

**MESA COUNTY, COLORADO
RESOLUTION NO. BOCC 2014-75**

A RESOLUTION TO RE-AFFIRM THE AUTHORITY OF MESA COUNTY OVER CERTAIN ROADS, RIGHTS-OF-WAY, AND ROUTES OF TRAVEL WITHIN ITS BOUNDARIES AND LOCATED ON CERTAIN LANDS ALSO MANAGED BY THE UNITED STATES FOREST SERVICE OR BUREAU OF LAND MANAGEMENT

WHEREAS, the inherent authority to control and protect free travel on the network of roads and rights-of-way within the boundaries of Mesa County ("County") is held by the County to protect the health, safety, welfare and commercial opportunities of all people within the County; and

WHEREAS, the network of roads within the boundaries of the County are necessary and essential for those purposes; and

WHEREAS, Article 2 of Title 43, Colorado Revised Statutes, establishes state, county and municipal highways; and

WHEREAS, the free use of the public roads and rights-of-way within the County is essential for the use of emergency medical personnel, County Law Enforcement personnel, search and rescue personnel, fire fighting activities and commerce; and

WHEREAS, the County also has a compelling interest in protecting the wise and productive use of our natural resources whether those uses are consumptive or non-consumptive; and

WHEREAS, the free use of public roads and rights-of-way, which are essentially tied to the access of these resources, and for other uses set forth above, should not be encumbered or impeded by obstructions which create an unauthorized and potentially dangerous impediment to the free use of our roadways, routes of travel and rights-of-way and pose a clear threat to the health, safety, welfare and economic well-being of our citizens; and

WHEREAS, the United States Congress, for the purpose of promoting the settlement of the western United States by the establishment of highways, granted the right-of-way for the construction of highways over public lands, not reserved for public uses in Section 8 of the Mining Act of 1866, reenacted and recodified as Revised Statute 2477 (R.S. 2477) 43 U.S.C. 932 (repealed October 21, 1976); and

WHEREAS, the above-mentioned right to pass across public lands, except those withdrawn from public use effected a grant, which was accepted whenever and wherever roadways were established over unreserved federal land by construction or otherwise and were available for public use, and these public highways largely remain available to this day for public use; and

WHEREAS, individual counties are responsible for the management of the public ownership of highway rights-of-way accepted pursuant to the grant offered under R.S. 2477 and under the Colorado Revised Statues; and

WHEREAS, the rights-of-way accepted pursuant to the grant offered under R.S. 2477 have not been vacated or waived except where formal procedures provided under state law have been followed correctly.

NOW THEREFORE BE IT RESOLVED:

1. That nothing in this Resolution shall limit the authority of the Board of County Commissioners to modify, vacate, abandon, or expand the legal rights-of-way assertions under federal law including R.S. 2477 or the Colorado Revised Statutes.
2. That the County hereby supports the inherent right to control and manage the rights-of-way accepted pursuant to the grant offered under R.S. 2477 for roads and routes of travel located within the United States Forest Service land and Bureau of Land Management, US Fish and Wildlife Service, National Park Service and private land located within its boundaries.
3. That the County asserts these rights, including the right to take action to maintain access, and prohibit restriction of access to the highways, roads, rights-of-way and routes of travel described above.
4. The County encourages the development of federal legislation to improve the procedure for respecting grants of rights-of-way under R.S. 2477.

DULY MOVED, SECONDED AND PASSED THIS 31st DAY OF MARCH , 2014.

Attest:

Sheila Reiner, by Lois Ceballos

Sheila Reiner,
County Clerk, Mesa County

John Justman

John Justman, Chairman
Board of Mesa County Commissioners

