

104TH CONGRESS
1ST SESSION

H. RES. 25

Requesting that the Secretary of the Interior withdraw proposed regulations concerning rights-of-way granted under section 2477 of the Revised Statutes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1995

Mr. ORTON (for himself, Mr. HANSEN, and Mr. YOUNG of Alaska) submitted the following resolution; which was referred to the Committee on Resources

RESOLUTION

Requesting that the Secretary of the Interior withdraw proposed regulations concerning rights-of-way granted under section 2477 of the Revised Statutes.

Whereas in 1866 the Congress established, through section 2477 of the Revised Statutes, a procedure for granting rights-of-way across unreserved public lands to local governments to ensure reasonable access by the public to and across public lands and resources;

Whereas thousands of such valid rights-of-way were conveyed to State and local governments through this mechanism until the statute was repealed by section 706 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2793);

Whereas section 701 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2786; 43 U.S.C. 1701

note) specifically recognized and protected all valid existing rights-of-way granted under section 2477 of the Revised Statutes;

Whereas these rights-of-way are valid property rights held in trust for the public by State and local governments;

Whereas these rights-of-way continue to be critical to ensuring access to and across public lands;

Whereas there is an established body of case law, legislative history, historical precedents, and departmental decisions that does not appear to be reflected in the proposed regulations of the Department of the Interior affecting these rights-of-way;

Whereas the proposed regulations appear to substantially conflict with existing law and congressional intent to such an extent that the established public comment process is inadequate to address the many fundamental problems raised by the proposed regulations; and

Whereas it appears that the proposed regulations seek to exceed the authority granted to the Department of the Interior under the Constitution, through political and legal precedent, and by Executive order: Now, therefore, be it

1 *Resolved*, That the House of Representatives requests

2 that the Secretary of the Interior—

3 (1) withdraw the proposed regulations regard-
4 ing rights-of-way granted under section 2477 of the
5 Revised Statutes; and

6 (2) reissue the proposed regulations for public
7 review and comment only after the proposed regula-
8 tions have been redrafted to adequately reflect and

- 1 comply with all pertinent laws, Executive orders,
- 2 rules, regulations, and historical and legal prece-
- 3 dents.

