

**June 15, 2016**

**HISTORICAL NARRATIVE:**

**Context Document for**

***The Lone Cone Road or the Dolores-Norwood Road, 1875-1905,  
an Historic Ranchers' Route, Montezuma County, Colorado***

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**Locus Dynamics Research**

**Abstract**

The Lone Cone Road, also known as the Dolores-Norwood Road, began as an historic Ute Indian trail corridor and evolved into a public wagon road. By 1950 it had become an unpaved state highway which was abandoned by January 1954.<sup>1</sup> The road is now U.S. Forest Service Road 526 through the San Juan National Forest. Dolores County Commissioners received a public road easement for their section of the road on June 2014,<sup>2</sup> but Montezuma County Commissioners seek full ownership of their approximately 10 miles of the road under Revised Statute 2477.

To validate an RS 2477 claim across U.S. Forest Service lands, historic public access must be proven prior to public land being declared a unit of the national forest system. Removal of public lands from entry under the 1862 Homestead Act and establishment of the Montezuma National Forest was June 13, 1905. This report proves historic public use of the Lone Cone Road and patenting of private lands along its route prior to 1905. Those patented lands were later traded back to the U.S. Forest Service by the New Mexico Lumber Company. Mineral rights including coal, oil, and gas were retained as further proof of previous private ownership and are currently held by private individuals. The historic Dolores-Norwood Road as a public route accessing homestead claims under RS 2477 pre-dates U.S.F.S. ownership.

**Glossary of historic 19<sup>th</sup> century trail terminology:**

**RS 2477**

Congress added Revised Statue 2477, or RS 2477, as part of the 1866 Mining Law which addressed the use of existing roads and authorized access through patents and claims. The 1866 Mining Law came after the 1862 Homestead Act and both laws were “intended to encourage settlement of open lands, expand the nation’s economy, and legitimize the access required for these activities.”<sup>3</sup> No entry, no application, no license, no patent and no deed was required. In 1938 the Department of the Interior ruled that an RS 2477 right-of-way “becomes effective upon the construction or establishment of highways, in accordance with the state laws, over

public lands not reserved for public uses. No application should be filed under the act, as no action on the part of the Federal Government is necessary.”<sup>4</sup> A federal court has noted, “Litigants are driven to the archives for documentation of matters no one had reason to document at the time.”<sup>5</sup> Attorneys Kenneth D. Robinson and Meghan C. Hungate add, “In other words, in the late 1800s and early 1900s, settlers had no reason to document or to make official their use of a particular wagon road or trail to access their homestead.”<sup>6</sup> To prove an RS 2477 claim the attorneys recommend original homestead and mining patents, land entry applications, original surveys, USGS surveys, maps, as well as visits “to local museums and archives for local history about the development of a particular area. Such an adventure is rich with information of a bygone era, which may be as interesting as it is necessary to prove a right to public access over a particular road today.”<sup>7</sup>

Trail: Used or built by prospectors and ranchers often atop older Ute Indian trails. Trails on the Western Slope for cattlemen and sheepmen provided major access for public land grazing in seasonal rotations. Cowboys or shepherders moved stock into high country pastures in summer and to lower elevation basins before the first snows fell.

U.S.F.S. trail: Stockmen and prospector routes and/or county trails often evolved after 1905 into designated and numbered U.S. Forest Service trails providing access across most of the San Juan Mountains. These historic routes, maintained today, are valuable assets for backpackers and tourists.

Wagon road: As need developed and terrain allowed, trails evolved into wagon roads built by mining companies to haul supplies in and ore out or by local ranchers. These roads were designed for heavy use and wide enough for two large freight wagons to meet going in opposite directions or approximately 16 feet wide. Sometimes wagon roads were six to eight feet wide with sixteen foot wide turnouts. Occasionally on steep grades snubbing posts were installed to help brake or slow heavily loaded wagons.

## **I. The 1862 Homestead Act and Lone Cone Road overview**

With the Brunot Cession of 1874 that purchased the tops of the San Juans from the Ute Indians, prospectors rushed into the San Juan Mountains from the south and east. A few hardy prospectors made it into the high mountain basins above Telluride and began to locate claims. Other families moved into southwest Colorado to establish farms and ranches which would help to feed the miners. Prospectors came to the San Juans to file mining claims under the 1872 Mining Law (revised from 1866), but ranchers utilized the 1862 Homestead Act, and subsequent modifications to that law, to “prove up” 160 acre homesteads. Using quarter section

homesteads as private land, ranch families could then graze livestock on thousands of acres of public land provided they had access to water.

