 510)

**475.** (75) Old Highway 95 Road

The Old Highway 95 Road is more specifically illustrated on the “Final Map” identified as Jump Creek Canyon (Jump Creek) (Map #17), Opalene Gulch (Opalene) (Map #30), which are available online at Owyhee County’s official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 511, 512)

- 476.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 513)
- 477.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Resolution No. 94-03 dated February 14, 1994; (c) Owyhee County Application of Assertion of Right of Way dated March 28, 1994 (d) Owyhee County Resolution 2011-01 dated January 4, 2011; (e) Owyhee County Resolution 2011-21 dated September 12, 2011; (f) Owyhee County Resolution 2017-21 dated July 3, 2017; (g) Owyhee County Annual Maintenance or Inventory Maps in 1969, 1970, 1971 and 1976; (h) B. Holton letter stating “[t]he Old Highway 95 was in use and maintained by the responsible highway district between the years of 1948 and 1976 and should be listed as a Right-of-Way” dated August 12, 2016. (Exhibit 1B, paragraph 514)
- 478.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Old Highway 95 Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width, as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 515)
- 479.** (76) Pack Rat Road
- The Pack Rat Road is more specifically illustrated on the “Final Map” identified as Reynolds (Map #44), which is available online at Owyhee County’s official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 516, 517)

- 480.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 518)
- 481.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Resolution No. 94-03 dated February 14, 1994; (c) Owyhee County Application of Assertion of Right of Way dated March 28, 1994 (d) Owyhee County Resolution 2011-01 dated January 4, 2011; (e) Owyhee County Resolution 2011-21 dated September 12, 2011; (f) Owyhee County Resolution 2017-21 dated July 3, 2017; (g) Owyhee County Annual Maintenance or Inventory Maps in 1969; (h) comment from J. Hoagland dated June 20, 2016 stating that Pack Rat Road should be within the “Red Category” because the county continuously maintained Pack Rat Road from the mid-1950s through 1976. (Exhibit 1B, paragraph 519)
- 482.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Pack Rat Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 520)
- 483.** (77) Road #5633
- The Road #5633 is more specifically illustrated on the “Final Map” identified as, Stonehouse Creek (Map #21), which is available online at Owyhee County’s official



website: <https://owyheecounty.net/departments/community-development/rs2477-project/>  
(last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 521, 522)

- 484.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 523)
- 485.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Resolution No. 94-03 dated February 14, 1994; (c) Owyhee County Application of Assertion of Right of Way dated March 28, 1994 (d) Owyhee County Resolution 2011-01 dated January 4, 2011; (e) Owyhee County Resolution 2011-21 dated September 12, 2011; (f) Owyhee County Resolution 2017-21 dated July 3, 2017; (g) R. Rhoades Affidavit stating Road #5633 was maintained by the Owyhee County Highway District road crew which included smoothing the road and removing snow dated August 27, 2016; (h) D. Smith Affidavit stating that he has knowledge that the Owyhee County Highway District did some maintenance on Road #5633 between the years of 1948 and 1976, dated September 14, 2016; (i) S. Quintana Affidavit stating that she personally witnessed employees of the Owyhee County Road crew, specifically Ray Gulch, assisting the Quintana family in maintaining Road #5633, dated August 27, 2016; (j) T. Quintana Affidavit stating that he personally witnessed employees of the Owyhee County Road crew, specifically Ray Gulch, assisting the Quintana family in maintaining Road #5633, dated August 30, 2018. (Exhibit 1B, paragraph 524)
- 486.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Road #5633 -- as it exists across the

lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 525)

**487.** (78) Sugar Valley Road

The Sugar Valley Road is more specifically illustrated on the “Final Map” identified as Hot Springs (Map #121), Sugar Valley (Map #113), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 526, 527)

**488.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 528)

**489.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 4 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by

Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Annual Maintenance or Inventory Maps in 1960, 1969, 1970 and 1976. (Exhibit 1B, paragraph 529)

**490.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Sugar Valley Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width, as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 530)

**491.** (79) Tokenbamby Unnamed Road 15S6E33 to NV

The Tokenbamby Unnamed Road 15S6E33 to NV is more specifically illustrated on the “Final Map” identified as Black Leg Creek (Map #119), which is available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 531, 532)

**492.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 533)

**493.** This Road was subject of an Application for Transportation and Utility Systems and Facilities on Federal Land dated March 28, 1984, wherein Owyhee County applied for R.S.

