



EL DORADO COUNTY

DEPARTMENT OF TRANSPORTATION

PLACERVILLE OFFICES:

MAIN OFFICE:

2850 Fairlane Court, Placerville, CA 95667
(530) 621-5900 / (530) 626-0387 Fax

CONSTRUCTION & MAINTENANCE:

2441 Headington Road, Placerville, CA 95667
(530) 642-4909 / (530) 642-0508 Fax

LAKE TAHOE OFFICES:

ENGINEERING:

924 B Emerald Bay Road, South Lake Tahoe, CA 96150
(530) 573-7900 / (530) 541-7049 Fax

MAINTENANCE:

1121 Shakori Drive, South Lake Tahoe, CA 96150
(530) 573-3180 / (530) 577-8402 Fax

March 30, 2023

Rubicon Stakeholders,

Thank you again for taking the time to meet with the County on February 13, 2023, and for submitting your written concerns after reviewing our draft resolution. Transportation received six written responses. While we may not be able to make everyone happy with the final Resolution, I hope you can all understand that we, the County, did listen and considered each concern and that the County is working to have a constructive and collaborative relationship with the community. We understand what a wonderful asset the Rubicon Trail is to the public. The County's concerns are public safety and being good stewards of and preserving the trail for future generations.

I can't stress enough that the Department of Transportation does not arbitrarily close any road, especially the Rubicon. The County is not looking for ways to keep the Rubicon Trail closed. In fact, closing any road, including the trail, causes more work for the department, so reopening closed roads is in our best interest. Specifically, when the trail is closed, staff assess it daily (if possible) for the primary purpose of reopening the trail. Historically, the trail has rarely been closed, and Transportation only intends to close it when absolutely necessary. Transportation is only looking for efficiency when the need arises for road closures.

Below, I want to share how the Department of Transportation has tried to incorporate feedback from the Stakeholders and the request of the Board of Supervisors into the new Resolution.

1. One Resolution Instead of Two

- a. Stakeholders requested there be two resolutions as there are currently
 - i. All staff agrees that one Resolution makes more sense for better record-keeping, but also the added language to speak specifically about any differences in closures to the Rubicon trail. Sometimes, the Department will be questioned on the specifics or legality of a closure, and having one document to reference is simpler. The specifics of closing a typical county road compared to that of the Rubicon are clearly delineated.
 - ii. The new Resolution will simplify and combine both existing resolutions 015-2013 and 044-2022

2. Item 3 of the Proposed Resolution

- a. Stakeholders stated during the meeting that the Rubicon Trail has specific needs in a closure requiring its own resolution. After reviewing the draft Resolution, stakeholders suggested removing Item 3, Closures of the Rubicon Trail and requested that we rely solely on Resolution 015-2013. Stakeholders believe that the Rubicon Trail is unique and that this item jeopardizes the RS 2477 status.
 - i. County staff initially combined resolutions and added Item 3 as a response to their concerns over the specific nature of temporarily closing the Rubicon Trail. Transportation agrees that the Rubicon Trail is unique, therefore, necessitating Item 3.

- ii. The request to combine road closures into one Resolution would require the language in Item 3, which incorporates the parameters of Resolution 015-2013. Staff appreciates concerns with preserving the County's RS 2477 rights on the Rubicon Trail. Staff has requested County Counsel to research the issue, and County Counsel will be prepared to answer that question when the Resolution is presented to the Board.