All across the West homestead cabins stand forlorn and forgotten. Many have tumbledown roofs, sagging walls, gaping doors. Yet these modest 10 by 12 foot structures represent a revolution in public land policy, an American dream born of Thomas Jefferson's belief that we should become a nation of farmers. The 1862 Homestead Act became a federal law that changed the West forever and provided a new start for urban emigrants, immigrant families, single women, cowboys and cattlemen.

The Homestead Act, passed by Congress during the Civil War, became one of the great private land opportunities in world history. Only a young, brawny nation like the United States would give away free land. Congress realized President Jefferson's dream when they voted to provide 160 acres, a ¼ section, of free land, for anyone willing to live on it for five years, plant crops, and build a cabin 10 by 12 feet to "prove up" their claim. In the American West, 57% of homesteaders made good on their claims for 600,000 patents on 80 million acres of what had been public domain. The lure of free land drew American emigrants in covered wagons. European immigrants crossed oceans and took railroads west. Peasants had no hope of acquiring acreage in countries controlled by kings, but in the United States, land beckoned.

President Abraham Lincoln signed the Homestead Act and this legacy transformed the U.S. as millions of lives were forever impacted by the government's distribution of free land. It was this legal statute, and the subsequent Revised Statute 2477, which guaranteed access to land claims by trail or wagon road, that prompted pioneers to enter La Plata County which would become Montezuma County. When settlers finally got their patent, proving the land was theirs, the document read "THE UNITED STATES OF AMERICA, To all to whom these Present shall

come, Greeting.” For each patent, the President of the United States signed “in testimony whereof.”

A remarkable feature of this uniquely American law was its openness. The law did not require that homesteaders be American citizens, or even that homesteaders be men. Any adult could take up free land in the West and dozens of single mothers tried their hand at homesteading. The Homestead Act was wildly popular and over the decades different versions of the law would be passed such as the Timber Culture Act (1873), the Desert Land Act (1877), The Enlarged Homestead Act of 1909, a stockgrazer’s law where ranchers, primarily sheepmen, could own the surface but the federal government kept the minerals, and even a special homestead law for World War I veterans.

Under the Timber Culture Act, families received 320 acres if they planted  $\frac{1}{4}$  of it in trees. Over 65,000 claimants did so and patented a whopping 10 million acres. Ranchers received twice that acreage or 640 acres for the Desert Land Act once they paid an initial .25 cents an acre, irrigated part of it, and within three years paid \$1 an acre. The Timber and Stone Act (1878) permitted the purchase of 160 acres of forest land for \$2.50.

Of course, fraud flourished. Conniving ranchers who knew they could control thousands of dry acres sent their cowboys to homestead key springs and land along streams, creeks and rivers. Once the homestead became patented or passed into private ownership, the ranchers quickly paid off their cowboys and quietly urged them to move on. Tales are told of homesteaders swearing on the Bible that they had built their 10 by 12 cabin, without admitting that it was only 10 by 12 inches instead of feet. Brothers sought adjoining claims and thus built their cabins to straddle 320 acres instead of in the center of 160 acres.

Between 1862 and 1934 when the Taylor Grazing Act greatly diminished homesteading, millions of acres of public land became private. But not without hardship. Many folks failed although four million land grants averaging 160 acres were made in 30 states.

Most of the homesteads have long since been incorporated into larger farms or ranches. Scattered log cabins of the original homesteaders dot the American West. Sometimes the cabins are gone and the only proof anyone lived there are aged elm or apple trees or heirloom rose bushes. But county records prove land patents.

Along the Lone Cone Road also known as the Dolores-Norwood Road, land titles represent a unique history. Pioneers “proved up land” under the Homestead Act, accessing it under RS 2477, then sold their land prior to 1905 to the New Mexico Lumber Company which would dominate timber cutting in southwest Colorado for decades and build the lumber mill town of McPhee. The McPhee townsite is underwater because of the McPhee Dam on the Dolores River, but the legacy of the New Mexico Lumber Company endures with the Dolores-Norwood Road.

What is now public land along the approximately 10 miles of U.S. Forest Service road in Montezuma County began as scattered homesteads accessed off an Indian trail which became a two-track wagon road.<sup>8</sup> Pioneers patented land under the Homestead Act. The New Mexico Lumber Company purchased those acres for timber cutting, logged them, and then sold or traded the acreage back to the U.S. Forest Service after the Montezuma National Forest was established in 1905.

The New Mexico Lumber Company retained mineral rights under those forest lands and to this day those mineral rights remain in private hands. Only rarely across the West do U.S. Forest Service lands not include all mineral estate.