2477 status for this road, though, under information and belief, the USA did not include a right-of-way grant under R.S. 2477 as to this road on or after April 3, 1984, as the USA did as to other roads subject to this Report and right-of-way file IDI 020724. It is unknown the reason for the omission by the USA in not including this road in right-of-way file IDI 020724, and it is apparent to Owyhee County that the omission was advertent by the USA. (Exhibit 1B, paragraph 534)

- 494.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 8 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j)

Owyhee County Annual Maintenance or Inventory Maps in 1960, 1969, 1975 and 1976.  
(Exhibit 1B, paragraph 535)

**495.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Tokenbamby Unnamed Road 15S6E33 to NV Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width, as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 536)

**496.** (80) Unnamed Road 16S6E5

The Unnamed Road 16S6E5 is more specifically illustrated on the “Final Map” identified as Black Leg Creek (Map #119), which is available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 537, 538)

**497.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 539)

**498.** This Road was subject of an Application for Transportation and Utility Systems and Facilities on Federal Land dated March 28, 1984, wherein Owyhee County applied for R.S. 2477 status for this road, though, under information and belief, the USA did not include a right-of-way grant under R.S. 2477 as to this road on or after April 3, 1984, as the USA did as to other roads subject to this Report and right-of-way file IDI 020724. It is unknown the reason for the omission by the USA in not including this road in right-of-way file IDI

020724, and it is apparent to Owyhee County that the omission was advertent by the USA.  
(Exhibit 1B, paragraph 540)

**499.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road, as illustrated on Map Sheet 8 on such Application; (c) Short Note Transmittal dated April 2, 1984, from Sally Carpenter, Boise District BLM, wherein it was documented the “posting to the MTPs” aka Master Title Plats, the rights-of-way under file I-20724 as “roads constructed under authority of R.S. 2477”; (d) Letter from Oscar Anderson, Owyhee Field Office Manager, BLM, to Owyhee County, wherein BLM acknowledges receipt of Owyhee County Application dated March 29, 1984, and wherein BLM advised Owyhee County that “the official records are being noted to show that the public roads indicated on your maps are now authorized by Right-of-Way I-20724” with a width of 60 feet, i.e., 30 feet on each side of existing centerline; (e) Owyhee County Resolution No. 94-03 dated February 14, 1994; (f) Owyhee County Application of Assertion of Right of Way dated March 28, 1994; (g) Owyhee County Resolution 2011-01 dated January 4, 2011; (h) Owyhee County Resolution 2011-21 dated September 12, 2011; (i) Owyhee County Resolution 2017-21 dated July 3, 2017; (j) Owyhee County Annual Maintenance or Inventory Maps in 1960, 1969, 1975 and 1976.  
(Exhibit 1B, paragraph 541)

**500.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Unnamed Road 16S6E5 Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law

with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width, as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 542)

**501.** Mrs. Huff testified and provided evidence in regard to the following roads within the Fourth Group of Roads which lie within the jurisdiction of the Three Creek Good District as follows.

**502.** (81) Coonskin Road

The Coonskin Road is more specifically illustrated on the “Final Map” identified as Clover Butte N (Map # 140), Coonskin Butte NE (Map #158), Grassy Hills (Map #160), which is available online at Owyhee County’s official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). Exhibit 1B, paragraphs 543, 544)

**503.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 545)

**504.** This Road maintained its status as public right-of-way under Idaho Law and under RS 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road; (c) Three Creek Highway District Annual Maintenance or Inventory Maps in 1975; (d) statements issued by Chet Brackett, specifically that Coonskin Road was “used annually and continually from 1948 through 1976 [and] maintained as needed, certainly more than five times between 1948 and 1976.”; (e) public comments issued by Chet Brackett, specifically that Owyhee County

was responsible for maintenance on Coonskin Road, dated January 23, 2017. (Exhibit 1B, paragraph 546)

**505.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at trial, the Coonskin Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 547)

**506.** (82) 7 Triangle Road

The 7 Triangle Road is more specifically illustrated on the “Final Map” identified as Three Creek (Map #155), which is available online at Owyhee County’s official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 548, 549)

**507.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 550)

**508.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Annual Maintenance or Inventory Maps in 1962, 1964, and 1969. (Exhibit 1B, paragraph 551)

