

R.S. 2477 Presentation

What is RS 2477?

RS 2477 was originally a law enacted as section 8 of the Mining Act of 1866 that granted right-of-way for the construction of highways over public lands. The law was passed during an era in which the federal government was promoting the settlement of the western territories and encouraging the development of its natural resources. Before the law was originally passed, a significant amount of homesteading, mining, and construction of roads and other infrastructure had been taking place on federal lands without legal authority.

The 1866 grant was subsequently reenacted and codified, in 1873, into section 2477, Revised Statutes of the United States. The rights-of-way granted by that section has since become known as the "RS 2477 rights-of-way"

The law grants rights-of-way for the construction of highways over unreserved federal lands. **The exact language of the statute reads: "The right-of-way for the construction of highways over public lands, not reserved for public uses, is hereby granted."**

RS 2477 was repealed in 1976 with enactment of Section 5 of the Federal Land Policy and Management Act, commonly referred to as "FLPMA." The purpose of this law was to establish a more comprehensive resource management framework for the Bureau of Land Management. However, FLPMA specifically and clearly stated that all existing 2477 rights-of-way were not affected by the repeal of RS 2477 and remained valid. It contained in its Title 5 a new mechanism for granting rights-of-way from 1976 to the present for determining reasonable access to public lands.

So, while no R.S. 2477 grants were or could be created after 1976, all of those created prior to that time were still valid property rights. In short, prior to 1976, any constructed highways across public lands that were not reserved for public use, were valid grants as public rights-of-way, which remain available for public use to this day.

Establishing RS 2477 Roads

On March 3, 1891, the U.S. Congress approved the Forest Reserve Act which authorized the President of the United States "to set apart and reserve public lands wholly or in part covered with timber or undergrowth whether of commercial value or not, as public reservations."

The land that eventually became the Pike National Forest was among the earliest set aside. Presidential proclamations in February, 1892 had established the Pikes Peak Timberland Reserve, the Plum Creek Timberland Reserve, and the South Platte Forest Reserve. The three were combined in 1905 which created the Pikes Peak Forest Reserve and then was officially renamed the Pike National Forest in 1907.

Although the Pike National Forest was established in 1907 it did not cover all the area that exists within it today. The area within Pike National Forest has changed boundaries many times, sometimes adding area and sometimes giving area to other National Forests.

In establishing an RS 2477 right-of-way, the right-of-way must have been used for public travel on lands not reserved for public uses. Not reserved for public uses refers to federal lands that were subject to sale or disposal to individuals under general land laws. For example; once set aside as a national forest, national park, military reservation or similar facility, the right-of-way would be considered reserved for public uses.

In order to establish RS 2477 rights-of-way in areas where national forests, national parks etc... exist, the right-of-way existence had to predate the public reservation.

In review for possible RS 2477 rights-of-way in Teller County a search for public use reservations and their dates were researched. In the Northern area of Teller County numerous dates of public reservation were found and used in identifying rights-of-way that would meet the criteria for RS 2477 grants.

In the search for identifying RS 2477 rights-of-way many historical maps and information were reviewed. Many Ute Pass historical leads were obtained and the following places were visited to obtain historical information that was vital.

- Ute Pass Historical Society
- Colorado Historical Society
- Cripple Creek Museum
- Pioneers Museum
- Fireman's Museum
- Pikes Peak Library District
- Colorado College Tutt Library
- Bureau of Land Management
- U.S.D.A. Forest Service
- Teller County Clerk and Recorder
- El Paso County Clerk and Recorder
- Teller County Assessors Office
- Denver Antique Maps
- U.S. Geological Survey
- McVan Maps
- Chinook Books

Maps obtained and used in the review are identified below;

- Teller County Highway Map 1899
- USGS Colorado Platte Canyon Sheet 1893 edition Surveyed 1891
- USGS Colorado Pikes Peak Quadrangle 1901 edition Surveyed 1892-93
- Pikes Peak, Plum Creek and South Platte Forest Reserves 1898
- Survey Township No. 11 South, Range No. 69 West of the Sixth Principle Meridian, Colorado 1937
- Survey Township No. 11 South, Range No. 70 West of the Sixth Principal Meridian, Colorado 1936
- Survey Township No. 11 South, Range No. 71 West of the Sixth Principal Meridian, Colorado pre 1898
- Survey Township No. 11 South, Range No. 71 West of the Sixth Principal Meridian, Colorado pre 1918
- Survey Township No. 11 South, Range No. 71 West of the Sixth Principal Meridian, Colorado 1918
- Survey Township No. 12 South, Range No. 68 West of the Sixth Principal Meridian, Colorado 1935

- Survey Township No. 12 South, Range No. 69 West of the Sixth Principal Meridian, Colorado 1877
- Survey Township No. 12 South, Range No. 70 West of the Sixth Principal Meridian, Colorado 1941
- Survey Township No. 12 South, Range No. 71 West of the Sixth Principal Meridian, Colorado 1879
- Survey Township No. 13 South, Range No. 69 West of the Sixth Principal Meridian, Colorado 1940
- Survey Township No. 13 South, Range No. 70 West of the Sixth Principal Meridian, Colorado 1879
- Survey Township No. 13 South, Range No. 71 West of the Sixth Principal Meridian, Colorado 1877
- Pike National Forest Map 1915
- Pike National Forest Map 1919
- Pike National Forest Map 1930
- Pike National Forest Map 1953

Rights-of-way identified as of today meeting RS2477 criteria are shown next.

