



## Legislation Details (With Text)

**File #:** 11-1050      **Version:** 2

**Type:** Agenda Item      **Status:** Approved

**File created:** 9/6/2011      **In control:** Board of Supervisors

**On agenda:** 12/18/2012      **Final action:** 12/18/2012

**Title:** Supervisor Sweeney recommending the Board direct County Counsel and the Department of Transportation to meet with the Forest Supervisor of the Eldorado National Forest. The purpose of such meeting would be to request, confirm, clarify, or cooperate in verifying or obtaining easements for the roads cited in the document dated October 6, 1992 which was on the Board's agenda that date as item 17 (archive file # 9931) and which I believe provided easements to the County. Further, to request that the USFS confirm our easement over the property known as Francis Cow Camp and being 160 acres in Sections 11 & 12 T13N, R14 E, MDM as previously proposed on 09-13-11.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A - Status Report (Replaced by attachment E), 2. B - JRS Opinion, 3. C - Letter to USFS (Replaced by attachment F), 4. D - Letter from Valdes USFS, 5. E - Status Report (amended by Board action 9-13-11), 6. F - Letter to USFS (amended by Board action 9-13-11), 7. Letter from USDA dated 9-26-11, 8. 2A -1992 Forest Road Agreement with EDC.pdf

Date	Ver.	Action By	Action	Result
12/18/2012	2	Board of Supervisors	Approved	Pass
9/13/2011	1	Board of Supervisors	Approved	Pass

Supervisor Sweeney recommending the Board direct County Counsel and the Department of Transportation to meet with the Forest Supervisor of the Eldorado National Forest. The purpose of such meeting would be to request, confirm, clarify, or cooperate in verifying or obtaining easements for the roads cited in the document dated October 6, 1992 which was on the Board's agenda that date as item 17 (archive file # 9931) and which I believe provided easements to the County. Further, to request that the USFS confirm our easement over the property known as Francis Cow Camp and being 160 acres in Sections 11 & 12 T13N, R14 E, MDM as previously proposed on 09-13-11.

The County of El Dorado was formed February 18, 1850 and the Eldorado National Forest was not established until 1906.

The agreement, which is attached to this agenda item, tendered by the USFS and accepted by the Board October 6, 1992 is at least an agreement to allow continued maintenance by the County on our County roads crossing USFS managed Public Lands. A reading of the Purpose of Agreement and the last paragraph of section 5 of the agreement certainly makes one believe we have rights to continue to maintain the County roads over the USFS lands or the USFS will grant such easements as are required. The last paragraph of section 5 is as follows: "To the extent possible under available authority, each party agrees to convey easements over lands or interests in lands it owns or administers to the other party in order to provide jurisdiction by the appropriate party as may be agreed to for any road or road segment listed on Schedule A".

Schedule A is a list consisting of thirty five portions of County Maintained Roads that cross USFS managed lands. The need for, and probably the rights of, the County to continue to maintain these roads must not be interfered with by the USFS. The public of this County have used most of these roads for over 150 years. It would seem appropriate for the USFS to simply issue the easements with the use of a categorical exemption to the NEPA process.

On 9-13-11 this Board sent a letter to the USFS asking to have granted to the County the portion of the Wentworth Springs Road that traverses through the Francis Cow Camp property before the USFS took control of the property. The County has a historic public prescriptive right over the property before the USFS took title to the property by Grant Deed 2011-0045785 recorded 10-03-11. We were not noticed of the USFS intent to purchase until a letter dated 8-22-11.

This road is shown on the attached Schedule A as FS 14N34 and County #63 which also contains the Rubicon Trail.

And, in the great spirit of cooperation, comes the letter from Michael Valdes, Acting Forest Supervisor dated 9-12-11. At page 3 of this letter is the ballyhoo of how and why the USFS should charge us to grant us an easement! Similarly, there is a discussion on page 5 regarding the Francis Cow Camp easement.

It amazes me that when the Federal Government wants something they just tell us we must do it; but when we want something they are not willing to help but instead make us into supplicants and require us to comply. On the Wentworth Springs road from Georgetown to its junction with Ice House Road, the Federal Highway Administration required us to accept a new easement that replaced all previous documentation through a document they tendered to us. The County accepted this document on April 17, 2012 on consent item 24, legistar 10-0209. It would seem that a similar action should be taken like that simple process for the 35 roads listed in the 1992 document. There should not be a protracted process to give us what has always belonged to the people of this County and which the County has maintained. We were here first and we have a Public Prescriptive Easement and certainly an RS2477 easement and all of this was acknowledged by the USFS when they tendered the agreement in 1992.

#### RECOMMENDATION

I recommend that the Board direct that the County Counsel and the Department of Transportation to meet with the Forest Supervisor of the Eldorado National Forest and rectify this situation. They must take the direction that we should not be required to pay for the granting of an easement to satisfy the Federal Agency (the USFS) need for regulatory solutions that are un-necessary!