

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF TELLER COUNTY, COLORADO**

RESOLUTION NO. 05 – 27 – 2004 (30)

**A RESOLUTION ASSERTING RIGHTS-OF-WAY ESTABLISHED OVER PUBLIC
LANDS UNDER R.S. 2477 AS PUBLIC RIGHTS-OF-WAY AND PUBLIC HIGHWAYS.**

WHEREAS, Teller County was established out of El Paso County and Fremont County in 1899 and was developed as a ranching, farming, logging and mining area, with extensive prospecting and exploration for, and production of, valuable minerals, forest products and agricultural products; and

WHEREAS, much of the mountainous area of Teller County became laced with wagon roads and horse trails and footpaths to facilitate such activities. Many of these roads, trails and paths were in general use by the public before and at the time of the establishment of Teller County, and many have been further developed into mining roads, logging roads and access roads, for the removal of minerals, forest products, and other uses; and

WHEREAS, these roads, trails and paths have continued in use by the general public for hunting, fishing, hiking, horseback riding, four wheeling and other recreational uses; and

WHEREAS, the terms “highways,” “ways,” “roads,” or “rights-of-way” in this resolution have the same meaning, and include, but are not limited to, pedestrian trails, hiking trails, foot paths, horse paths, livestock trails, wagon roads, jeep trails, recreational roads, logging roads, homestead roads, mine-to-market roads, alleys, tunnels, bridges, dirt or gravel roads, paved roads, trails, streets, highways and all other ways and their attendant appurtenances and access for maintenance, reconstruction, and construction; and

WHEREAS, the United States Congress, for the purpose of promoting the settlement of the western United States by establishment of highways, granted a right-of-way for the construction of highways over public lands, not reserved for public uses, in Section 8 of the Mining Act of 1866, reenacted and recodified as Revised Statutes 2477 (R.S. 2477), 43 U.S.C. §932 (repealed Oct. 21, 1976); and

WHEREAS, the adoption of such statute constituted dedication of public highways by the United States government and, prior and subsequent to such statute, countless public ways were constructed by public use, and acceptance was accomplished by such public use, including a network of roads, trails and paths now located within and without of the National Forest and Bureau of Land Management lands in Teller County, Colorado; and

WHEREAS, the rights-of-way identified in this resolution were established before the repeal of R.S. 2477 by the Federal Land Policy and Management Act (FLPMA), 43 U.S.C. §§1701- 1784, on October 21, 1976, and are thus preserved in the same Act; and

WHEREAS, the above-mentioned right to enter upon and construct rights-of-way across federal lands unreserved for public uses, which was accepted by grants whenever and wherever rights-of-way were established and were available for public use, remain available to this day as public highways for public use; and

WHEREAS, there now exists in Teller County an extensive network of roads, mining roads, logging roads, recreational roads, trails, horse trails, hiking trails, foot paths, and other public ways, all of which provide public access to, and throughout, the National Forest and Bureau of Land Management lands representing a substantial portion of land within Teller County; and

WHEREAS, the Board of County Commissioners of Teller County, Colorado, considers the existing system of roads, trails and paths as vital to the public welfare and to the flow of commerce within this County, just as the federal and state highway systems are vital to the welfare and commerce of the State of Colorado; and

WHEREAS, public access to routes of travel is essential to Teller County's transportation and public access systems and to the economic and social well-being, and the custom and culture, of the communities and citizens of Teller County; and

WHEREAS, identifying, asserting, and protecting these rights-of-way is necessary to protect Teller County's resources and to promote public health and safety, including but not limited to, search and rescue, fire protection, health and law enforcement, and other emergency services; and

WHEREAS, it is the policy of Teller County to assert that most rights-of-way established pursuant to the grant offered under R.S. 2477 be retained in perpetuity for the use and benefit of the public unless abandoned and vacated in accordance with applicable law; and

WHEREAS, this resolution recognizes rights-of-way established over public lands under R.S. 2477, which were identified when the Board of County Commissioners directed Teller County staff to undertake a detailed inventory of R.S. 2477 highway rights-of-way; and

WHEREAS, The Board of County Commissioners of Teller County has considered and evaluated the comments received and has made changes, when determined to be appropriate; and

