

RESOLUTION NO. 2008-072

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO TO ESTABLISH GUIDELINES FOR THE
TEMPORARY CLOSURE OF PORTIONS OF OURAY COUNTY ROADS 361 AND 26
FOR THE 2008/2009 WINTER SEASON**

WHEREAS, Ouray County has not provided winter maintenance for CR 361 or CR 26 from the switchbacks south to Yankee Boy Basin since approximately 1990 (“affected portions of CR 361 and CR 26”); and

WHEREAS, the affected portions of CR 361 and CR 26 receive a significant amount of snowfall during the winter months and without winter maintenance on the affected portions of CR 361 and CR 26, such areas have effectively been closed to motorized vehicles in the winter since approximately 1990; and

WHEREAS, the Mount Sneffels Mining Company, LLC (“Company”) owns various patented and unpatented mining claims in the Yankee Boy Basin and access to such mining claims is via the affected portions of CR 361 and CR 26; and

WHEREAS, Company has requested that it be allowed to provide winter maintenance on the affected portions of CR 361 and CR 26 that have not recently been winter maintained in order that Company may access its mining claims on a year-round basis; and

WHEREAS, there are areas of CR 361 and CR 26 that are known avalanche areas, which creates a safety concern for persons traveling on CR 361 and CR 26 during certain times of the winter; and

WHEREAS, in order to allow the Company access to its property during the winter months, the Board of County Commissioners of Ouray County, Colorado (“Board”) has entered into a Winter Maintenance Agreement with Company for winter maintenance on the affected portions of CR 361 and CR 26; and

WHEREAS, Company has advised the Board that it has appropriate accommodations for its employees, contractors and crew at the mine site in the event that CR 361 and CR 26 are deemed unsafe and are at times impassable; and

WHEREAS, the Board is empowered under C.R.S. §30-11-107(a) to “make such orders concerning the property belonging to the county as it deems expedient”; and

WHEREAS, the Board is empowered under C.R.S. §30-11-107(e) to provide for the management of the business and concerns of the County; and

WHEREAS, pursuant to C.R.S. §18-9-117 the Board is empowered to make such orders, rules and regulations for the administration, protection and maintenance of county-owned property as it deems appropriate, including restrictions on public property as to time, manner or permitted activities; and

WHEREAS, C.R.S. §29-20-104(1) provides that “Each local government within its respective jurisdiction has the authority to plan for and regulate the use of land by (a) regulating activities in hazardous areas”; and

WHEREAS, C.R.S §42-4-111(1)(v) allows local authorities to adopt temporary regulations as may be necessary to cover special conditions; and

WHEREAS, C.R.S. §42-4-106(1) allows local authorities, with respect to highways under their jurisdiction, to prohibit the operation of vehicles upon such highways, for a total period not to exceed ninety (90) days in any one calendar year, when such highways will be seriously damaged or destroyed as a result of climatic conditions; and

WHEREAS, , C.R.S. §42-4-106(6) allows local authorities to temporarily close to all traffic any highway or portion thereof, for the purpose of road maintenance, for a period specified for project completion when such closure is necessary for traffic safety; and

WHEREAS, the Board, at a regularly noticed public meeting on December 15, 2008 addressed the possible temporary closure of CR 361 and CR 26 during the 2008/2009 winter season in order to mitigate the dangers to the traveling public resulting from the high avalanche danger on portions of CR 361 and CR 26 and in order to effect necessary winter maintenance on the affected portions of CR 361 and CR 26; and

WHEREAS, the Board has received information that the temporary closure of the affected portions CR 361 and CR 26 from December 15, 2008 through May 1, 2009 will allow the County to protect and maintain the County Roads as well as protect members of the public who may travel in the areas of CR 361 and CR 26 that are prone to high avalanche danger; and

WHEREAS, the Board has determined that special conditions exist on CR 361 and CR 26 which require the Board to balance the private property interests of the Company with the public safety concerns of the general public traveling on the affected portions of CR 361 and CR 26; and

WHEREAS, the Board believes that the temporary closure of CR 361 and CR 26 is necessary to protect the citizens and general public in Ouray County as well as to protect the condition of the affected portions of CR 361 and CR 26 and the Board adopts this resolution pursuant to the authority granted by C.R.S. §18-9-117;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO, AS FOLLOWS:

1. CR 361 and CR 26 shall be closed to public use beginning on December 15, 2008 through May 1, 2009 or until further order of the Board.
2. “Public use” shall mean all use by members of the general public by any and all motorized means.
3. The closure of CR 361 and CR 26 shall be effected by the Ouray County Road and Bridge Superintendent or his designee utilizing an appropriate gate on such roads with law enforcement, emergency medical services and other appropriate agencies or entities being permitted access. Additionally, access to private property from CR 361 and CR 26 shall not be affected and such persons may be given access through such gate.

4. Appropriate signage shall be placed on CR 361 and CR 26 regarding the closure described herein.

5. The rules and regulations pertaining to the temporary closure of CR 361 and CR 26 from the switchbacks south to Yankee Boy Basin during the period of December 15, 2008 to May 1, 2009, as described herein, may be enforced by any Colorado peace officer pursuant to the provisions of C.R.S. §18-9-117. A violation of these regulations is a class 3 misdemeanor.

APPROVED AND ADOPTED THIS 15th DAY OF DECEMBER, 2008.

Board of County Commissioners of
Ouray County, Colorado

K. Keith Meinert, Chair

Don Batchelder

Heidi Albritton

ATTEST:

Michelle Nauer
Ouray County Clerk and Recorder
By: Linda Munson-Haley,
Deputy Clerk of the Board