

RESOLUTION NO. 2008 - 024

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO DEFINING PUBLIC ROADS WITHIN OURAY
COUNTY, COLORADO**

WHEREAS, Ouray County was created in 1877 and at that time it was largely a mining area with intensive prospecting, extraction and exploration for valuable minerals occurring; and

WHEREAS, much of the mountainous areas of Ouray County became laced with trails, wagon roads and horse and foot paths to facilitate access to the hundreds of mining claims located within what is now Ouray County, as well as to access other mining areas and towns, such as Silverton as well as numerous abandoned historic towns; and

WHEREAS, public access to and from the mining camps and claims was essential in order to allow the mining camps and miners to receive supplies and ship ore to smelters and such early wagon roads, paths and trails later expanded into mining roads, logging roads and public access roads; and

WHEREAS, the vast majority of the roads, trails and paths in Ouray County have been in general use by the public since the establishment of Ouray County; and

WHEREAS, the use of the various roads, trails and paths has expanded over time to include use by the public for access to public lands, and for non-motorized and motorized recreational uses; and

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

WHEREAS, C.R.S. §43-2-201 provides that all of these various “public ways” may be public highways and public highways may include: all roads over private lands dedicated to public uses by due process of law and not vacated by an order of the Board of County Commissioners; all roads over private lands that have been used adversely without interruption or objection for twenty consecutive years, all roads over the public domain, whether agricultural or mineral; and

WHEREAS, C.R.S. §43-1-202 states that: “All roads and highways which are, on May 4, 1921, by law open to public traffic shall be public highways”, and, with the exception of those public highways that are owned and maintained as state or federal highways, all of such public highways within Ouray County are under the jurisdiction of the Board of County Commissioners of Ouray County (“Board”); and

WHEREAS, by act of Congress, passed in 1866, section 2477, Revised Statutes United States, codified at 43 U.S.C. §932, it was provided: “The right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted”, such dedication being an express dedication for a right of way for a road over land belonging to the government, not reserved for public use and the acceptance of such grant while the land was a part of the public domain was effected by public use; and

WHEREAS, this Resolution includes, but is not specifically directed toward those highways and roads that are included in the Ouray County primary or secondary road system; but more specifically, this Resolution is directed toward those wagon roads, mining roads, logging roads, trails and paths that have been used continuously by the public, and, by operation of law, are public roads or highways; and

WHEREAS, the Board considers the existing system of roads, trails and paths as vital to the economic well-being, public welfare and flow of commerce within Ouray County, just as the federal and state highway system is vital to the welfare and commerce of the State of Colorado;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO, AS FOLLOWS:

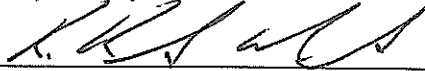
1. All public roads or public highways located within Ouray County, Colorado that have not previously been formally vacated or abandoned by the Board of County Commissioners of Ouray County, Colorado are hereby designated as public highways and are open to the public. "Public roads" and "public highways" as used herein may include: highways, roads, mining roads, logging roads, wagon roads, trails, horse trails, hiking trails and foot paths. Areas that were public roads or public highways, as defined herein, that have been gated or otherwise obstructed, without formal action by the Board, shall remain public roads or public highways, subject to the terms of this Resolution.
2. No public roads or public highways as described herein may be closed to the historic use of public travel for which such public roads or public highways have been utilized except for any permanent or temporary closure effected by the Board by lawful action taken at a public meeting, as may be allowed by state law.
3. The use by the public of public roads or public highways as defined herein shall not be interfered with by the placement of gates, fences or other obstacles or obstructions.
4. Whenever a public road or public highway traverses any private property, signs may be posted at the entrance to the private property as set forth in C.R.S. §18-4-201(3) to indicate that the surrounding property is private property and that such property is not available for public use. No such sign, however, shall purport to limit the right of the public to use such road or to deny access to the public using such road.
5. Ouray County is committed to working with the United States Forest Service, the Bureau of Land Management, other public land management agencies and user groups in the identification and preservation, of all public roads and public highways that access public lands. Public roads or public highways, as defined herein, that cross public lands shall be fully subject to the terms of this Resolution and Ouray County's jurisdiction, notwithstanding the concurrent jurisdiction of a public agency. All roads that cross public lands and that are not public roads or public highways, as defined herein, shall remain under the jurisdiction of the appropriate public agency.
6. Upon a determination by the Board that a public road or public highway is being obstructed, contrary to this Resolution or any other applicable law, and no emergency exists to support the closure or obstruction, the Board may give the owner(s) of record a thirty (30) day written notice, sent by certified mail, return receipt requested, requiring the removal of the obstruction. If the obstruction is not removed within the time period designated by the Board in

the notice, the Board may remove the obstruction at any time and in any lawful manner that it deems appropriate. If the Board determines that an emergency exists, the Board may order the removal of the obstruction without any prior notice to the owner(s) of record.

7. Nothing in this Resolution shall obligate the Board to seek court action to define or delineate public roads or public highways as defined herein. Any such action taken by the Board will be dependent on the issues and facts relative to each public road or public highway and the public benefit that may be served by seeking a court order to declare the rights and interests in a particular road or highway.

APPROVED AND ADOPTED THIS 14th DAY OF APRIL 2008.

Board of County Commissioners of
Ouray County, Colorado



K. Keith Meinert, Chair



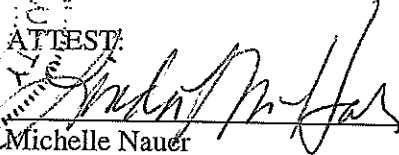
Heidi Albritton



Don Batchelder



ATTEST:


Michelle Nauer

Ouray County Clerk and Recorder

By: Linda Munson-Haley,

Deputy Clerk of the Board