The Dolores-Norwood Road is a north-south running road in Southwest Colorado that has its current southern terminus in Montezuma County in the town of Dolores and its northern terminus in San Miguel County after crossing through Dolores County. The road begins in the town of Dolores, Colorado and travels on the plateau that separates the upstream southerly flowing Dolores River from its northerly downstream flow as it turns back north at what is known as the “Big Bend.” There was an historic community of Big Bend now under McPhee Reservoir. Big Bend pre-dates the current town of Dolores and took its name from the bend of the river as it traverses back northerly.

State and regional maps dating before 1905 show the north-south Lone Cone or Dolores-Norwood Road leaving from the Big Bend and traversing northerly on the plateau separating the south flow from the north flow. The history of the Dolores-Norwood Road in Montezuma County, also known as the Lone Cone Road because of the dominant mountain to the north, is a unique case study of public land becoming private land, accessed by a public route. Private land then reverted back to public land because of lands swaps in the 1920s with the economically dominant New Mexico Lumber Company.

Thus, the homesteading legacy endures. Though forlorn cabins, roofless against winter winds, stand empty, those simple structures represent success for pioneering families and the one key law that settled the West. In Montezuma County, proof of homestead patents represents proof of public access even though private property has again become part of the public domain.

## **II. The 1891 Forest Reserve Act, creation of the U.S. Forest Service, and road access**

In 1891 Congress passed the Forest Reserve Act giving the President of the United States the executive authority to withdraw from the public domain forested lands from “entry” by homesteaders. The Act was a Progressive Era measure intended to preserve America’s

forests and watersheds. Initially, all grazing was banned. With President Theodore Roosevelt in office TR moved the forest reserves from the Department of the Interior to the Department of Agriculture where Gifford Pinchot established the U.S. National Forests and became Chief of the U.S. Forest Service. He would encourage President Roosevelt to continue to withdraw land from public entry and in 1905 in southwest Colorado TR declared both the San Juan National Forest and the Montezuma National Forest which would later consolidate with the San Juan.

This research focuses on the unique history of an important south-north running trail which evolved by public use into a wagon road, county road, and later a U.S.F.S. road. From the very beginning, where there were Forest Reserves or reservations in the Department of the Interior, before National Forests were created and transferred to the Department of Agriculture, forest laws guaranteed pioneer access.

The Act of June 4, 1897 (30 Stat., 1095) stated, “Nothing herein shall be construed as prohibiting the egress or ingress of actual settlers residing within the boundaries of such reservations, or from crossing the same to and from their property or homes; and such wagon roads and other improvements may be constructed thereon as may be necessary to reach their homes and to utilize their property.”<sup>9</sup>

Rights-of-ways were reiterated in the Act of June 6, 1900 (31 Stat., 614) which added, “Nothing herein contained shall be construed to affect the rights of those who, previous to October 1, 1900, shall have delivered to the United States deeds for lands within forest reservations and make application for specific tracts of lands in lieu thereof.”<sup>10</sup> These laws were so important that they were codified in the appendix of the first *U.S.F.S. Use Book*, published in 1905, and which every forest ranger had to know.

A specific regulation in the *U.S.F.S. Use Book* enumerated country road rights. Though many forest uses required specific permits, Regulation 51 stated, “A county road established

prior to the creation of the reserve may be changed, widened, or repaired by the county authorities without permit if the operations are within the right of way fixed for such roads by the State law.”<sup>11</sup> Clearly, in 1905 the newly created United States Forest Service sought to maintain public right of way access, especially for homesteaders who had filed on their land or patented their land prior to establishment of national forests.

### **III. Ranching History and Public Access on the Lone Cone Road**

Though much attention has been given to the mining history of the San Juans, the ranching history in Montezuma, San Miguel, and Dolores Counties is equally important. Ranchers came into the area before the establishment of Montezuma County in 1889.

Hardworking pioneer families, some fleeing the Confederate states after the ravages of the Civil War, arrived in the far southwest corner of Colorado to make a new start. Abundant grass and “open country” made for a stockman’s paradise for families willing to live on the edge of the American frontier and to be far from supplies, schools, churches, and medical assistance. Everyone rode horseback. Ranchers used buckboard wagons to bring in the flour, bacon, salt, sugar, coffee, and hunting ammunition needed for a long winter.

Trails, routes, and early wagon roads were absolutely essential to knit together far flung homesteads and to provide broad access as cattle and later sheep herds moved across the public range or were shipped to market once the Rio Grande Southern Railroad established shipping yards at Placerville in 1892.

The Lone Cone Road represents a vital south-north corridor connecting the Montezuma Valley to the south with the Disappointment Creek Valley to the west and the Norwood and Grand Junction areas to the north. Pioneers needed an open, relatively flat route to push their herds north to avoid the rocky ridges and tight canyons along the Dolores River and the towns

that would become Rico, Ophir, and Telluride. Cattlemen wanted to skirt the mountains so they utilized the Lone Cone Road when it was a trail before the establishment of Montezuma County in 1889 or the town of Dolores in 1892.