**509.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the 7 Triangle Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights



and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 552)

**510.** (83) Buck Creek Road

The Buck Creek Road is more specifically illustrated on the “Final Map” identified as Dishpan (Map #143), which is available online at Owyhee County’s official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 553, 554)

**511.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 555)

**512.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Three Creek Highway District Annual Maintenance or Inventory Maps in 1960, 1961, 1962, 1964, 1969, 1975 and 1976; (c) statements issued by Chet Brackett, specifically that Buck Creek Road “. . . received maintenance twice a year, [was] graded, drained, had borrow pits [and] were official roads that were turned into the State of Idaho for maintenance reimbursement” dated January 31, 2017; (d) public comments issued by Chet Brackett, specifically that BLM gave maintenance duties for Buck Creek Road to Owyhee County, dated January 23, 2017. (Exhibit 1B, paragraph 556)

**513.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Buck Creek Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the

rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 557)

**514.** (84) Cougar Point Road

The Cougar Point Road is more specifically illustrated on the “Final Map” identified as Murphy Hot Springs (Map #149), which is available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 558, 559)

**515.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 560)

**516.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Chet Brackett Affidavit wherein he stated that Cougar Point Road was “[g]raded and used by Walter Wells to use semi-trucks to haul sheep from his Cougar Point Forest Allotment, dated March 3, 2017; (c) statements issued by Chet Brackett, specifically that Cougar Point Road was “. . . used annually and continually from 1948 through 1976 [and] maintained as needed, certainly more than five times between 1948 and 1976.”; (d) public comments issued by Chet Brackett, specifically that there was a Validation Hearing for Cougar Point Road, dated January 23, 2017; (e) Bert Brackett Affidavit in which he states that Cougar Point Road was maintained at public expense at least between 1948 and 1976 to accommodate various ranches, dated March 8, 2017 at page 1; (f) Three Creek FCO Inst. in which Cougar Point Road was validated as a RS-2477 Right-of-Way. (Exhibit 1B, paragraph 561)

- 517.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Cougar Point Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 562)
- 518.** (85) Dishpan Rim Road
- The Dishpan Rim Road is more specifically illustrated on the “Final Map” identified as Dishpan (Map #143), Murphy Hot Springs (Map #149), Poison Butte (Map #142), which are available online at Owyhee County’s official website:
- <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 563, 564)
- 519.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 565)
- 520.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Chet Brackett Affidavit wherein he stated that Dishpan Rim Road was “[g]raded over two years to maintain travel surface [and] Opal Dunn used to haul water to cattle and horses . . .” dated March 4, 2017; (c) Bert Brackett Affidavit in which he states that Dishpan Rim Road was maintained at public expense at least between 1948 and 1976 to accommodate various ranches, dated March 8, 2017 at page 2; (d) public comments issued by Chet Brackett, specifically that there was a Validation Hearing for

Dishpan Rim Road, dated January 23, 2017; (e) Three Creek FCO Inst. in which Dishpan Rim Road was validated as a RS-2477 Right-of-Way. (Exhibit 1B, paragraph 566)

**521.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Dishpan Rim Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 567)

**522.** (86) Indian Hot Springs Road

The Indian Hot Springs Road is more specifically illustrated on the “Final Map” identified as Clover Butte N (Map #140), Inside Lakes (Map #133), Stiff Tree Draw (Map #132), which are available online at Owyhee County’s official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 568, 569)

**523.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 570)

**524.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Application dated March 29, 1984, wherein Owyhee County claimed R.S. 2477 status as to such road; (c) Chet Brackett Affidavit wherein he stated that Hot Springs Road was “[g]raded over two years to maintain travel surface [and] used to haul water to livestock . . .” dated March 3, 2017; (d) Chet Brackett Statements wherein he states that Indian Hot Springs Road was “. . . used annually

and continually from 1948 through 1976 [and] maintained as needed, certainly more than five times between 1948 and 1976” dated January 31, 2017; (e) Bert Brackett Affidavit in which he states that Hot Springs Road was maintained at public expense at least between 1948 and 1976 to accommodate various ranches, dated March 8, 2017 at page 3; (f) public comments issued by Chet Brackett, specifically that there was a Validation Hearing for Hot Springs Road, dated January 23, 2017; (g) Three Creek FCO Inst. in which Hot Springs Road was validated as a RS-2477 Right-of-Way. (Exhibit 1B, paragraph 571)

