

142011



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
ELKO DISTRICT OFFICE  
3900 E. IDAHO STREET  
P.O. BOX 831  
ELKO, NEVADA 89801



IN REPLY REFER TO:

N-56237  
2800  
(NV-012)

AUG 13 1977

Eureka County  
Director of Public Works  
P.O. Box 257  
Eureka, NV 89316

Dear Mr. Fiorenzi:

The Bureau of Land Management (BLM) has examined the assertion that County road - G233, was accepted by Eureka County pursuant to Section 8 of the Act of July 26, 1866, Revised Statute 2477 (43 U.S.C. 932), Repealed October 21, 1976.

The following items were considered in the examination:

1. The road had to have been constructed and used as a public road before October 21, 1976.
2. The portions of the identified road which cross private lands had to have been considered "public roads".
3. The BLM administered lands had to have been public lands, not reserved for public uses, at the time of acceptance.
4. The road had been maintained by Eureka County.
5. The present use of the road is for public use.

After reviewing the information furnished by your office pertaining to R.S. 2477 public highway status of Eureka County roads, the following was noted:

1. The roads depicted on your "1959 Eureka County, Nevada Designated Main & General Roads Map" were delineated on the 1976 Nevada Map Atlas (published by the Nevada State Highway Department) which had a notation that information on the roads located within Eureka County was provided by Eureka County in 1959. With both maps showing the same roads, it is clear that the roads were in existence before the October 21, 1976 deadline.

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2. It is recognized that most counties in Nevada do not have road easements over private land but use prescriptive rights instead. The fact that the county claims the road over private lands as being "public use roads" and the fact that the claims have not been contested by the private land owners qualifies the road as being "public roads".
3. According to information provided, Eureka County had spent money on the maintenance of roads within the county in 1961 and 1968. The supplied information did not indicate which roads had been maintained but item 1 above shows that the road was in existence in 1959 and it is reasonable to believe that the road in question had been maintained prior to 1976, especially since it served ranches. This meets the criteria that the County had spent monies on construction and/or maintenance of the road in question prior to 1976.
4. Presumably, since the County claims the road, it is open for public use.
5. None of the BLM administered lands traversed by the listed road were reserved for public use.

Accordingly, we have, for administrative purposes only, determined that Eureka County has accepted the Congressional Grant offered in R.S. 2477 over public lands administered by the Elko District Office of the BLM for Eureka County Road G233.

According to information that we have received, all facilities such as road drainage ditches, back and front slopes, turnouts, rest areas, and the like, that facilitate use of the highway by the public are considered part of the public highway grant. Likewise, the width, of the right-of-way is as specified for the type of highway under State law, if any, in force at the time the grant could be accepted. Accordingly, we would appreciate being informed if there was a State Law and references thereto that specified the width when the road was established. In the absence of such a law, we request that reasonable and necessary activities to maintain and operate the road in the manner the public was using the road prior to October 21, 1976 be the guide to any construction and maintenance activities. Any new projects or upgrading planned for public lands outside of the present disturbed areas should be cleared with this office by making application for a Federal Land Policy and Management Act Right-Of-Way. You may make such application to this office.

It should be noted that if the above listed road ceases being a public road through non-maintenance or is abandoned by the County under the Revised Statutes of Nevada, it will cease to be recognized as an R.S. 2477 road. We request that BLM be notified if the road is proposed to be abandoned.

With Eureka County claiming the road, all maintenance will be the responsibility of the County.

Thank you for your cooperation in this matter and if you have any questions, please contact Don Lemons of this office, (702) 753-0322.

Sincerely yours,

*Don Harris*  
for RODNEY HARRIS  
District Manager

Enclosure:  
Land Description

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EUREKA COUNTY ROAD G233  
LEGAL DESCRIPTION FOR RS2477

Township 31 North, Range 49 East  
section 10 S $\frac{1}{2}$ S $\frac{1}{2}$ .

Township 31 North, Range 50 East  
section 10 lots 1, 7, 8;  
section 12 lot 1;  
section 13 E $\frac{1}{2}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
section 14 S $\frac{1}{2}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
section 16 lots 1, 2, 8, E $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
section 18 NE $\frac{1}{4}$ NE $\frac{1}{4}$ .

Township 31 North, Range 51 East  
section 2 SW $\frac{1}{4}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ S $\frac{1}{2}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
section 10 NW $\frac{1}{4}$ SE $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
section 15 W $\frac{1}{2}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
section 16 N $\frac{1}{2}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
section 17 N $\frac{1}{2}$ S $\frac{1}{2}$ ;  
section 18 lots 2, 3, S $\frac{1}{2}$ NE $\frac{1}{4}$ .

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OFFICIAL RECORDS  
RECORDED AT THE REQUEST OF  
*Eureka County*  
'92 AUG 24 A9:18

EUREKA COUNTY, NEVADA  
M.N. REBALEATI, RECORDER  
FILE NO. FEE \$

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