The Lone Cone Road, later known as the Dolores-Norwood Road, may be one of the oldest public routes in southwest Colorado. It shows up on the very earliest maps and it became a vital link connecting Montezuma, Dolores, and San Miguel Counties.

#### **IV. A Ute Indian Trail used by the 1875 F.V. Hayden Survey**

Historians not only have to find facts and data related to the past, they also have to interpret their findings so that people living in the present can understand a previous century. Transportation routes are a case in point. Whereas modern visitors use wide-shouldered asphalt highways, pioneers took wagons over trails and made their own roads. Finding the earliest maps of Colorado reveal Ute Indian trail systems that often evolved into public roads. The Lone Cone Road, just to the east of Lone Mesa and on the western shoulder of Lone Cone is a classic example.

The 1875 Hayden Survey drew the trail for their “Map of the Region Occupied by the Ancient ruins in Southern Colorado, Utah, & Northern New Mexico and Arizona,” which was published with the 1877 Hayden Atlas.<sup>12</sup> This is probably the first map which shows the Ute Indian Trail which will become the Lone Cone Road used by ranching families for decades. It also shows valuable cliff dwellings which are now part of the Anasazi Heritage Center and Canyons of the Ancients National Monument.

The Lone Cone Road represents a linear corridor moving south to north in a northwest direction. Traveled for over a century, the exact alignment varied from time to time, but it is continually reflected on Colorado maps from 1875 to 1905.<sup>13</sup> See Appendix A.

By 1881 “Nell’s New Topographical & Township Map of the State of Colorado Compiled from U.S. Government Surveys & Other Authentic Sources” shows the Big Bend of the Dolores River and the Indian trail/Lone Cone route headed north on the east side of Lone Mesa. Rico, Parrott, Mancos, and Fort Lewis are seen on the map but Cortez and Montezuma County do not yet exist. South of the Big Bend of the Dolores, and south of what is now U.S. Highway 160, the trail is identified as a “wagon trail” so the Lone Cone route could have been publicly used by wagons as early as 1881.<sup>14</sup>

By 1877 William M. May and his brothers George and Richard had brought cattle into the country. The next year Billy Hudson and other cattlemen ran stock from the Dolores Valley all the way west to the Blue Mountains in Utah. In 1879 the L.C. herd of 5,000 cattle came into the country with Henry Goodman as foreman. The Carlisle Cattle Company stretched from the Beaver Creek area off the Lone Cone Road all the way west to Monticello, Utah and it represented thousands of cattle and dozens of cowboys including a novice from Cortez who would later earn the nickname the Sundance Kid.

Between horses and cattle the ranges and small parks were “pretty well stocked” by the early 1880s. Everyone used the Lone Cone Road with some cattle being pushed southeast to be sold at Fort Lewis to feed soldiers at the fort. Conflicts increased over crowded grazing ranges. Cowboys threatened each other and tension also escalated between cattle “outfits” and native inhabitants who had used the same route for generations.

In the first week of June 1885, just a half mile west off the Lone Cone Road and two miles north of what would become the Montezuma County line, cowboys rode hard into a Ute Indian encampment on Beaver Creek later claiming the Native Americans had been stealing and butchering beef. With pistols blazing they killed ten or twelve Ute Indians who were camped on their historic summer hunting grounds. An Indian man, woman, and young girl escaped with her

baby. But to keep the child quiet in the ensuing melee and pursuit, she covered the baby's mouth and accidentally smothered it. The three made it back towards the reservation and enraged Utes then burned cabins and killed a settler named Genther while wounding his wife in the shoulder.<sup>15</sup>

Both cowboys and Indians had been using the historic Lone Cone Road. Early ranching in the area is explained by Telluride native David Lavender in his book *One Man's West* (1943). Additional details come from Ira S. Freeman, *A History of Montezuma County, Colorado: Land of Promise and Fulfillment* (1956) and Wilma Crisp Bankston's *Where Eagles Winter: History and Legend of the Disappointment Country* (3<sup>rd</sup> edition, 2012).<sup>16</sup>

Cattle grazing and lumbering were compatible. Prior to the 1905 establishment of the Montezuma National Forest and massive timber cutting by the New Mexico Lumber Company, local sawyers and sawmills met local needs. The Rust Lumber Company, the Dolores Lumber Company, and the Montezuma Lumber Company all cut timber north of the town of Dolores and utilized the Dolores-Norwood Road. Acquisition of private homesteaded 160 acre sections by the New Mexico Lumber Company confirms original RS 2477 access. Homesteaders used the original Lone Cone Road to "prove up" their claims over a five year period as required by law.

