

DEPARTMENT: Bd. of Supervisors BY: Supervisor Balmain PHONE: 966-3222

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes___ No_X_)

Discussion and possible action concerning opposition to regulations regarding rights-of-way across Department of the Interior lands and a request for an additional extension of the comment period.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

On October 21, 1994, the Board of Supervisors received a letter from Brian Bremner, P.E., Garfield County Engineer, and on October 24, 1994, a letter from the California Association of 4-Wheel Drive Clubs, Inc., urging opposition to the proposed regulations concerning rights-of-ways, published by the Department of the Interior in the Federal Register, dated August 1, 1994.

As set forth in the attached letters of request, an extension for comments was granted, extending the comment period to November 15, 1994. Therefore, as outlined in Mr. Bremner's letter, a response should include a request with the United States Department of the Interior for an additional extension of the comment period.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:


- 1) Take action in opposition to proposed regulations concerning rights-of-ways and request an extension for comments with the United States Department of the Interior.
- 2) Take no action at this time.

<p>COSTS: (X) Not Applicable</p> <p>A. Budgeted current FY \$ _____</p> <p>B. Total anticipated costs \$ _____</p> <p>C. Required additional funding \$ _____</p> <p>D. Internal transfers \$ _____</p> <p>SOURCE: () 4/5ths Vote Required</p> <p>A. Unanticipated revenues \$ _____</p> <p>B. Reserve for contingencies \$ _____</p> <p>C. Source description: _____</p> <p>Balance in Reserve for Contingencies, if approved: \$ _____</p>	<p>SPECIAL INSTRUCTIONS: List the attachments and number the pages consecutively:</p> <p>_____</p> <p>_____</p> <p>_____</p>
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<p>CLERK'S USE ONLY:</p> <p>Res. No.: 94-491 Ord. No. _____</p> <p>Vote - Ayes: _____ Noes: _____</p> <p>Absent: _____ Abstained: _____</p> <p>() Approved () Denied</p> <p>(X) Minute Order Attached () No Action Necessary</p> <p>The foregoing instrument is a correct copy of the original on file in this office.</p> <p>Date: _____</p> <p>ATTEST: MARGIE WILLIAMS, Clerk of the Board County of Mariposa, State of California</p> <p>By: _____ Deputy</p>	<p>ADMINISTRATIVE OFFICER'S RECOMMENDATION: This item on agenda as:</p> <p><input checked="" type="checkbox"/> Recommended</p> <p><input type="checkbox"/> Not Recommended</p> <p><input type="checkbox"/> For Policy Determination</p> <p><input type="checkbox"/> Submitted with Comment</p> <p><input type="checkbox"/> Returned for Further Action</p> <p>Comment: _____</p> <p>A.O. Initials: <u> </u></p>
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MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: MIKE EDWARDS, PUBLIC WORKS DIRECTOR
FROM: MARGIE WILLIAMS, CLERK OF THE BOARD 
SUBJECT: REGULATIONS REGARDING RIGHTS-OF-WAY ACROSS
DEPARTMENT OF HTE INTERIOR LANDS

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on November 15, 1994

ACTION AND VOTE:

Discussion and Possible Action Concerning Opposition to Regulations Regarding Rights-Of-Way Across Department of the Interior Lands and a Request for an Additional Extension of the Comment Period (Supervisor Balmain)

BOARD ACTION: Following discussion, (M)Balmain, (S)Taber, Res. 94-491 adopted opposing the regulations and requesting that the comment period be extended/Ayes: Balmain, Erickson, Parker, Taber; Excused: Baggett.

cc: File

Mariposa County Board of Supervisors



District 1..... ARTHUR G. BAGGETT, JR.
District 2..... DOUG BALMAIN
District 3..... ERIC J. ERICKSON
District 4..... GARRY R. PARKER
District 5..... GERTRUDE R. TABER

MIKE COFFIELD
County Administrative Officer

MARGIE WILLIAMS
Clerk of the Board

P.O. Box 784
MARIPOSA, CALIFORNIA 95338
(209) 966-3222
1-800-736-1252

FAX (209) 966-5147

November 15, 1994

U.S. Department of the Interior
Main Interior Building
1849 C Street, N.W., Room 5555
Washington, D.C. 20240

Gentlemen:

Today the Board of Supervisors took an action to oppose the proposed "Revised Statute 2477 Rights-of-Way". This proposed statute contains some requirements that would be difficult if not impossible for a small, rural county like ours to meet. We strongly recommend that this proposed statute not be adopted in its published form.