3. Duration of Closure

- a. Stakeholders have suggested the closure be limited to 7 days, and should the closure need to be extended, the Director should communicate a reason for the extension.
 - i. The reason for a Resolution is to set guidelines for authority granted by the Board to garner efficiency and to quickly respond to public safety issues. The new Resolution allows for any road's closure for up to 90 days. This doesn't mean a road will be closed for 90 days, but it saves staff from bringing the issue to the Board unless it falls outside the set guidelines.
 - ii. In response to Stakeholder concerns, the Resolution states explicitly in Item 3 (b) that the County will provide updates at least every seven (7) calendar days during the closure. The Director will provide updates for the necessity of the specific closure, the location of the closure, the duration of the closure based on the condition of the trail, and surrounding roads and the actual or expected weather conditions.
 - iii. Additionally, written into the Resolution, to try and help alleviate the concerns of Stakeholders, we added under Item 4 of the Resolution, "For any closure done under the authority of this Resolution, the County works, to the extent feasible, to end any closure as soon as safely possible." Again, to try and assure Stakeholders that Transportation does not want to keep any county road closed longer than absolutely necessary and that staff is going out to assess road conditions as often as possible to reopen the road as soon as possible. Having the flexibility and authority to keep roads closed, when necessary, without going to the Board every seven days reduces the amount of staff and Board time that can be used to address the safety and budget concerns that usually accompany such road closures.
 - iv. Furthermore, the new Resolution added timeframe parameters, whereas the prior Resolution only specifies that "The Director of Transportation will provide a road condition report describing any closure activity under this Resolution to the Board of Supervisors within 1-year of initial adoption." Transportation believes the new Resolution should provide Stakeholders assurance with specified timeframes for road closures and communication.

4. Communication of Closures

- a. Stakeholders had complaints about how communication was disseminated regarding the last closure of the Rubicon and asked if they could add a link to the County's Rubicon information page.
 - i. Closure of the Rubicon Trail, has, for many years, been communicated via Parks and Trails with authority granted by the Director of Transportation, through gov delivery and the Parks and Trails website, as soon as possible upon the determination. The County admits there were some shortcomings with the last closure, which is why Transportation added a link to its webpage directing people to the Parks and Trails website and a post to its maintenance Facebook page with the closure information. Parks and Trails will continue to send out an email to anyone signed up to receive gov delivery emails and to post on its webpage under Parks News & Updates and the page devoted solely to the Rubicon, and Transportation will continue to post any closures on its Facebook page.

- ii. Anyone can put a link on their webpage, as suggested by a stakeholder, to the County's Parks and Trails page if they believe it will help get the messaging out.

<https://www.edcgov.us/Government/Rubicon>

5. Five-year sunset date.

a. Stakeholders requested no Sunset Date related to the Rubicon.

- i. There is an unwritten policy that Resolutions should be looked at every five years to ensure it still meets the needs of the County and/or the Public.
- ii. Transportation agreed with the Stakeholders that this Resolution should not have a sunset date. Staff met with the CAO's office and the Clerk of the Board to ask for an exception to this policy, and they agreed. Due to the technical aspects of closing a road and the requirements of the Forest Service Easement outlined in Exhibit A of the Resolution, there will be no sunset date, as requested by the Stakeholders.

I have attached the revised proposed Resolution that will be going before the Board of Supervisors on Tuesday, April 18, 2023, at 9 AM. I am hopeful that we can move forward with a better understanding of each other and build trust with one another, knowing that we share a common goal, to preserve and enjoy the beauty and adventure that is the Rubicon Trail. Thank you.

Sincerely,



Rafael Martinez
Director



March 12, 2023

Kelly Carnahan
Assistant to
Rafael Martinez, Director
El Dorado County Department of Transportation

RE: Comments Regarding the Resolution of the Board of Supervisors

Dear Kelly,

Thank you for allowing us the opportunity to provide feedback on the proposed resolution to the Board of Supervisors to authorize the Department of Transportation Director, or Designee, to Approve Temporary Road Closures.

Just to provide a recap, I'm a stakeholder in two separate private property groups – Rubicon Soda Springs, Inc. & Rubicon Trail Partnership both of which own significant private property on the Rubicon Trail. I'm also the President & CEO of Mark A. Smith Off-Roading, Inc. / Jeep Jamboree USA, which operates commercial events on the Rubicon Trail. Our founder, Mark A. Smith started the first organized off-roading event on the Rubicon Trail back in 1953.

Unfortunately, the draft resolution that was presented for feedback is harmful to the future of the Rubicon Trail. Frankly, it's reckless. We met with Mr. Martinez a few weeks ago and I'm wondering if anything we mentioned during that meeting was heard. It's disingenuous to invite all the stakeholders to a meeting then blatantly ignore the comments we made during that summit.