New Mexico Lumber bought those claims and later traded them back to the USFS for access to timber on other national forests. This has been confusing because some local citizens and some USFS employees have assumed that acreage adjacent to FS 526 on the current San Juan National Forest has always been public land. For a complete, detailed analysis and chain of title for land patents prior to 1905 on the Dolores-Norwood Road, including current owners of mineral rights on private lands, now within the forest boundaries, see Appendix B.

## **V. Post-1905 history of the Dolores-Norwood Road in Montezuma County**

Declaration of the Montezuma National Forest in 1905 did not change adjacent land use patterns or use of the historic Lone Cone Road. Pioneer cattlemen continued to use the road coming into the railroad town of Dolores to purchase winter supplies and to ship cattle either from stockyards at Dolores, where Lost Canyon comes down to meet the Dolores River, or farther north at Placerville. Ranchers shipping cattle from Dolores on the Rio Grande Southern rode with their livestock on narrow gauge rails to Alamosa and then on standard gauge train tracks to either Denver or Kansas City, wherever they thought the beef market was stronger.

By the spring of 1912 all the USFS grazing allotments had been applied for.<sup>17</sup> Heavy use of the Dolores-Norwood Road, also called the Dolores-Disappointment Road, resulted in an attempt to create a “public highway” from the route with four map sheets drawn up and submitted to the Montezuma Board of County Commissioners on December 2, 1912. They were accepted by the chair of the board on January 13, 1913.<sup>18</sup>

The Dolores-Norwood Road appears on both the 1927 and 1936 Montezuma National Forest maps.<sup>19</sup> By 1939 stock wintered on nearby ranches and grazed the forest in the summer with 20,000 cattle and 66,000 sheep on the forest owned by 285 stockmen.<sup>20</sup> In the 1940s, ranchers utilizing grass near Beaver Creek included Troy King, Warren Pyle, Eldon Zwicker, James McCabe, Jack & Glenn Majors, and Billy Johnson. Through the 1960s 15-17 cattle outfits ran between 2,500-3,000 head of livestock along the Dolores-Norwood Road and in adjacent parks.

The Beaver Creek Round-Up on nearby bunch ground took five-seven days in early July. This pioneer tradition, begun in the days when cattle moved north and south on the Dolores-Norwood Road, continued until 1966 as one of the last large roundups on national forest land in the West.

In 1905 Theodore Roosevelt, through his Chief Forester Gifford Pinchot, instituted grazing fees on public land. This controversial act established federal regulations on public lands across the West and required administration by Forest Rangers who lived in ranger stations on national forests. North of Beaver Creek the Willow Springs Ranger Station just over the line in Dolores County, served that purpose. Today historic structures are gone from the ranger site.

Lumbering played a key role in the economy of Montezuma County with the Montezuma National Forest having 2.72 billion board feet of lumber including 57% Engelmann spruce, 23% ponderosa pine and 19% mixed alpine and corkbark fir. Between 1934-1939 the sawmill at the company town of McPhee for the New Mexico Lumber Company cut 12 million board feet annually and processed 80,000 board feet daily. A 1939 Montezuma Forest Map noted, "In previous years it has sawed considerable timber cut from privately-owned land, but is now dependent largely upon land from the forest." <sup>21</sup>

Historic sites off the Dolores-Norwood Road include Horse Camp from 1924-1925 which featured horses to skid logs, steam locomotives, railroad spurs, tents, houses, mess halls, barns, and blacksmith shops. It was the first of a dozen movable logging camps utilized by the New Mexico Lumber Company to saw timber between 1924-1990 with Navajo and Hispanic sawyers and 60 miles of narrow gauge spur railroad lines across the Dolores Plateau.

**VI. Conclusion: The Lone Cone Road or the Dolores-Norwood Road represents public access prior to establishment of the Montezuma National Forest on June 13, 1905**

This report has demonstrated that from the earliest maps of Colorado's Western Slope in 1877 and 1881, through pioneer accounts and homestead patents, the Dolores-Norwood Road epitomizes RS 2477 access as practiced and understood by early Montezuma County settlers and ranchers. Careful analysis of land patents and chains of title prove that private land,

accessed in accordance with RS 2477 and later purchased by the New Mexico Lumber Company, reverted back to public land or U.S. Forest Service status because of land exchanges.

The approximately 10 miles of the Dolores-Norwood Road in Montezuma County on current USFS Road 526 was an historic public access route and an important south-north corridor in southwest Colorado.