WHEREAS, The Board of County Commissioners of Teller County finds that the public hearings and meetings exceed the minimum requirements under Colorado law, and that there is no sound reason to delay the proposed action by The Board of County Commissioners of Teller County; and

WHEREAS, the Teller County Board of County Commissioners hereby finds, determines and declares that adoption of this resolution is necessary for the preservation and protection of the public health, safety and welfare of the inhabitants of Teller County, Colorado.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Teller County, Colorado, that:

1. All public roads and public rights-of-way located within Teller County, Colorado that have not been heretofore formally vacated by the Board of County Commissioners, and which are listed in this resolution, are hereby asserted as public highways. "Public roads" and "public highways" as used herein include, but are not limited to: The highways, ways, roads and rights-of-way established under R.S. 2477 that are listed in this resolution.
2. The assertion of these R.S. 2477 rights-of-way and highways is of the highest priority; however, Teller County reserves the right to assert highway rights-of-way in addition to this existing assertion, should the Board of County Commissioners deem it to be appropriate.

3. Teller County intends to work cooperatively with private landowners to provide acceptable public access while respecting private property interests.
4. Nothing in this resolution shall limit the authority of the Teller County Board of County Commissioners to hereafter modify, vacate, abandon, or expand the R.S. 2477 assertions contained herein.
5. Nothing in this resolution shall be interpreted or argued to imply that this listing is an exhaustive list of all R.S. 2477 rights-of-way and highways in Teller County or any portion thereof, nor that the listed rights-of-way and highways are not public rights-of-way or public highways under one or more other statutes or bases.
6. This resolution is in addition to, and is not intended to duplicate, any and all prior resolutions adopted by the Teller County Board of County Commissioners on this subject matter.

BE IT FURTHER RESOLVED that the Teller County Board of County Commissioners hereby asserts, the following rights-of-way and highways to be public highways and public rights-of-way under and pursuant to R.S. 2477 (43 U.S.C. 932) and 43 U.S.C. 1701:

1. A right-of-way extending for approximately 4.5 miles, also known as Forest Service Road 205 (aka Metberry Gulch Road), beginning at the intersection of County Road 51(Forest Service Road 360), heading Westerly and intersecting with the South Platte River, excepting those portions not within Teller County.
2. A right-of-way extending for approximately 4.6 miles, also known as Forest Service Road 221 (aka Longwater Gulch Road), beginning at the intersection of County Road 51(Forest Service Road 360), heading Westerly and intersecting with the South Platte River, excepting those portions not within Teller County.
3. A right-of-way extending for approximately 1.4 miles, also known as Forest Service Road 220a (aka Hackett Crossover Road), beginning at the intersection of Forest Service Road 220, heading Northerly and Westerly and intersecting with the South Platte River, excepting those portions not within Teller County.
4. A right-of-way extending for approximately 7.4 miles, also known as Forest Service Road 220 (aka Hackett Gulch Road), beginning at the intersection of County Road 51(Forest Service Road 360), heading Westerly and intersecting with the South Platte River then heading Southerly and intersecting with Forest Service Road 202, excepting those portions not within Teller County.
5. A right-of-way extending for approximately 2.10 miles, also known as Forest Service Road 202, 202.1 and 202.2, beginning at the intersection of County Road 51(Forest Service Road 360), heading Westerly and Northerly and intersecting with Forest Service Road 220.
6. A right-of-way extending for approximately 10.5 miles, that begins at Teller County Road 3 (aka Trail Creek Road), heading Westerly along Teller County Road 33 to the intersection with Forest Service Road 360a, heading Westerly along Forest Service Road 360a to the intersection with Teller County Road 51, then heading Northerly along Teller County Road 51 to the Teller/Douglas County Line.