**525.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Indian Hot Springs Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 572)

**526.** (87) North Rim Road

The North Rim Road is more specifically illustrated on the “Final Map” identified as Inside Lakes (Map #133), Poison Butte (Map #142), The Arch (Map #134), which are available online at Owyhee County’s official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 573, 574)

**527.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 575)

**528.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as

demonstrated by: (a) continued public use; (b) Chet Brackett Affidavit wherein he stated that North Rim Road was “[g]raded over two years to maintain travel surface for hauling horses” dated March 3, 2017; (c) Chet Brackett Statements wherein he states that Hot Springs Road was “. . . used annually and continually from 1948 through 1976 [and] maintained as needed, certainly more than five times between 1948 and 1976” dated January 31, 2017; (d) Bert Brackett Affidavit in which he states that Hot Springs Road was maintained at public expense at least between 1948 and 1976 to accommodate various ranches, dated March 8, 2017 at page 3; (e) public comments issued by Chet Brackett, specifically that there was a Validation Hearing for Hot Springs Road, dated January 23, 2017; (f) Three Creek FCO Inst. in which Hot Springs Road was validated as a RS-2477 Right-of-Way. (Exhibit 1B, paragraph 576)

**529.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the North Rim Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 577)

**530.** (88) Opal Dunn Road

The Opal Dunn Road is more specifically illustrated on the “Final Map” identified as Mosquito Lake Butte (Map #148), Murphy Hot Springs (Map #149) which are available online at Owyhee County’s official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 578, 579)

- 531.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 580)
- 532.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Chet Brackett Affidavit wherein he stated that Opal Dunn Road was “[u]sed by Opal Dunn to access Opal Dunn well to haul water to livestock . . .” dated March 3, 2017; (c) Three Creek FCO Inst. in which Opal Dunn Road was validated as a RS-2477 Right-of-Way. (Exhibit 1B, paragraph 581)
- 533.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Opal Dunn Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 582)
- 534.** (89) Opal Dunn Well Road
- The Opal Dunn Well Road is more specifically illustrated on the “Final Map” identified as Dishpan (Map #143), Poison Butte (Map #142), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 583, 584)
- 535.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 585)

- 536.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Chet Brackett Affidavit wherein he stated that Opal Dunn Well Road was “[g]raded over two years to maintain travel surface for hauling horses” dated March 3, 2017. (Exhibit 1B, paragraph 586)
- 537.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Opal Dunn Well Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 587)
- 538.** (90) Post Office Road
- The Post Office Road is more specifically illustrated on the “Final Map” identified as Mosquito Lake Butte (Map #148), Poison Butte (Map #142), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 588, 589)
- 539.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 590)
- 540.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Chet Brackett Affidavit wherein he stated that Post Office Road was “[g]raded over two years to maintain travel surface for Brackett family



to haul water to horses and more cattle” dated March 3, 2017; (c) Chet Brackett Statements wherein he states that Post Office Road was “. . . used annually and continually from 1948 through 1976 [and] maintained as needed, certainly more than five times between 1948 and 1976” dated January 31, 2017; (d) Bert Brackett Affidavit in which he states that Post Office Road was maintained at public expense at least between 1948 and 1976 to accommodate various ranches, dated March 8, 2017 at page 2; (e) public comments issued by Chet Brackett, specifically that there was a Validation Hearing for Post Office Road, dated January 23, 2017; (f) Three Creek FCO Inst. in which Post Office Road was validated as a RS-2477 Right-of-Way. (Exhibit 1B, paragraph 591)

**541.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Post Office Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 592)

**542.** (91) Rock Corral Road

The Rock Corral Road is more specifically illustrated on the “Final Map” identified as Clover Butte S. (Map #141), Mosquito Lake Butte (Map #148), Poison Butte (Map #142), The Arch (Map #134), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 593, 594)

