

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

MARIPOSA COUNTY RESOLUTION NO. 77-88

RESOLUTION ESTABLISHING POLICY
OF BOARD OF SUPERVISORS OF MARIPOSA COUNTY INTERPRETING
SECTION 4.4J(5) (c) OF COUNTY ORDINANCE NO. 429

WHEREAS, Section 4.4J(5) (c) of County Ordinance No. 429
reads as follows:

"a road across federal lands which are open
to the public"

and,

WHEREAS, the Planning Commission has heretofore required
applicants prevailing on Section 4.4J(5) (c) to present or provide
indicia of the right of irrevocable and unrestrictive use of roads
across public lands before said applicants are allowed to prevail
under the provisions of Section 4.4J(5) (c); and

WHEREAS, the Federal Law Policy and Management Act of
1976, effective October 21, 1976, precludes federal entities owning
land within Mariposa County from issuing irrevocable and unrestrictive
public access road easements across federal lands in Mariposa
County unless Mariposa County seeks and invokes federal procedures
pursuant to the Federal Land Policy and Management Act of 1976 de-
claring a road across federal lands an official county road; and

WHEREAS, it is not in the best interest of Mariposa
County to declare such roads as county roads; and

WHEREAS, said ordinance provisions in respect to roads
across federal lands as defined by the provisions in Section
4.4J(5) (c) does not require proof that "public use" be irrevocable
and unrestricted; and

WHEREAS, such proof should not be required;

///

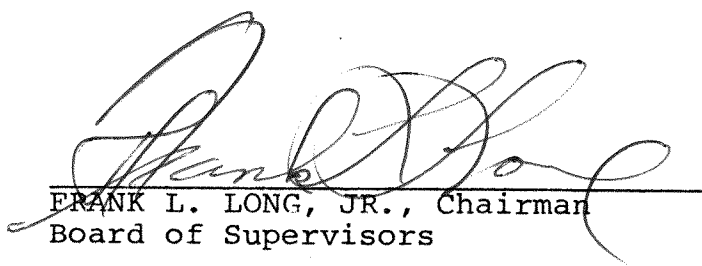
1 NOW, THEREFORE, BE IT RESOLVED by the Board of
2 Supervisors of Mariposa County that the following policy be and is
3 hereby adopted in respect to Section 4.4J(5)(c) of Mariposa County
4 Ordinance No. 429:

5 1. The definition, "a road across federal lands open to
6 the public", shall not be construed as meaning irrevocable or un-
7 restricted use nor shall the applicant seeking to invoke Section
8 4.4J(5)(c) of Ordinance No. 429 be required to prove irrevocable
9 or unrestricted use.


10 2. The provisions of this policy resolution, and any
11 amendments or supplements hereto, shall apply to the provisions of
12 Ordinance No. 429 and any amendment or supplement hereto.

13
14 PASSED AND ADOPTED by the Board of Supervisors of the
15 County of Mariposa on the 14th day of June, 1977, by the follow-
16 ing vote:

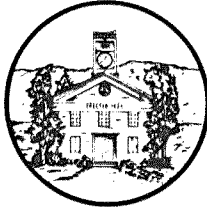
- 17 AYES: Clark, Dalton, Long, Owings
18 NOES: None
19 NOT VOTING: None
20 ABSENT: Walton

21
22 
23 FRANK L. LONG, JR., Chairman
Board of Supervisors

24 ATTEST:

25
26 
27 ELLEN BRONSON, County Clerk and
Ex-Officio Clerk of the Board

28



Rev 77-88

Hayes
1 absent (W)

The County Counsel

Court House
P. O. Box 1155
Mariposa, California 95338

NEIL B. VAN WINKLE
County Counsel

June 14, 1977

(209) 966-3625

The Honorable Board of Supervisors
County of Mariposa - Courthouse
Mariposa, California 95338

RE: Ordinance No. 429 and Its Application to Public Roads
Across Federal Lands

Gentlemen:

This letter and the attached proposed resolution relates to a problem brought before the Board of Supervisors by Supervisor Dalton this morning.

The problem specifically relates to Section 4.4 J, Subparagraph (5), Subparagraph (c) of County Ordinance No. 429. The provision of this particular ordinance section are set out in the attached resolution. The Planning Commission in the past has been seeking to define "roads across federal lands open to public use" and apparently has restrictively required proof that said public road across federal lands is irrevocable and unrestricted. Under the provisions of the Federal Land Policy and Management Act of 1976, effective October 21, 1976, it is impossible to achieve irrevocable and unrestricted use of roads open to the public across federal lands without first invoking federal procedures establishing said road as a county road. It is obvious that we do not want to establish such roads as county roads for many reasons.

I believe we can accommodate land use applicants and respond to the problem raised by Supervisor Dalton by adopting the attached resolution establishing policy to be followed by the Planning Commission in respect to the application of the provisions of Ordinance No. 429 herein referred to.

There is no need to amend the existing ordinance. If the Planning Commission accepts the policy recommendation mandated by the Board of Supervisors, considerable future problems will be precluded.

Very truly yours,

NEIL B. VAN WINKLE
County Counsel

NBW:rb

Enclosure

cc: Pete Artero

Mariposa County Road Commissioner