

**RESOLUTION OF THE BOARD OF COMMISSIONERS
OF SAN MIGUEL COUNTY, COLORADO,
APPROVING THE RELOCATION AND VACATION OF A PORTION OF
COUNTY ROAD K69 AND REMOVING THE VACATED PORTION OF CR K69
FROM THE COUNTY ROAD MAINTENANCE SYSTEM AND AMENDING
AND SUPERCEDING BOARD OF COMMISSIONER RESOLUTION 2001-25**

Resolution 2005-20

WHEREAS, Idarado Mining Company (applicant) seeks approval to relocate and vacate a portion of County Road K69 (CR K69) and to remove the vacated portion of CR K69 from the County Road Inventory. The applicant is also requesting an Exemption from the County Road Standards for the relocated portion of CR K69. This application is intended to amend and supercede a prior Board of County Commissioners' ("BOCC") resolution (Resolution # 2001-25) pertaining to the vacation and relocation of CR K 69. The applicant is also proposing to dedicate right-of-way for CR K 69 from the end of the existing asphalt on East Colorado Avenue to the gate just east of Marshall Creek. The section of CR K 69 that is to be vacated and relocated starts near the entrance gate to Idarado's Pandora Mill property, extending eastward to the existing road near the lagoons, east of the Mill building;

WHEREAS, in 2001, BOCC Resolution 2001-25 approved a relocation and vacation of a portion of CR K69. The Planning Commission considered the matter and recommended that the BOCC approve that application;

WHEREAS, the realignment of CR K69, as approved by BOCC Resolution 2001-25, passed the road through the yard area of the Idarado Mining Company between the Pandora Mill and the Idarado Office. The realignment was done to allow Idarado Mining Company to revise the location of various settling ponds required in connection with its obligations under the Consent Decree and Remedial Action Plan;

WHEREAS, the current application states that because of concerns about traffic from the public passing through the work area adjacent to the Pandora Mill and the need to maintain the work area as an emergency backup detention area to the settling ponds, Idarado is requesting that a portion of the alignment of CR K69 remain in the location that existed prior to the approval of BOCC Resolution 2001-25, with some variation for purposes of avoiding the settling ponds located near the mill site;

WHEREAS, the submitted plans show the pre-2001 road alignment where a lagoon is now located, the current alignment of the road situated between the mill and the office, and the proposed new alignment south of the Idarado office building and north and west of the settling ponds;

WHEREAS, Idarado Mining Company is the owner of all of the land adjoining both the existing and proposed roadway alignment. The proposed portion of CR K69 to be vacated and relocated does not provide direct access to any parcels other than those owned by

Idarado Mining Company, and the vacation will not leave any adjoining land without an established public road or private access easement;

WHEREAS, the realignment of this road into approximately the historic alignment as it passes south of the office will again place this road within approximately six (6) feet of the existing Idarado office building;

WHEREAS, the proposed road vacation is being processed as a Two-step Planning Commission and Board of County Commissioner review consistent with Land Use Code Section 3-601 J. and 5-501 L;

WHEREAS, Colorado Revised Statutes, Section 30-28-110 (3) (a), requires BOCC approval prior to the vacation of a county road after a review by the Planning Commission. C.R.S. Section 43-2-303 prescribes the process for vacation of public road rights-of-way:

(1)(b) The Board of County Commissioners of any county may vacate any roadway or any part thereof located entirely within said county if such roadway is not within the limits of any city or town.

5-501 L. Road Vacation

- I. Any person wishing to initiate the vacation and/or relocation of a County public roadway or right-of-way shall submit to the County Planning Department an application that includes, at a minimum, the following information:
 - a. A complete and accurate legal description of the portion(s) of the roadway or right-of-way proposed for vacation;
 - b. The reason for such vacation;
 - c. Whether the roadway is to be relocated;
 - d. The names and addresses of all owners of record whom own land adjacent to the roadway or right-of-way;
 - e. The names and addresses of all utility companies, or other persons, with easements or other rights in or adjacent to the subject roadway or right-of-way; and
 - f. A description as to whether the adjacent parcels will have access to a public road upon any such vacation, and if not, any other provision for reasonable access to a public road proposed by the applicant.

- II. The County may require the applicant to prepare plat maps and other legal documents for review and consideration by the Planning Commission, pursuant to C.R.S. 30-28-110(1)(d), before review by the Board of County Commissioners, which materials may be necessary to vacate the roadway or right-of-way and vest title to the vacated portions thereof;

WHEREAS, Colorado Revised Statutes § 43-2-110 requires that, prior to a hearing to remove or add road section to or from the County Road System, the County must publish notice of such hearing once a week for at least two successive weeks preceding the date of the hearing in a newspaper of general circulation in the county. A map shall be prepared showing each road;

WHEREAS, Public Notice was published on June 15, 22 and 29 in the Norwood Post and June 17 and 24 in the Telluride Daily Planet in accordance with C.R.S. §43-2-110(1)(a)(3);

WHEREAS, the County Land Use Code requires a 50-foot road right-of-way, however, because of site constraints, the applicant is proposing a smaller right-of-way adjacent to the office building.