My comments are as follows:

- Remove Item 3 in its entirety. The issues on the Rubicon Trail are far too complex to include it in a resolution that encompasses such broad authorization. The County should rely wholly on O15-2013 for the legal closure of approaches to the Rubicon Trail.
- A few weeks ago, El Dorado County issued a closure of the Rubicon Trail, which I supported due to extreme and unusual weather conditions. During that process the County made a few mistakes, which resulted in public outrage as the County side-stepped some procedural protocols. Adopting a resolution with such broad authority to close the Rubicon Trail would

undo decades of public trust between the County and the public as well as the private property owners on the trail.

- The impact of adopting this resolution as it is currently worded would be catastrophic. Public outrage would be 10x what you experienced with the closure that took place over the holidays.
- The County already has the right to close the access points to the Rubicon Trail with emergency orders, the County does not need additional authorities to close the access points to the Rubicon Trail.
- Any closure of the access points to the Rubicon Trail should be limited to 7-days and have an automatic expiration date after 7-days. After the initial 7-days the DOT director should communicate a reason for an extension and extend the closure for an additional 7-days if needed.

Just a suggestion, this resolution is 100% about closing the trail, which creates a tremendous amount of uncertainty. How about using this resolution as an opportunity to make a stand highlighting the County's commitment to keeping the trail open. For example, you could add verbiage to the resolution that the County would never support a permanent or seasonal closure of the Rubicon Trail, however, it understands that there are times (be clear on what conditions would need to be met for a closure) that the trail may need to be closed for (outline those specific criteria).

I cannot stress this enough, the adoption of this resolution as it is currently worded would have a negative impact on the Rubicon Trail. We cannot support the resolution as it is currently worded. Item 3 needs to be removed from this resolution to preserve the integrity and future of the Rubicon Trail.

Warm regards,

Pearse Umlauf
President & CEO



Rubicon Trail Foundation

P.O. Box 2188 Placerville, CA 95667

1-888-GRUBICON (678-2426)

**To enhance the future health and use of the Rubicon Trail,
while ensuring responsible motorized year-round trail access.**

A 501(c)3 Non Profit Educational Foundation.

March 13, 2023

Rafael Martinez, Director
El Dorado County Department of Transportation
2850 Fairlane Ct.
Placerville, CA 95667
530-621-7502

Thank you for leading this process toward the response to Lori Parlin's motion regarding the Rubicon Trail on January 10, 2023.

As discussed in the meeting of February 13th, 2023, because Rubicon Trail (the trail) between Wentworth Springs Campground and the County line at Rubicon Springs is not in the County Road Inventory, it is therefore NOT a County Highway as defined in the Vehicle Code. In actuality, the Board of Supervisors in 1877 and again in 1989 (See **Attachment A**) asserted specifically in resolution(s) that the County was asserting its RS2477 right to that portion of road, making it a legally defined Public Road. Therefore, the Rubicon Trail Foundation (RTF) asserts that 21101 CVC and 942 California Streets and Highways Code do not apply to that portion of road. This is affirmed by El Dorado County's use of the OHMVR Grant process for funding for Rubicon Trail projects, instead of using El Dorado County Road fund.

In 2009, County Counsel wrote a legal opinion on El Dorado County's position regarding RS-2477 and the Rubicon Trail (See **Attachment B**)

Due to those circumstances, RTF made several specific requests in the February 13th meeting. We now, once again, request that the ordinance be written in the following manner:

1. Item 3 (Closures of the Rubicon Trail) should be removed from this document in its entirety, and El Dorado County should rely wholly on 015-2013 for the legal closure of approaches to the Rubicon Trail. We understand that this is counter to the direction of the board, but we believe this is unnecessary legislation.
2. Resolutions for closing the approaches to the Rubicon Trail and a general resolution for all County Highways are different and should be treated differently. They should be in separate resolutions as they historically have been for this reason.
3. Any resolution for closing of the Rubicon Trail should close the approaches to the trail, not the trail itself, in order to protect its RS2477 status. Again, we assert that the County doesn't have the legal authority to close the trail. This is not just RTF's opinion, but the opinion of prior El Dorado County Counsel (See 2013 Ed Knapp comments during Resolution 015-2013 Discussion: https://eldorado.granicus.com/player/clip/163?view_id=2&redirect=true&h=e5d8553449b8b57fd4da36bd15df4995)
4. Closure of the trail should only be for the following reasons:

- a. Pursuant to Attachment C of the 2013 easement with the forest service
 - b. In the interest of public safety in exigent circumstances (El Dorado County Sheriff)
 - c. in a declared state of emergency (El Dorado County Sheriff, Board Of Supervisors or State/Federal Authorization)
5. Subjective observations of “bad” weather or snow on the road are not a reason to close the trail.
 6. There should be a single web based “one stop” spot to check on the approaches to the trail and their status. The draft resolution says that the director may “notify by direct communications, signage, flyers, posting on the County website, or other means”. That’s arbitrary, and we have no idea how a user might check “other means”.
 7. Any closure of the approaches to the trail should be for seven days maximum. After seven days, clearly the DOT director could communicate a reason for an extension and extend the closure for additional seven days.

In summary, Rubicon Trail Foundation’s response is more effective given both approaches, Wentworth Springs Road and Ice House Road would be closed should conditions in Item 4, subpart a, b or c above be met. This would be more effective than the proposed resolution and protect El Dorado County’s RS-2477 rights that were perfected in 1877 and 1989.

Cordially,

Ken Hower
President
Rubicon Trail Foundation

March 13, 2023

Kelly Carnahan, Assistant to Rafael Martinez

Director El Dorado County Department of Transportation

RE: Resolution to Authorize the Department of Transportation Director, or Designee, to Approve Temporary Road Closures

Dear Kelley,

I represent a corporation, Rubicon Soda Springs, Inc, that is one of the largest private land owner groups on the Rubicon Trail. Our membership is made up of 16 families that have been dedicated to preserving the Rubicon Trail and surrounding wilderness for almost 40 years. I was invited to attend the meeting on February 13th to help identify and possibly amend the closure proceedings of the Rubicon Trail area. After leaving the meeting, I thought we had done some tremendous work in identifying and correcting some of the areas in question on the current resolution regarding possible road closures in the area around the Rubicon Trail This had already been done back in 2013 with County Resolution No. 015-2013 and has been working as it should.

Our Board of Directors met on Saturday 3/11/2023 and the proposed draft of the new County Resolution was discussed. We identified several areas that we feel are not in the best interest for the public in moving forward. I have highlighted these below by there item number in the resolution.

First, we feel that Item #3 should be removed from the proposal. The Rubicon Trail is unique and should not be included with an order for all County maintained roads. The "Rubicon Trail proper", identified very well by your own Edward Knapp back in 2009 and as part of the 2013 resolution, help affirm the Rubicon Trail as protected as an RS 2477 road, a public road, and not a County maintained road. In the draft proposal, the indication is closing the Rubicon Trail from Airport Flats to the Placer County line. This contradicts what was discussed at the meeting and calls into question the RS 2477 status of the Rubicon Trail. Closing access roads that lead to the Rubicon Trail would be fine as they ARE County maintained roads and the same affect would occur and not jeopardize or call into question the RS 2477 status of the Rubicon Trail.

Secondly, the closure time frame of 90 days is far too long and should be no more than 7, where a reevaluation would need to happen to continue the closure. We understand that severe storms could present a public hazard that could tax local resources, but the County already has the ability to close the roads under a State of Emergency. The 7-day review period for a closure is a great idea, but we feel maybe making it a 7-day closure that expires after the 7th day, UNLESS, a County review is conducted to extend it long would be a better approach and less burden on the County. This would also go a long way with the user groups and help improve the relationship with them.