7. A right-of-way extending for approximately 1.1 miles, also known as Forest Service Road 274, beginning at the intersection of Forest Service Road 754, heading Westerly and intersecting with the South Platte River, excepting those portions not within Teller County.
8. A right-of-way extending for approximately 0.9 miles, also known as Teller County Road 32 (aka Trail Creek Road), beginning at the intersection of Teller County Road 3 heading Westerly to private property at a point on the North line of Lot 33, Block 2, Indian Creek Filing No. 1.
9. A right-of-way extending for approximately 1.9 miles, also known as Teller County Road 32 (aka Trail Creek Road), beginning at the Teller/Park County line heading Northeasterly on Teller County Road 32 to its terminus at private property on the North line of the South ½ of Section 14, Township 12 South, Range 71 West of the 6th PM.
10. A right-of-way extending for approximately 0.7 miles, also known as Gold Creek Drive in Indian Creek Subdivision, bounded by Vagabond Creek Drive on either end.
11. A right-of-way extending for approximately 3.7 miles, beginning at the intersection of Teller County Road 31 and Pikes Peak Drive, then heading Northerly along Pikes Peak Drive to Valley View Drive, then heading Northerly along Valley View Drive to Shavano Lake Road, then heading Northerly along Shavano Lake Road to Crestone Circle, then heading to a Northerly extension along Crestone Circle to its terminus, then heading from the beginning of the extension and the intersection with Shavano Circle, then heading Easterly and Southerly along Shavano Circle to Peak View Lane, then heading Southeasterly along Peak View Lane to its terminus.
12. A right-of-way extending for approximately 2.0 miles, also known as Teller County Road 31, beginning at the intersection of U.S. Highway 24 in Florissant, heading Northerly and Westerly and again intersecting with U.S. Highway 24.
13. A right-of-way extending for approximately 3.6 miles, also known as Forest Service Road 367, that begins at Teller County Road 3 (aka Trail Creek Road), heading Northerly and intersecting with Teller County 51 (aka Cedar Mountain Road) at the Teller/Douglas County Line.
14. A right-of-way extending for approximately 2.9 miles, that begins at Teller County Road 3 (aka Trail Creek Road) in Section 2, Township 11 South, Range 70 West of the 6th PM, heading Westerly to the intersection with Forest Service Road 367.1a, then heading Westerly along Forest Service Road 367.1a to the intersection with Turkey Rock Ranch Subdivision, then heading Southwesterly along Turkey Creek Drive to its intersection with Turkey Creek near the middle of Section 9 of said Township and Range.
15. A right-of-way extending for approximately 16.5 miles, also known as Teller County Road 3, that begins at the intersection of Teller County Road 31 heading Northerly to the Teller/Douglas County Line.
16. A right-of-way extending for approximately 0.9 miles, also known as Conestoga Road, beginning at Teller County Road 3, heading Northeasterly to its intersection with the East line of Section 24, Township 12 South, Range 70 West of the 6th PM.
17. A right-of-way extending for approximately 3.2 miles, also known as Arapahoe Creek Trail, Arapahoe Creek Drive and Rabbil Creek Drive, beginning at Teller County Road 3, heading Easterly along Arapahoe Creek Trail to the intersection with Arapahoe Creek Drive, then heading Westerly along

Arapahoe Creek Drive to the intersection with Rabbil Creek Drive, then heading Southerly along Rabbil Creek Drive to its terminus.