WHEREAS, at its June 8, 2005 meeting the County Planning Commission unanimously recommended approval of the relocation and vacation to the Board of Commissioners finding the application complies with Land Use Code Section 5-501 L. and Section 2-32. This approval was conditioned upon the following:

1. Idarado Mining Company (IMC) shall dedicate a 50' foot right-of-way (ROW) to San Miguel County along the proposed relocated route, except in the area where the existing office building encroaches within this proposed ROW, as depicted on the "revised" engineering plans for the Idarado Road Relocation (County Road K69) prepared by Greg Anderson, P.E., dated June 7, 2005.
2. Idarado Mining Company shall dedicate a 60' foot ROW to San Miguel County for that portion of CR K69 from the end of East Colorado Avenue (the existing pavement near Joe Smart's house) to the Idarado Mining Company gate just east of Marshall Creek.
3. These dedications of right-of-way for CR K 69 shall provide for public access, as well as, the installation, repair and maintenance of public utilities.
4. Any external or structural improvements or reconstruction of the office building, as it exists, will trigger the need to relocate this building outside of a 50' foot right-of-way for CR K69 through this area and granting of a full 50' right-of-way to the County.
5. The BOCC approving an exception to the County Road Standards for the improvements proposed for the relocated section of CR K69 as presented in this application and acceptable to the County Road & Bridge Superintendent.
6. IMC shall comply with all of the representations contained in its application including the plans and specifications prepared by Foley Associates and its written response to the referral comments.
7. IMC shall provide a cost estimate prepared by the project engineer or another qualified professional engineer for completing the relocation in accordance with the approved plans and specifications that shall be reviewed and approved by the County Road & Bridge Superintendent. The applicant shall then provide a

commitment guarantee acceptable to the County Attorney for the completion of this road relocation in the amount of the approved cost estimate.

8. IMC shall dedicate the right-of-way for both the existing and relocated CR K 69 as indicated in these conditions within six (6) months of the date of this approval and shall complete the construction of the relocated roadway within one year from the date of this approval. If either of these required actions are not completed within the stipulated time frames this matter will then be referred to the BOCC for their further review and consideration. Vacation of the current alignment shall not occur until a new dedicated right-of-way is received and is considered passable.
9. Any utilities within the County Road K69 right-of-way shall be underground.
10. Any gates constructed in the County Road K69 right-of-way shall be controlled by the County Commissioners and the County Road and Bridge Department.

WHEREAS, County Road Superintendent Mike Horner has provided comments in a memo dated May 16, 2005. Mr. Horner states that he has no objection to the proposed vacation and relocation or the road standards (exemption) for the relocated section of CR K 69. This memo includes several specific recommendations concerning the granting of a 50-foot right-of-way for the relocated section of this roadway and the granting of a 60-foot right-of-way for that portion of the existing roadway from the end of the asphalt pavement (Joe Smart's house) to the gate just east of Marshall Creek. Mr. Horner has also provided comments regarding requirements that will need to be adhered to during the construction of this realigned roadway;

WHEREAS, Town of Telluride Manager Jay Harrington, has provided comments in a memo dated May 18, 2005. This memo states that the Town is recommending approval of the application subject to a number of conditions. These recommended conditions refer to guaranteeing unobstructed public access, timelines for dedication and completion of the reconstructed roadways, bonding, and public (municipal) access for public utilities including a town water transmission line;

WHEREAS, the applicants attorney, Thomas Kennedy, has provided a written response, on behalf of Idarado Mining Company, to Mike Horner's letter dated May 16, 2005 and to the letter from Jay Harrington, Town of Telluride dated May 18, 2005. Mr. Kennedy states that Idarado agrees to grant the right-of-way widths as requested by Mike Horner and will provide a revised plan showing these changes. This letter goes on to state that Idarado generally agrees with the items and conditions recommended by the Town of Telluride relating to this application;