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**Appendix A: Historic maps illustrating the Dolores Norwood Road include:**

- 1) 1877. *William's Tourist Map of Colorado and the San Juan Mines.*<sup>22</sup>
- 2) 1880. *Nell's 1880.*<sup>23</sup>
- 3) 1881. *Historical Map of Colorado. W.H. Kistler Stationary Company.*<sup>24</sup>
- 4) 1881. *Nell's Colorado 1881.*<sup>25</sup>
- 5) 1882. *Nell's Colorado 1882.*<sup>26</sup>
- 6) 1882. *New Map of Colorado. Alex Silversparre.*<sup>27</sup>
- 7) 1882. *GLO Cadastral, Township 39 North, Range 14 West.*<sup>28</sup>
- 8) 1882. *GLO Cadastral, Township 38 North, Range 15 West.*<sup>29</sup>
- 9) 1883. *Nell's Colorado 1883.*<sup>30</sup>
- 10) 1884. *Nell's Colorado 1884.*<sup>31</sup>
- 11) 1885. *Nell's Colorado 1885.*<sup>32</sup>
- 12) 1887. *Nell's Colorado 1887.*<sup>33</sup>
- 13) 1889. *Nell's Colorado 1889.*<sup>34</sup>
- 14) 1892. *Nell's Colorado 1892.*<sup>35</sup>
- 15) 1895. *Nell's Colorado 1895.*<sup>36</sup>
- 16) 1896. *Nell's Colorado 1896.*<sup>37</sup>
- 17) 1905. *Nell's Colorado 1905.*<sup>38</sup>

**Appendix B: Historic and Current Property & Mineral Ownership on the Dolores-Norwood Road in Montezuma County**

The Dolores-Norwood Road begins from the town of Dolores as “Montezuma County Road 31”, and after a couple of miles it crosses into the San Juan National Forest and turns into Forest Service Road 526 where it remains designated as Forest Service Road 526 through the rest of Montezuma County. It travels through Montezuma County as Forest Service Road 526 through the following sections (south to north):

**Sections 35, 36, 25, 26, 23, 24, 13, 12, 1:**

**Township 38 North, Range 15 West**  
**Sections 36: Township 39 North, Range 15 West**  
**Sections 31, 32, 29, 28, 21: Township 39 North, Range 14 West**

There were many homestead patents located within the sections that the road crosses (and also many on neighboring sections), and most were patented before this land was transferred to the United States Forest Service in June 1905. All of the original patents located within the sections that the Road crosses have had the surface rights transferred to the United States Forest Service, but ALL of the original homestead patents located within the sections that the road crosses have severed their mineral rights. To this day<sup>39</sup>, all of the original homesteads located in the sections that the road crosses still have their mineral rights held in private hands (not by the United States Forest Service).

Below is a summary of the chain of title for the original homesteads located in the sections that the Road crosses that shows (A) original patentee, date, and location; (B) the transfer of the surface rights to the United States Forest Service (while being severed and retaining the mineral rights); and (C) the current owners of the mineral rights of the original homestead patents:

**Township 38 North, Range 15 West Section 25**

**(A) Patentee:** John Wilson<sup>40</sup>      **Date:** 19 May 1903      **Location:** NW4

**(B) Grantor:** Vance McCabe<sup>41</sup>      **Grantee:** United States Forest Service

**Date:** 30 June 1966

**Notes:** “Reservation to the Grantor, and his assigns, of all coal, oil, gas and minerals not outstanding of record in third parties together with the usual mining rights, including the right to enter upon lands and use such parts of the surface as may be necessary in prospecting for, mining, and removing said minerals, subject to the regulations of the Secretary of the Agriculture set forth.”

**(C) Current Owner:** Sheila M. Rogers<sup>42</sup>      **Date of Deed:** 28 Jun 2008

**Township 38 North, Range 15 West Section 23**

**(A) Patentee:** Taylor May<sup>43</sup>      **Date:** 14 April 1903      **Location:** NW4NW4

**(B) Grantor:** The New Mexico Lumber Co.<sup>44</sup>      **Grantee:** United States Forest Service

**Date:** 29 September 1927

**Notes:** “But reserving to the party of the first part, its successors and assigns, and excepting here from all minerals, including coal, oil and gas, contained in the lands here in before described, with the right to enjoy said mineral reservations, subject, however, to such reasonable conditions respecting ingress to and egress from said lands and the use of the surface



**Township 39 North, Range 14 West Section 21**

**(A) Patentee:** Thomas Akin<sup>58</sup> **Date:** 5 May 1905 **Location:** SW4

**(B) Grantor:** The New Mexico Lumber Co.<sup>59</sup> **Grantee:** United States Forest Service

**Date:** 31 October 1928

**Notes:** “But reserving to the party of the first part, its successors and assigns, and excepting here from all minerals, including coal, oil and gas, contained in the lands here in before described, with the right to enjoy said mineral reservations, subject, however, to such reasonable conditions respecting ingress to and egress from said lands and the use of the surface of said lands as may be deemed necessary by the Secretary of the Agriculture as provided in said Act of February 28, 1925.”