18. A right-of-way extending for approximately 0.8 miles, that begins at the intersection of the Teller/Douglas County Line and Forest Service Road 343, heading Southerly to a point on the North line of the Southwest $\frac{1}{4}$ of Section 4, Township 11, South, Range 69 West of the 6th PM.
19. A right-of-way extending for approximately 2.3 miles, also known as Teller County Road 78 (aka Forest Service Road 340), beginning at the Teller Douglas County Line, heading Southeasterly generally along West Creek to private property at the point where Teller County Road 78 heads East.
20. A right-of-way extending for approximately 2.6 miles, also known as Teller County Road 78 (aka Forest Service Road 340), beginning at the intersection of State Highway 67, heading Northwesterly and intersecting with Forest Service Road 357.
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23. A right-of-way extending for approximately 3.8 miles, beginning at the intersection of County Road 511 (aka Ridge Road) and Forest Service Road 375, heading Northerly generally along West Creek to private property at a point on the North line of the South $\frac{1}{2}$ of said Section 14, Township 11 South, Range 70 West of the 6th PM.
24. A right-of-way extending for approximately 3.5 miles, also known as Forest Service Road 359, beginning at Teller County Road 51, heading Northerly along Longs Gulch and ending at private property by the South line of Section 15, Township 12, Range 70 West of the 6th PM.
25. A right-of-way extending for approximately 2.2 miles, also known as Teller County Road 512, beginning at Teller County Road 51 and heading Westerly to the Westerly line of Highland Lakes Subdivision.
26. A right-of-way extending for approximately 1.6 miles, also known as Teller County Roads 5 and 51, that begins at the intersection of Teller County Road 5 (aka North Road) and U.S. Highway 24, heading Northerly to Teller County Road 51, then heading Westerly along Teller County Road 51 to the intersection with Teller County Road 512.
27. A right-of-way extending for approximately 5.2 miles, also known as Teller County Roads 511 and 5, that begins at the intersection of Teller County Road 511 and Teller County Road 51, heading Northeasterly to Teller County Road 5, then heading Northerly along Teller County Road 5 to Forest Service Road 357.
28. A right-of-way extending for approximately .75 miles, also known as Forest Service Road 339, that begins at the intersection of State Highway 67 and Forest Service Road 339, heading Westerly along Forest Service Road 339, heading Southerly and ending at a point intersecting with Rule Creek.
29. A right-of-way extending for approximately 1.6 miles, that begins at the intersection of private property and the North line of the South $\frac{1}{2}$ of Section 3, Township 12 South, Range 69 West of the 6th PM, then heading Northerly, generally along Mule Creek to Forest Service Road 342, then heading Northwesterly

along Forest Service Road 342 and generally along Mule Creek to private property in the Northeast ¼ of Section 34, Township 12 south, Range 69 West of the 6th PM.

30. A right-of-way extending for approximately 3.7 miles, that begins at Ute Lakes, heading Northeasterly along Rule Creek to the intersection of private property on the West line of the Section 34, Township 11 South, Range 69 West of the 6th PM.
31. A right-of-way extending for approximately 1.8 miles, also known as Spring Valley Drive and Lake Drive East, that begins heading Easterly along Spring Valley Drive to Lake Drive East, then heading Northerly along said Lake Drive East to its terminus.
32. A right-of-way extending for approximately 4.0 miles, also known as Teller County Road 79 and Spruce Road, beginning at the intersection with State Highway 67, heading Northeasterly to the Teller/Douglas County Line.
33. A right-of-way extending for approximately 4.7 miles, also known as Hotel Gulch Road (aka Forest Service Road 346), beginning at the intersection with State Highway 67, heading Easterly to Rampart Range Road (Forest Service Road 300), excepting those portions not within Teller County.
34. A right-of-way extending for approximately 1.2 miles, also known as Forest Service Road 336, from State Highway 67 heading Easterly to Private Property.
35. A right-of-way extending for approximately 2.0 miles, partially known as Forest Service Road 300v, beginning at Rampart Range Road (Forest Service Road 300), heading Westerly, and generally along Rupp Gulch to Private Property, excepting those portions not within Teller County.
36. A right-of-way extending for approximately 12.2 miles, also known as Rampart Range Road and partially known as Teller County Road 22, from the intersection of Kelly's Road and Teller County Road 22 (aka Rampart Range Road), then heading Northwesterly along said Teller County Road 22 to Teller/El Paso County Line, then heading Northerly along Rampart Range Road to the Douglas County Line, excepting those portions not within Teller County.
37. A right-of-way extending for approximately 0.9 miles, also known as Kelly's Road, beginning at the intersection of State Highway 67 then headed Easterly to the intersection with Teller County Road 22.
38. A right-of-way extending for approximately 10.4 miles, also known as State Highway 67, from U.S. Highway 24 heading Northerly to the Teller/Douglas County Line.
39. A right-of-way extending for approximately 21.0 miles, also known as U.S. Highway 24, from the El Paso County Line, heading Westerly to the Teller/Park County Line.

THE FOREGOING RESOLUTION WAS ADOPTED AT A REGULAR MEETING OF THE BOARD OF COUNTY COMMISSIONERS OF TELLER COUNTY, COLORADO ON THE 27th DAY OF MAY, 2004 AT CRIPPLE CREEK, COLORADO.

**THE BOARD OF COUNTY COMMISSIONERS,
OF TELLER COUNTY COLORADO**

BY: _____
GERALD BERGEMAN, CHAIRMAN

ATTEST:

COUNTY CLERK