**543.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 595)

- 544.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Chet Brackett Affidavit wherein he stated that Rock Corral Road was ““. . . used to haul water from 3 Creek Well for livestock [and] used by Brackett family to haul horses and was graded annually” dated March 3, 2017; (c) Chet Brackett Statements wherein he states that Rock Corral Road was “. . . used annually and continually from 1948 through 1976 [and] maintained as needed, certainly more than five times between 1948 and 1976” dated January 31, 2017; (d) Bert Brackett Affidavit in which he states that Rock Corral Road was maintained at public expense at least between 1948 and 1976 to accommodate various ranches, dated March 8, 2017 at page 2; (e) public comments issued by Chet Brackett, specifically there was a Validation Hearing for Rock Corral Road, dated January 23, 2017; (f) Three Creek FCO Inst. in which Corral Rock Road was validated as a RS-2477 Right-of-Way. (Exhibit 1B, paragraph 596)
- 545.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Corral Rock Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 597)
- 546.** (92) Unnamed Road 16S11E3,10 off Elk Mountain
- The Unnamed Road 16S11E3,10 off Elk Mountain Road is more specifically illustrated on the “Final Map” identified as Three Creek (Map #155), which is available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community->

development/rs2477-project/ (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 598, 599)

- 547.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 600)
- 548.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Three Creek Highway District Annual Maintenance or Inventory Maps in 1958, 1962 and 1964. (Exhibit 1B, paragraph 601)
- 549.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Unnamed Road 16S11E3,10 off Elk Mountain Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 602)
- 550.** (93) Unnamed Road 12S9E23
- The Unnamed Road 12S9E23 is more specifically illustrated on the “Final Map” identified as Juniper Butte (Map #147), Mosquito Lake Butte (Map #148), which are available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 603, 604)

- 551.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 605)
- 552.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Three Creek Highway District Annual Maintenance or Inventory Maps in 1958 and 1969. (Exhibit 1B, paragraph 606)
- 553.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Unnamed Road 12S9E23 -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 607)
- 554.** (94) Wilkins Island Road
- The Wilkins Island Road is more specifically illustrated on the “Final Map” identified as Murphy Hot Springs (Map #149) which is available online at Owyhee County’s official website: <https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 609, 609)
- 555.** This Road was created by public use and periodic maintenance at least after June 14, 1948, but before October 21, 1976, as provided for in Idaho Code § 40-202(3). (Exhibit 1B, paragraph 610)
- 556.** This Road was subject of an Application for Transportation and Utility Systems and Facilities on Federal Land dated March 28, 1984, wherein Owyhee County applied for R.S. 2477 status for this road, though, under information and belief, the USA did not include a

right-of-way grant under R.S. 2477 as to this road on or after April 3, 1984, as the USA did as to other roads subject to this Report and right-of-way file IDI 020724. It is unknown the reason for the omission by the USA in not including this road in right-of-way file IDI 020724, and it is apparent to TCGRD that the omission was advertent by the USA. (Exhibit 1B, paragraph 611)

**557.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Three Creek Highway District Annual Maintenance or Inventory Maps in 1958 and 1959; (c) Chet Brackett Statements wherein he states that Wilkins Island was “. . . used annually and continually from 1948 through 1976 [and] maintained as needed, certainly more than five times between 1948 and 1976” dated January 31, 2017; (d) public comments issued by Chet Brackett, specifically that Wilkins Island Road received some maintenance from Owyhee County, dated January 23, 2017. (Exhibit B, paragraph 612)

**558.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Wilkins Island Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width, as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 613)

**559.** Mrs. Huff testified and provided evidence in regard to the following road within the Fourth Group of Roads which lie within the jurisdiction of the Gem Highway District as follows.

**560.** (95) Old Highway 95 Road

The Old Highway 95 Road is more specifically illustrated on the “Final Map” identified as Jump Creek Canyon (Jump Creek) (Map #17), Opalene Gulch (Opalene) (Map #30), which are available online at Owyhee County’s official website:

<https://owyheecounty.net/departments/community-development/rs2477-project/> (last checked on February 23, 2020 @ 12:43 P.M.). (Exhibit 1B, paragraphs 614, 615)