**(C) Current Owner(s):** Richard McClellan<sup>60</sup> **Date of Deed:** 17 Nov 2010  
Kelly McClellan<sup>61</sup> 17 Nov 2010

**Township 39 North, Range 14 West Section 21**

**(A) Patentee:** W.H. Brumley<sup>62</sup> **Date:** 30 Jun 1905 **Location:** NW4

**(B) Grantor:** The New Mexico Lumber Co.<sup>63</sup> **Grantee:** United States Forest Service

**Date:** 31 October 1928

**Notes:** “But reserving to the party of the first part, its successors and assigns, and excepting here from all minerals, including coal, oil and gas, contained in the lands here in before described, with the right to enjoy said mineral reservations, subject, however, to such reasonable conditions respecting ingress to and egress from said lands and the use of the surface of said lands as may be deemed necessary by the Secretary of the Agriculture as provided in said Act of February 28, 1925.”

**(C) Current Owner(s):** Richard McClellan<sup>64</sup> **Date of Deed:** 17 Nov 2010  
Kelly McClellan<sup>65</sup> 17 Nov 2010

**Township 39 North, Range 14 West Section 21**

**(A) Patentee:** Josephine Bookhamer<sup>66</sup> **Date:** 5 May 1905 **Location:** NE4

**(C) Current Owner(s):** Richard McClellan<sup>67</sup> **Date of Deed:** 17 Nov 2010

Kelly McClellan<sup>68</sup> 17 Nov 2010

**Appendix C: Research & research locations utilized in this report**

Bureau of Land Management, State Office, Lakewood, Colorado.

Center of Southwest Studies, Fort Lewis College, Durango, Colorado.

Colorado Historic Newspaper Collection

Denver Public Library Western History Collection, Denver, Colorado.

Dolores Public Library, Local History Collection, Dolores, Colorado.

La Plata County Clerk, Durango, Colorado.

Plat Map Books

Board of County Commissioner Minutes  
Montezuma County, Cortez, Colorado  
Montezuma County Assessor  
Mineral Ownership Records  
Montezuma County Clerk, Cortez, Colorado  
Plat Map Books  
Board of County Commissioner Minutes  
Road Records  
Grantor/Grantee Books  
Montezuma County Treasurer  
San Juan National Forest Public Lands Center, Durango, Colorado

## **Endnotes for the Historical Narrative**

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<sup>1</sup> Emails March 2007 from John Willis, Region 5 Survey Coordinator, Colorado Department of Transportation and Nancy Shanks, CDOT Public Relations, Regions 3 and 5, to Rick Peddicord.

<sup>2</sup> U.S. Department of Agriculture Forest Service Public Road Easement, National Forest Road and Trails Act of October 13, 1964, easement accepted by the Board of County Commissioners, Dolores County, and by the Regional Forester, Rocky Mountain Region, acknowledged June 6, 2014.

<sup>3</sup> Kenneth D. Robinson and Meghan C. Hungate of Robinson Hungate, P.C. Boulder, Colorado, “Historic Public Roads—What are they? Who owns them? Who can use them? A brief Synopsis of a law known as R.S. 2477.” Unpublished manuscript in the author’s possession.

<sup>4</sup> Cited in Robinson and Hungate.

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> One small section of the original wagon road remains headed in a northwest direction close to the Montezuma County/Dolores County line. An improvement to the original road, probably when it was a state highway, is just to the east.

<sup>9</sup> *U.S. Forest Service Use Book, 1905*, Appendix—Creation and Administration of Forest Reserves.

<sup>10</sup> Ibid.

<sup>11</sup> *USFS Use Book, 1905*, p. 54.

<sup>12</sup> See “Map of the Region Occupied by the Ancient ruins in Southern Colorado, Utah & Northern Arizona also showing the Location of Most of the Modern Pueblos,” from F. V. Hayden, *Geological and Geographical Atlas of Colorado and portions of Adjacent Territory*, (Washington, D.C.: United States Geological and Geographical Surveys, 1877). The latest book on the subject is Robert S. McPherson and Susan Rhoades Neel, *Mapping the Four Corners: Narrating the Hayden Survey of 1875* (Norman: University of Oklahoma Press, 2016).

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<sup>13</sup> Historic maps which show the Lone Cone road route include maps from the Western History Collections of the Denver Public Library, the Bureau of Land Management State Office in Lakewood, Colorado, and the Center of Southwest Studies at Fort Lewis College, Durango, Colorado.