Finally, although not directly stated in the resolution, but definitely talked about during the February meeting, is the communication of any closures. As a user, if I do a computer search for Rubicon Trail conditions/access, a search will lead me to the County Parks page of the El Dorado County website.

Should this be on the Parks page, or should it be on the DOT page? There needs to be one place for this message to land. Many of the user groups such as Rubicon Trail Foundation, Jeepers Jamboree, JJ USA, the Rubicon Gazette, and our own corporation have websites regarding the Rubicon Trail. An estimate of followers of all of these site would be in excess of 300,000 users from around the globe. We all would support having a link to the El Dorado County Rubicon Trail conditions on our website and of course could be supportive of short trail access road closures if they were made following a resolution that had included the major stakeholders/property owners of the Rubicon Trail and were based on facts provided by the Director of the Department of Transportation or the County Supervisors under a state of emergency. Thank you for your time.

Sincerely,

Christian Prince

President Rubicon Soda Springs, Inc

Kelly D. Carnahan

From: colbyd@gmail.com
Sent: Sunday, March 12, 2023 1:51 PM
To: David A Livingston; Rafael Martinez; Kelly D. Carnahan
Cc: BOS-District IV; BOS-District V
Subject: Wentworth Springs Response to Draft Road Closure Resolution

Some people who received this message don't often get email from colbyd@gmail.com. [Learn why this is important](#)

Dear Director Martinez and County Supervisors,

I hope this letter finds you well. I am writing to follow up on our meeting on February 13th, 2023, and to address some of the points we discussed regarding the Rubicon Trail. Our primary objective is to find a reasonable resolution that preserves the trail and ensures the safety of its users.

After reviewing the resolution and the response from the Rubicon Trail Foundation, we are aligned with their position and fully support the hard work they have done to maintain the trail and protect the environment. We commend their team for their dedication and respect for the trail and the community.

While I am not a legal expert, I support the idea of following the law to the letter, including whether the trail is RS2477 and therefore not subject to highway codes. I am confident that all of the legal experts will be able to navigate this issue and provide the necessary guidance.

As owners of 640 acres in Eldorado County, we strongly object to the idea of closing the road due to an arbitrary amount of snow. This could set a dangerous precedent and lead to unnecessary closures. We only support closure of the road under the following conditions:

- a. Pursuant to Attachment C of the 2013 easement with the forest service
- b. In the interest of public safety in exigent circumstances
- c. In a declared state of emergency

Our family has been traveling this road for many generations, and we have only seen it closed for fire. We urge you to keep the road open and avoid creating frustration among the community due to unclear rules and regulations.

Thank you for your consideration.

Sincerely,

Colby DeRodeff

March 12, 2023
Kelly Carnahan
Assistant to
Rafael Martinez, Director
El Dorado County Department of Transportation

RE: Comment Regarding the Resolution of the Board of Supervisors.

Dear Kelly,

Firstly let us thank you and the County as a whole, for taking the time to not only let us submit our comments in response but also facilitating the meeting with DOT leading up to this draft resolution. With the magnitude of, and extenuating circumstances leading up to this situation the need for input and thorough clarity is certainly warranted.

In retrospect we must consider the events that have brought us to this unfortunate situation. Historically the Rubicon in its entirety is an emotionally charged subject to say the least. Many decades of passion, blood sweat and tears have been put into this very special place. Those efforts coming from community, property owners and El Dorado County which now finds itself in the position of making a potentially historical change to the mechanisms in which our trail is protected from the ever increasing threats of closure.

Acknowledgements have been made from many of the parties concerned, inclusive of the County that the recent closure and reaction to it was not carried out and/or reacted to in the most efficient or constructive manner. Hindsight be it as it may, here we are but always mindful of the opportunities to improve and learn. The trail, the community, the County and trail users worldwide, deserve that much.

Starting as trail users in the 1990's, myself and family travelled not only the trail but also the journey that took us from a young family simply enjoying the outdoors and the Rubicon and into a more involved position. Participating in many, many work parties, political meetings, collaborative efforts and everything in-between, with the pinnacle of that journey being the purchase of our land in 2011. Like so many other landowners in the vicinity, it's the Rubicon, the community and years of friendships formed through the trail that drove that passion. We are just a miniscule example of the passion for our trail.