WHEREAS, the Board of Commissioners of San Miguel County, Colorado considered this application, along with referral agency comments and relevant evidence and testimony from the public, at a Public Hearing on July 6, 2005;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of San Miguel County, Colorado hereby unanimously approves a Relocation and Vacation of certain sections of County Road K69, including the removal of the vacated portion from

the County Road Maintenance System, and the addition of the relocated portion of the new C.R. K69 alignment to the official County Road Map and Inventory, as a county maintained public road, finding the proposed relocation and vacation, as presented, will not deny or eliminate access to any adjoining landowner. The BOCC also finds the proposal will eliminate public traffic through Idarado's work area, and may reduce potential temporary road closures related to spring storm runoff in this area, and the relocation will preserve existing public access to public lands east of the Pandora Mill and High Country Area. The BOCC finds this application to be consistent with LUC Section 2-23 Access to Public Lands. This approval is conditioned upon the following:

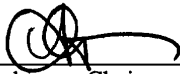
1. Idarado Mining Company (IMC) shall dedicate a 50' foot wide right-of-way (ROW) to San Miguel County along the proposed relocated route, except in the area where the existing office building encroaches within this proposed ROW, as depicted on the "revised" engineering plans for the Idarado Road Relocation (County Road K69) prepared by Greg Anderson, P.E., dated June 7, 2005. The legal description for such dedicated 50' wide ROW is attached hereto and incorporated herein by reference as Exhibit "A."
2. Idarado Mining Company shall dedicate a 60' foot ROW to San Miguel County for that portion of CR K69 from the end of East Colorado Avenue (the existing pavement near Joe Smart's house) to the Idarado Mining Company gate just east of Marshall Creek. The legal description for such dedicated 60' wide ROW is attached hereto and incorporated herein by reference as Exhibit "B."
3. The vacated portion of C.R. K69 located within the Idarado Mining Company's property is legally described on Exhibit "C," a copy of which is attached hereto and incorporated herein by reference. Pursuant to C.R.S. §43-2-302, all of San Miguel County's right, title, and interest in said vacated public road ROW, legally described in Exhibit "C" shall vest in the Idarado Mining Company, as the abutting landowner, upon the Company's dedication, by deed to San Miguel County, of those sections of the C.R. K69 ROW legally described in Exhibits "A" and "B."
4. The San Miguel County Road and Bridge Superintendent is hereby authorized and directed to amend the official County Road Inventory and Map to reflect the deletion of that section of C.R. K69 being vacated and the addition of the relocated section of C.R. K69 to be dedicated to the County pursuant to this resolution. Such change in the official County Road Inventory and Map to be effective upon the dedication of the relocated section of C.R. k69 to the County.
5. These dedications of right-of-way for CR K 69 shall provide for public access, as well as, the installation, repair and maintenance of public utilities.
6. Any external or structural improvements or reconstruction of the office building, as it exists, will trigger the need to relocate this building outside of a 50' foot

right-of-way for CR K69 through this area and granting of a full 50' right-of-way to the County.

- 7. The BOCC approving an exception to the County Road Standards for the improvements proposed for the relocated section of CR K69 as presented in this application and acceptable to the County Road & Bridge Superintendent.
- 8. IMC shall comply with all of the representations contained in its application including the plans and specifications prepared by Foley Associates and its written response to the referral comments.
- 9. No later than December 31, 2005 IMC shall provide a cost estimate prepared by the project engineer or another qualified professional engineer for completing the relocation in accordance with the approved plans and specifications that shall be subject to review and approval by the County Road & Bridge Superintendent. Upon the County Road & Bridge Superintendent's approval of the project cost estimate the applicant shall then provide a commitment guarantee acceptable to the County Attorney for the completion of this road relocation in the amount of the approved cost estimate.
- 10. IMC shall dedicate the right-of-way for both the existing and relocated CR K 69 as indicated in these conditions within six (6) months from July 6, 2005 and shall complete the construction of the relocated roadway within one year from July 6, 2005. If either of these required actions are not completed within the stipulated time frames this matter will then be referred to the BOCC for their further review and consideration. Vacation of the specified section of the current road alignment shall not become effective until the dedicated right-of-way for the relocated road alignment is accepted by the BOCC and the County has approved and accepted the construction of the relocated road alignment.
- 11. Any utilities within the County Road K69 right-of-way shall be constructed underground subject to compliance with San Miguel County Resolution 1996-23.
- 12. Any gates constructed in the County Road K69 right-of-way shall be controlled by the County Commissioners and the County Road and Bridge Department.

DONE AND APPROVED by the Board of Commissioners of San Miguel County, Colorado on August 2, 2005.

**SAN MIGUEL COUNTY, COLORADO
BOARD OF COUNTY COMMISSIONERS**

By:  _____
Art Goodtimes, Chair

Vern Ebert Aye Nay Abstain Absent

Elaine Fisher Aye Nay Abstain Absent
Art Goodtimes Aye Nay Abstain Absent

ATTEST:

By: Marie A. Thomas
Chief Deputy Clerk

[text/Idarado/cr.k69.resos]