<sup>14</sup> “Nell’s New Topographical & Township Map of the State of Colorado Compiled from U.S. Government Surveys & Other Authentic Sources,” Washington, D.C., 1881.

<sup>15</sup> Standard references for the Beaver Creek Massacre are found in *Great Sage Plain to Timberline: “Our Pioneer History,”* four volumes, Montezuma County Historical Society, 5<sup>th</sup> printing, February 2013. Stories about the massacre are in volumes I and II. Some sources believe as many as 20-25 Utes were killed that day.

<sup>16</sup> David Lavender, *One Man’s West* (Lincoln: University of Nebraska Press, 1977); Ira s. freeman, *A History of Montezuma County, Colorado: Land of Promise and Fulfillment* (privately printed, 1956); and Wilma Crisp Bankston, *Where Eagles Winter: History and Legend of the Disappointment Country* (privately printed, 3<sup>rd</sup> edition, 2012).

<sup>17</sup> Ira S. Freeman, *A History of Montezuma County: Land of Promise and Fulfillment* (privately printed, 1956) 310.

<sup>18</sup> “Map of a Proposed Highway” for the Montezuma County Board of County Commissioners, four sheets, submitted December 2, 1912 and accepted January 13, 1913.

<sup>19</sup> Maps of the Montezuma National Forest Colorado, 1927 and 1936.

<sup>20</sup> Map of the Montezuma National Forest Colorado, 1939.

<sup>21</sup> Ibid.

<sup>22</sup> Denver Public Library Western History Collection. CG 4310 1877.W5 1976.

<sup>23</sup> Denver Public Library Western History Collection. CG 4310 1880.N4.

<sup>24</sup> Denver Public Library Western History Collection. CG 4310 1881.N4 1958.

<sup>25</sup> Denver Public Library Western History Collection. CG 4310 1881.N4.

<sup>26</sup> Denver Public Library Western History Collection. CG 4310 1882.N4.

<sup>27</sup> Denver Public Library Western History Collection. CG 4310 1882.55.

<sup>28</sup> Bureau of Land Management, State Office. Lakewood, Colorado.

<sup>29</sup> Bureau of Land Management, State Office. Lakewood, Colorado.

<sup>30</sup> Denver Public Library Western History Collection. CG 4310 1883.N4.

<sup>31</sup> Denver Public Library Western History Collection. CG 4310 1884.N4.

<sup>32</sup> Denver Public Library Western History Collection. CG 4310 1885.N4.

<sup>33</sup> Denver Public Library Western History Collection. CG 4310 1887.N4.

<sup>34</sup> Denver Public Library Western History Collection. CG 4310 1889.N4.

<sup>35</sup> Denver Public Library Western History Collection. CG 4310 1892.N4.

<sup>36</sup> Denver Public Library Western History Collection. CG 4310 1895.N4.

- <sup>37</sup> Denver Public Library Western History Collection. CG 4310 1896.N4.
- <sup>38</sup> Denver Public Library Western History Collection. CG 4310 1905.N4.
- <sup>39</sup> Montezuma County Assessor. Mineral Ownership Cards.
- <sup>40</sup> General Land Office. Bureau of Land Management. T38N, R15W Section 25.
- <sup>41</sup> Montezuma County Clerk. Reception Number 250038.
- <sup>42</sup> Montezuma County Clerk. Reception Number 557415.
- <sup>43</sup> General Land Office. Bureau of Land Management. T38N, R15W Section 23.
- <sup>44</sup> Montezuma County Clerk Reception Number 57059.
- <sup>45</sup> Montezuma County Clerk Reception Number 573933.
- <sup>46</sup> Montezuma County Clerk Reception Number 573934.
- <sup>47</sup> General Land Office. Bureau of Land Management. T38N, R15W Section 24.
- <sup>48</sup> Montezuma County Clerk. Reception Number 250038.
- <sup>49</sup> Montezuma County Clerk. Reception Number 557415.
- <sup>50</sup> General Land Office. Bureau of Land Management. T39N, R14W Section 31.
- <sup>51</sup> Montezuma County Clerk Reception Number 57059.
- <sup>52</sup> Montezuma County Clerk Reception Number 573933.
- <sup>53</sup> Montezuma County Clerk Reception Number 573934.
- <sup>54</sup> General Land Office. Bureau of Land Management. T39N, R14W Section 29.
- <sup>55</sup> Montezuma County Clerk Reception Number 59240.
- <sup>56</sup> Montezuma County Clerk Reception Number 573933.
- <sup>57</sup> Montezuma County Clerk Reception Number 573934.
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- <sup>59</sup> Montezuma County Clerk Reception Number 59262.
- <sup>60</sup> Montezuma County Clerk Reception Number 573933.
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