1. A right-of-way, partially known as Teller County 32 (Trail Creek Road, FS200), from Park County 94 NE to Teller County 3
2. A right-of-way, partially known as Teller County 3 (aka: Trail Creek Road, Wildhorn Road), from HWY 24 N to Teller/Douglas County Line
3. A right-of-way going W from Teller County 51 (FS360) down Beaver Creek connecting to the South Platte River. (aka: Branding Iron, FS 202, 202.1, 202.2)
4. A right-of-way, partially known as Metberry Gulch Road (FS205), going from Teller County 51 (FS360) NW across South Platte River.
5. A right-of-way, partially known as Hackett Gulch Road (FS220), going W from Teller County 51 (FS360) to Platte river then S to FS202.
6. A right-of-way, partially known as Hackett Crossover Road (FS220a), going from FS220 N and W to South Platte River.
7. A right-of-way, partially known as Longwater Gulch Road (FS221), going W from Teller County 51 (FS360) to South Platte River.
8. A right-of-way (FS274 and FS751) going NW to Crystal Creek then W down Crystal Creek to South Platte River.
9. A right-of-way (partially FS300v) going from N State Hwy 67 (Pike Community Campground) going E through Rupp Gulch to Rampart Range Road.
10. A right-of-way, partially known as Teller County 78 (aka: Painted Rocks Road, FS340), going S from Teller/Douglas County line to FS364 (Manchester Creek).
11. A right-of-way, partially known as Teller County 78 (aka: Painted Rocks Road, FS340), going approx. 1 1/2 miles NW from State Hwy 67 then N to Teller/Douglas County line.
12. A right-of-way, partially known as Teller County 79 (FS344/347), from State Highway 24 going NE into Missouri Gulch.
13. A right-of-way, partially known as Hotel Gulch Road (FS346), going from State Hwy 67 E to Rampart Range Road.
14. A right-of-way going N from Teller 5 (North Road) up West Creek to FS364.
15. A right-of-way (Teller 33, 51 and FS360, 360a, 361) going from Teller County 3 W to FS360a, down FS360a to Teller County 51 (Cedar Mountain Road) then N on 51 to Teller/Douglas County Line.
16. **FS357 (Rule Ridge), FS358 and FS364 (Manchester Creek)
Declared RS 2477 in 2001.**

17. A right-of-way (FS367) going N from Teller County 3 (Trail Creek) to Teller County 51 (FS360) at Teller/Douglas County Line.
18. A right-of-way from Teller County 3 (Trail Creek) going W and continuing down Teller County 330 (FS367.1a) to Turkey Creek in middle of Section 9.
19. A right-of-way, partially known as Teller County 5, N from Divide to Teller County 51, then W on Teller County 51 to Teller County 512.
20. A right-of-way, partially known as Teller County 511, from Teller County 51 going N back to Teller County 5 then N on Teller County 5 to FS357.
21. A right-of-way, partially known as Spring Valley Drive, from Teller County 5 E to Lake Drive East, then down Lake Drive East to NE side of lake.
22. A right-of-way just N of Woodland Park Treatment Plant going E from State Hwy 67 to Rule Creek then N to Lions Camp.
23. A right-of-way from Ute Lakes continuing NE down Rule Creek to FS339 then to State Hwy 67.
24. A right-of-way, partially known as County Road 31, from Florissant W to Highway 24.
25. A right-of-way, partially known as Conestoga, from Teller County 3 approximately 1 mile N.
26. A right-of-way, partially known as Kelly's Road in Woodland Park City Limits, From State Highway 67 E to Teller County 22 (Rampart Range Road).
27. A right-of-way, partially known as Teller County 22 (Rampart Range Road), from Kelly's Road N through El Paso and Douglas County.
28. A right-of-way, partially known as Teller County 512, from Teller County 51 through Highland Lakes Subdivision through a right-of-way to NE Florissant loop.
29. A right-of-way from Florissant going NE through Section 1, 31, 32, 29 then W through 29, 30, 25 to Teller County 3.
30. A right-of-way going through Sections 36, 35, 34, 26, 23. Starts in Section 36 going NE into section 23 then S to CR31 through Florissant Heights.
31. A right-of-way from Teller County 51 N up Longs Gulch to Spruce Gulch.
32. **A right-of-way, partially known as State Hwy. 67, from State Hwy 24 in Woodland Park N into Douglas County.**
33. **A right-of-way, partially known as State Hwy. 24, from El Paso County W into Park County.**