While we as "Stakeholders" are being given a voice and are appreciative of that, we must remember just how far reaching the effects of Rubicon and these decisions are. We cannot and should not forget the community, every trail user and the decades of efforts put forth by them. We cannot forget the importance of a healthy and constructive relationship with the County and the controlling entities. We as a family and many in the Rubicon community, have years of collaboration with El Dorado County and have encourage such with others. This must be maintained and developed but also must be reciprocated. This is an opportunity for the County to not only build on those years of trust but to also solidify it.

In direct response to the current "Draft" resolution our thoughts and concerns follow:

The recent closure was supported by us due to the extreme conditions to not only the trail but also El Dorado County as a whole. State of Emergency being the key. It is our position that the County already has the mechanism in place for closure, covered under **015-2013** and if we look at the "Draft" resolution 3: Part I, it states ***"Closure to be in compliance with the easement granted by the United States Forest Service.....Doc No 08/14/2012"*** this is in fact inclusive of all parts of **015-2013** already in place and it should be noted, has worked successfully for the past ten years without issue. Therefore, we feel Part 3 should be removed, it already exists. Any closure to the trail or access points should be limited to 7 days with a thoroughly documented reason given after 7 days for any extension of closure. We also feel there should be no "Sunset" on this and the 5 year limit be removed in reference to Rubicon.

In closing we want to thank you for taking the time to read and consider our comments and thoughts while hoping this decision is given the respect and magnitude it deserves. The effects of this will be far reaching for "Generations to come" and is so much more than just another piece of government legislation. This is truly an opportunity to find rare common ground and be the example of government and constituents working and listening together.

We thank you for your consideration.

Respectfully

Tim and Heidi Green.

Jeepers Jamboree & Jeep Jamboree, Inc.

P.O. Box 900 6275
Main Street
Georgetown, CA 95634

Phone Number: 530-333-4777
Fax Number: 530-333-0244
Website: jeepersjamboree.com
E-mail: mail@jeepersjamboree.com

March 12, 2023

Kelly Carnahan Assistant to
Rafael Martinez, Director
El Dorado County Department of Transportation
Re: Comments Regarding the Resolution of the Board of Supervisors

Dear Kelly,

As the President of Jeepers Jamboree and Jeep Jamboree Inc, I'd like to give my opinion on the new proposed resolution that includes the Rubicon Trail but is broad in its scope. As you probably already know, Jeepers Jamboree has been traversing the Rubicon Trail for over 70 years.

The current resolution has been working efficiently for ten years. Recently it was not implemented as intended, and that is what has caused this issue to arise. We did support the closure due to the circumstances at that time. As we all know the government can issue a closure at any time, they deem necessary for health and safety. With the increased usage of the trail over the years, it is understandable that we may need to make stronger efforts to keep the public safe and preserve the trail. However, a 90-day closure is totally unnecessary and not appropriate, as The Rubicon Trail is unique, and that is partly because it is monitored and supported by County Parks as well as many community volunteers.

My suggestion is that any closure be for a maximum of 7 days, then if additional evaluation is needed, extend that for an additional 7 days to re-evaluate.

I do not support a new resolution for The Rubicon Trail. The Rubicon Trail should not be lumped into a resolution that is for all county roads. We feel it would be sufficient to create an addendum to the current resolution to add the item of a maximum 7-day closure.

If you intend to go forward with this new resolution that is for all county roads, and would now include the Rubicon Trail, then please remove item 3. Jeepers Jamboree has partnered with other agencies for over 70 years to keep the trail maintained and open to the public so that people from all over the world can come and enjoy it. To even consider any closure for 90 days, would be detrimental to this community. The Trail is known worldwide as The Crown Jewel of the Rubicon, and we should continue to protect it and keep it accessible for all to enjoy.

Sincerely,

James R. (Bob) Sweeney President
Jeepers Jamboree and Jeep Jamboree Inc.