The proposed statute would require us to prepare maps of sufficient detail to allow location on the ground by a competent engineer. This would, in turn, require a survey of each county road that crosses public lands. This would be a time consuming, costly and onerous task. The time that would be required for this task alone might preclude us from filing a timely claim under the proposed statute.

This is a small rural county. Many of our county roads may not meet the definition of a "highway" under the proposed statute. If a liberal interpretation is used, the rural roads that we have been maintaining for many years may qualify as "highways". If, however, a road must be paved and at least two travel lanes wide to qualify, then many of our county roads will not qualify under the proposed statute.

In conclusion, the Board of Supervisors would like to reiterate our strong objection to the proposed statute. Having limited manpower and funds, it will be nearly impossible for Mariposa County to meet the proposed requirements. The proposed statute could have the effect of closing many of our county roads. This could leave access for many of our county residents to their private property in question. Thank you for this opportunity to comment on this matter.

Sincerely,

Garry R. Parker
Vice Chairman,
Mariposa County Board of Supervisors

cc Dianne Feinstein, U.S. Senate
Arthur G. Baggett Jr., Mariposa County Board of Supervisors





COUNTY of MARIPOSA

4639 Ben Hur Road
Mariposa, CA 95338
(209) 966-5356

DEPARTMENT OF
PUBLIC WORKS
Divisions of:
Design & Construction
Administration
Operations

November 10, 1994

Michael D. Edwards

Director

U.S. Department of the Interior
Main Interior Building
1849 C Street, N.W., Room 5555
Washington, D.C. 20240

Gentlemen:

We have only today received a copy of the proposed "Revised Statute 2477 Rights-of-Way". This proposed statute contains some requirements that would be difficult if not impossible for a small, rural county like ours to meet. We strongly recommend that this proposed statute not be adopted in its published form.

The proposed statute would require us to prepare maps of sufficient detail to allow location on the ground by a competent engineer. This would, in turn, require a survey of each county road that crosses public lands. This would be a time consuming, costly and onerous task. The time that would be required for this task alone might preclude us from filing a timely claim under the proposed statute.

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In conclusion, I would like to reiterate my strong objection to the proposed statute. Having limited manpower and funds, it will be nearly impossible for Mariposa County to meet the proposed requirements. The proposed statute could have the effect of closing many of our county roads. This could leave access for many of our county residents to their private property in question. Thank you for this opportunity to comment on this matter.

Sincerely

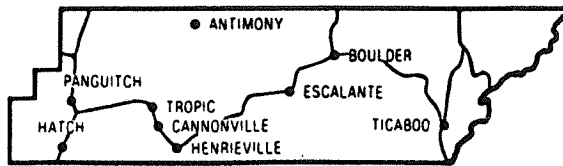
Michael D. Edwards,
Director of Public Works

cc Dianne Feinstein, U.S. Senate
Arthur G. Baggett Jr., Mariposa County Board of Supervisors

cc: PDS/FTI

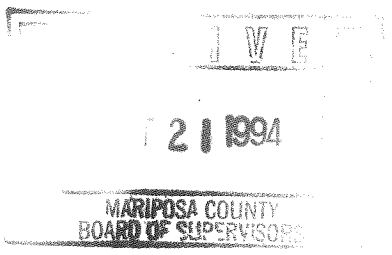
COUNTY COMMISSION
Tom Hatch
Sherrell Ott
Louise Liston
Hazel Rich, Clerk

