



United States Department of the Interior

143445

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

2800 (NV-012)

IN REPLY REFER TO:



OCT 31 1981

Eureka County
Director of Public Works
P.O. Box 257
Eureka, NV 89316
Dear Mr. Florenzi:

The Bureau of Land Management (BLM) has examined the assertion that county roads - M114, M115 and M117 were accepted by Eureka County pursuant to Section 8 of the Act of July 26, 1866, Revised Statute 2477 (43 U.S.C. 932), Repealed October 21, 1976.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 roads had to have been constructed and used as public roads before October 21, 1976.
 2. The portions of the identified roads 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 roads 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 roads 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 roads 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 roads were in existence in 1959 and it is reasonable to believe that the roads in question had been maintained prior to 1976, especially since they serve ranches. This meets the criteria that the county had spent money on construction and/or maintenance of the roads in question prior to 1976.

4. Presumably, since the county claims the roads, they are open for public use.

5. None of the BLM administered lands traversed by the roads listed 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 the following county roads: M114, M115 and M117.

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 roads were 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 roads prior to October 21, 1976, be the guide to any construction and maintenance activities. Any new projects or upgrading planned for 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.

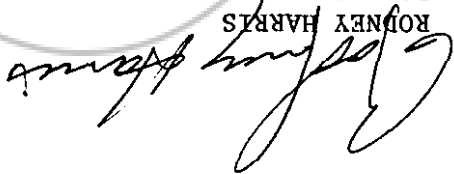
We will be examining the other roads as delineated on your map for compliance to R.S. 2477 requirements and will notify you of our "acceptance" or "finding of nonacceptance" of your claim for each road.

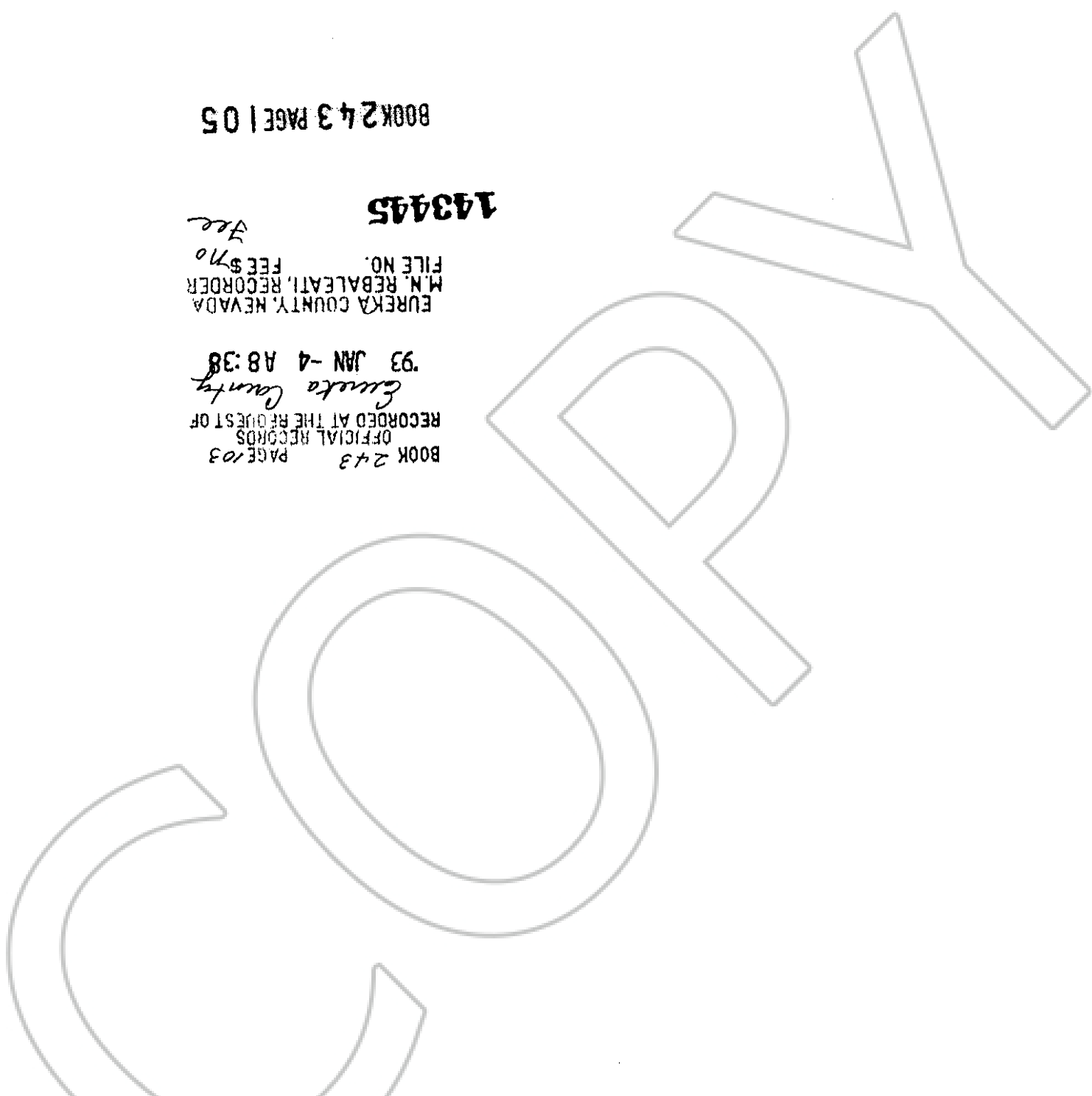
It should be noted that if any of the above listed roads cease being public roads through non-maintenance or are abandoned by the county under the Revised Statutes of Nevada, they will cease to be recognized as R.S. 2477 roads. We request that this office be notified if a road is proposed to be abandoned.

With Eureka County claiming the roads, 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.

Sincerely yours,


RODNEY HARRIS
District Manager



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OFFICIAL RECORDS
RECORDED AT THE REQUEST OF
Eureka County
93 JAN -4 10:38

EUREKA COUNTY, NEVADA
M.M. REBALCATTI, RECORDER
FILE NO. *70*
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