- 561.** This Road maintained its status as public right-of-way under Idaho Law and under R.S. 2477 between June 14, 1948, and October 21, 1976, and even through the date of this Report, as demonstrated by: (a) continued public use; (b) Owyhee County Resolution No. 94-03 dated February 14, 1994; (c) Owyhee County Resolution 2011-01 dated January 4, 2011; (d) Owyhee County Resolution 2011-21 dated September 12, 2011; (e) Owyhee County Resolution 2017-21 dated July 3, 2017, Owyhee County Annual Maintenance or Inventory Maps in 1969, 1970, 1971 and 1976; (h) B. Holton letter stating “[t]he Old Highway 95 was in use and maintained by the responsible highway district between the years of 1948 and 1976 and should be listed as a Right-of-Way” dated August 12, 2016. (Exhibit 1B, paragraph 616)
- 562.** Wherefore, based upon the foregoing evidence and such other evidence that may be offered and proven at the hearing on February 25, 2020, the Old Highway 95 Road -- as it exists across the lands owned by USA -- is a “public right-of-way” under Idaho State law with all the rights and privileges allowed under Idaho State law and R.S. 2477, within a scope of 50 feet in width as per Idaho Code § 40-2312(2). (Exhibit 1B, paragraph 617)
- 563.** Having completed testimony and presentation of evidence process used and on the Fourth Group of Roads, the Hearing Officer called for questions by Commissioners of The Boards.
- 564.** There were none.

**565.** The Hearing Officer called for questions, additional evidence, or disputes to the exhibits by members of the public present either at the Murphy location or the Three Creek Good Roads District Location.

**566.** There were none.

#### **TESTIMONY AS TO EXHIBITS 2, 3, 4, AND 5**

**567.** In regard to Exhibit 2, an Excel Spread Sheet, Mr. Schroeder and/or Mrs. Huff provided testimony as to the data displayed therein.

**568.** Exhibit 2 displays in spreadsheet form, the various elements of proof detailed in paragraphs 18 through 565 of this document and which were relied upon for proof of the elements required for validation of the various roads.

**569.** In regard to Exhibit 3, Mr. Schroeder and/or Mrs. Huff provided testimony as follows.

**570.** Exhibit 3 contains Bates numbered excerpts from various County documents, including Commission Meeting Minutes, Resolutions, Expenditures by Road Districts and other documents and maps relied upon for proof of the elements required for validation of the various roads.

**571.** In regard to Exhibit 4, Mr. Schroeder and/or Mrs. Huff provided testimony as follows.

**572.** Exhibit 4 contains 103 maps upon which are identified the various roads proposed for validation in this process.

**573.** In regard to Exhibit 5, Mr. Schroeder and/or Mrs. Huff provided testimony as follows.

**574.** Exhibit 5 is the Certificate of Service record for the notice required by Idaho Code for the Joint Notice of Public Hearing for the Validation of Public Rights of Way.

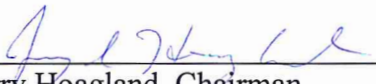
## CONCLUSIONS OF LAW

- 575.** The Boards finds and concludes that it was in the public interest to conduct a joint validation proceeding on the various roads identified in paragraphs 81 through 566 above so as to determine the public right-of-way status of the various roads in a proceeding consistent with Idaho Code.
- 576.** The Boards further finds and concludes that it is in the public interest to determine the various roads identified in paragraphs 81 through 566 have public right-of-way status under Idaho Code, as well as R.S. 2477 right-of-way status under Federal Law, so as to resolve the status of these road, which, left unresolved, are detrimental to the public interest.
- 577.** The Boards find and concludes -- both the basis of the evidence presented as well as on the absence of conflicting testimony of those present at Hearing -- that the various roads identified in paragraphs 81 through 566 are a public right-of-way under Idaho Law, as well as a R.S. 2477 right-of-way under Federal law.



## ORDER

578. Based upon the evidence presented, and on the findings and conclusions stated herein, the Boards order that the various roads identified in paragraphs 81 through 566 are a public right-of-way under Idaho Law, as well as a R.S. 2477 right-of-way under Federal law, and that the scope of such rights-of-way is as noted in paragraphs 81 through 566. See Idaho Code 40-203A(5). The Boards are order to continue to maintain such rights-of-way consistent with Idaho Law.

  
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Jerry Hoagland, Chairman  
Owyhee County Board of Commissioners

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Jeff Percifield, Chairman  
Gem Highway District

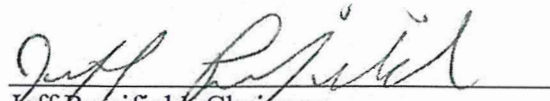
\_\_\_\_\_  
Jake Brackett, Chairman  
Three Creek Good Road District

## ORDER

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Jerry Hoagland, Chairman  
Owyhee County Board of Commissioners



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Jeff Percifield, Chairman  
Gem Highway District

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Jake Brackett, Chairman  
Three Creek Good Road District