GARFIELD COUNTY



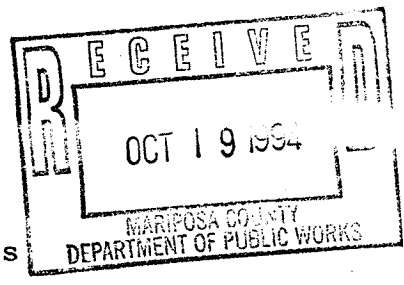
Tom Simkins, Assessor
Wallace A. Lee, Attorney
Mamie D. Hatch, Recorder
Judy Henrie, Treasurer
Than Cooper, Sheriff
John W. Yardley, Justice of the Peace

P.O. BOX 77
PANGUITCH, UTAH 84759
(801) 676-8826



October 11, 1994

Mr. Michael P. Edwards *MP*
Assistant Director, Public Works Dept.
4639 Ben Hur Road
Mariposa, CA 95338



RE: Loss of Rights-of-Way across Public Lands

Dear Mike:

This letter is to inform you that the Department of the Interior has recently published proposed regulations which may revoke County rights-of-way across lands administered by the BLM and National Park Service. The regulations were published in the Federal Register August 1, 1994, with an original comment period of only 60 days. Opponents protested the short comment period, and it has been extended to November 15, 1994. The Interior Department falsely claims these regulations to be housekeeping measures and that they would provide an orderly process for verifying highway rights-of-way claimed by States and local governments.

The truth of the matter is the regulations are so restrictive that few rural Counties in public lands States would be able to meet the demands, and rights-of-way would be threatened. Some specific points of the rule are:

- (1) All rights-of-way across Department of Interior lands would have to be claimed within two years. Failure to do so would constitute relinquishment of the rights-of-way.
- (2) Rights-of-way previously recognized by the Department of Interior will have to be resubmitted for approval and will have to go through the same process as any other road.
- (3) All of the burden for proving the validity of the existing right-of-way is placed upon the local government, and a minimum claim shall contain at least ten "maps in sufficient detail to allow location on the ground by a competent engineer or surveyor." This may be interpreted to mean a center line survey.
- (4) Even if you prove the validity of your right-of-way, actions taken after October 21, 1976, resulting in new disturbance are deemed a trespass.



**CALIFORNIA ASSOCIATION OF 4 WHEEL
DRIVE CLUBS INC.**

cc: Board

October 24, 1994

Dear Board of Supervisors:

The State of California has recently informed you of changes in Federal law. The Department of Interior has released draft regulations which would unilaterally reverse long-standing court-made law, prior regulations, and state-federal relationships governing public access to federally owned lands. This would affect the current RS-2477 regulations that you have been operating under for many years.

These changes will effect right of ways on Federal lands in your county. The potential for loss of county ownership and interests in these lands without compensation to your county is a great concern to your constituents. Federally owned lands constitutes as much of 90% or more in some rural counties, the loss of access rights could have substantial impacts on the day-to-day activities of citizens and vistors. The loss of recreational opportunities is of utmost importance to our organization. With 3.9 million California families involved in OHV activity, the potential loss of revenue for your county could be enormous.

We are asking the county board of supervisors and the county road departments to become involved in this process. The first step in this process is to comment on these proposed regulations to the federal agencies. At this time, the Rural Council of Rural Counties (RCRC) is currently investigating this process. Some counties have already begun to compile a list of right a ways to be submitted. A copy of the proposed regulations (RS-2477) is available from Washington, D.C.

This is a very time sensitive issue; currently all comments must be made by November 15, 1994. Your county may also wish to request an extension of this time frame so more time will be available to further investigate the overall impacts to your specific county. Please send your comments or ask for an extension on the time period of this sensitive issue. Please address your concerns to President Clinton, The White House, 1600 Pennsylvania Avenue, Washington, D.C. 20500 and/or to Department of Interior, Main Building, Room 5555, 1849 C Street, N.W., Washington D.C. 20240.

Thank you for your time and consideration of RS-2477. If we can be of any assistance, please feel free to contact either of us.

Sincerely,

Don Klusman
North Area Field Representative
7903 HWY. 70
Marysville, CA 95901
(916) 749-1433
(916) 749-0940 (fax)

Mike Ahrens
South Area Field Representative
42782 Seal Rock Court
Hemet, CA 92544
(909) 927-4993
(909) 927-4263 (fax)