

R.S. 2477

The controversial threat that could carve highways and force off-road vehicles into National Parks, Bureau of Land Management lands, National Forests and Wildlife Refuges.

What is R.S. 2477?

A loophole left over from a 140-year-old mining law, R.S. 2477 states: “the right-of-way for the construction of highways over public lands, not reserved for public uses, is hereby granted.” It was repealed in 1976 upon enactment of the Federal Land Policy and Management Act (FLPMA), but already existing rights-of-way were grandfathered into the law.

Over the last 30 years, some Western states, counties, and off-road vehicle groups have alleged that hiking trails, wash bottoms, streambeds, routes, and little-used two-tracks meet the standard for a “constructed highway” under the law. These states, counties, and off-road vehicle groups have tried to get the National Park Service, Bureau of Land Management, and other agencies to acknowledge these claims and surrender management. Some counties believe that they can upgrade these trails and routes to paved highways and/or allow off-road vehicle use on them. In many cases, they have viewed the law not as a shield to protect legitimate transportation needs, but as a sword to undermine effective protection of wildlife habitat, wilderness, and other values of public lands.

What’s at Stake?

Unfortunately, R.S. 2477 highway claims have been asserted in Wilderness, National Monuments, National Parks, military and other federal and tribal lands. Some threatened areas include:

Alaska. The state of Alaska claimed thousands of miles of routes on public lands, including areas within Denali National Park and Preserve, Wrangell-St. Elias National Park, and Katmai National Park, some of the world’s most pristine wildlands.

California. San Bernardino County has alleged more than 2,500 miles of R.S. 2477 claims in the Mojave National Preserve. Inyo County sued to undo wilderness protections in Death Valley National Park using R.S. 2477.

Utah. There are an estimated 15,000 R.S. 2477 claims in Utah, including jeep trails, cow paths, streambeds, and long-abandoned mining tracks. Many are located within Canyonlands, Zion, and Bryce Canyon National Parks, as well as lands proposed for wilderness designation in the “America’s Redrock Wilderness Act.” In Tooele County, the Utah Test and Training Range is awash in claims, potentially jeopardizing military training practices.

Colorado. In Moffat County, more than 300,000 acres of wildlands including Dinosaur National Monument and Browns Park National Wildlife Refuge are threatened by R.S. 2477 highway claims.

The Ongoing Debate

Clear water, abundant wildlife, captivating beauty, scientific importance, historical significance and spiritual value are the reasons cited by Congress to protect public lands over the last century. These resources and values are directly threatened by most R.S. 2477 highway claims that could endanger the public’s ability to enjoy natural treasures without tens of thousands of miles of roads cutting across these stunning places.



Yampa River Canyon: Moffat County (CO) claims 20 miles of this river as a constructed highway under R.S. 2477. Image: Colorado Environmental Coalition

National Parks, Wildlife Refuges, and other public lands have road or trail systems that are supposed to be managed by each respective agency to ensure visitors can travel through these areas with minimal harm to the resources, beauty, and values they wish enjoy. The great majority of R.S. 2477 highway claims are illegitimate assertions meant to undermine federal protected areas, thwart wilderness protection (because the presence of a road generally disqualifies an area for wilderness designation), and serve special interests, such as mining, timber, oil and gas industries, and off-road-vehicle groups.

Controversial Policy

Under a policy signed by former Interior Secretary Gale Norton in 2006, the Bush Administration finalized guidance to make it easier for states or counties to perform landscape-changing highway maintenance and construction on public lands in the name of R.S. 2477. In certain cases, that maintenance and construction could directly conflict with long-standing federal protections and management decisions on Western public lands.

While this policy has been in place since March 2006, it has not yet been utilized or implemented by any land management agency at this time. This policy needs to be repealed and replaced.

A Modern Process for Obtaining a Right-of-Way Across Public Lands

A far more efficient, modern and common-sense process exists for state and county governments to obtain road rights-of-way across public lands. Under Title V of the Federal Land Policy and Management Act and the Federal Aid Highway Act, the Bureau of Land Management has permitted tens of thousands of miles of roads, highways and rights-of-way across public lands throughout the West to meet legitimate transportation needs. Title V provides for full environmental reviews and opportunities for public comment before rights-of-way are granted. As the BLM itself admits:

Currently the vast majority of ROW's granted are authorized by Title V of the Federal Land Management Policy Act (FLPMA) 43 U.S.C. 1761-1771 and the Mineral Leasing Act[.]

There is no need for land management agencies to give away public lands under an obsolete statute, when states, counties, and local governments have a track record of satisfying their legitimate transportation needs via existing statutory authorities.

Our Recommended Solution

We urge Congress to overturn the Bush administration's ill-conceived guidance and to close the R.S. 2477 loophole once and for all.

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