

RESOLUTION NO. **BOCC 2014-14**

**A Resolution of the Board of County Commissioners of Mesa County, Colorado,
REGARDING FEDERAL FINANCIAL RESPONSIBILITY FOR
STORM WATER FLOWS ORIGINATING ON FEDERAL LANDS**

WHEREAS, there are federal lands belonging to the people of the United States that are up-gradient or adjacent to or near non federal lands which may be damaged by such storm waters, including non federal lands in areas that continue to urbanize; and,

WHEREAS, these federal lands are managed by several federal land management agencies such as the Bureau of Land Management, the U.S. Forest Service and the National Park Service; and,

WHEREAS, the EPA, and the majority of the States as required by the federal Clean Water Act, continue to adopt laws and promulgate regulations which require local governments and private persons to comply with stormwater quality regulations (mandated by the federal Clean Water Act and the correlative State laws); and,

WHEREAS, federal law and, for example in Colorado, State governors' executive orders often, require that new regulations shall not be implemented without funding the costs of compliance with such EPA storm water regulations, thus passing onto local governments all the costs of such compliance and/or the costs of capital construction, maintenance and treatment of storm water facilities and programs which result from the flows of storm waters off of and from federal lands; and,

WHEREAS, the flows of storm waters from and off of such federal lands which pass through or over non federal, private and local government lands, often through urban or urbanizing areas, during episodic major storm events regularly cause damage and injury to such non-federal lands and the citizens residing down-gradient from such federal lands; and,

WHEREAS, federal policy, as evidenced by the flood insurance program of FEMA, already recognizes that severe public and private injury and damage regularly results from major storm events, (*e.g.*, damage to the public and private non-federal lands and damage and destruction caused to homes, streets, roads, bridges, parks, other developed open spaces, businesses, farmers and other citizens;) and,

WHEREAS, because a significant portion of the volume of major storm event flows result from unrestricted storm water flows from such federal lands, but all of the costs of compliance with federal and state regulations and the costs of repairing and paying for damage from storm waters originating on federal lands are borne by local governments and/or individual citizens and/or businesses, in apparent conflict with federal law, such as §3481; and,

WHEREAS, such costs of compliance and the costs of repairing and paying for such damage should be borne by the federal government, as required by §3481; and,

WHEREAS, overall, the costs to construct and maintain improvements on or off such federal lands is less, by orders of magnitude, than the costs required to repair and/or pay for such damage caused by storm waters originating on such federal lands; and

WHEREAS, basic American values of fairness require that the federal government pay its proportionate share of the costs of compliance and the costs to repair and pay for damage(s) arising from the storm waters originating from such federal lands.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF MESA, STATE OF COLORADO, THAT:

1. The Congress of the United States shall, as already directed by § 3481, appropriate, and direct the expenditure by the managers of such federal lands, (e.g., the Bureau of Land Management, the United States Forest Service, and the National Park Service,) to, with respect to storm flows originating on or passing through such federal lands:
 - (a) Conduct studies identifying priorities for construction and/or repairs;
 - (b) Establish and implement a program whereby timely financial assistance or reimbursement is provided to local governments for
 - (i) The construction of flood detention/retention facilities, including improvement of existing and construction of new water ways; and
 - (ii) Monitoring, analysis and treatment as mandated by the federal Clean Water Act, whether or not enforcement thereof is directly by the EPA or by the several States.

Dated this th13 day of January, 2014.

BOARD OF COUNTY COMMISSIONERS
MESA COUNTY, COLORADO

BY: *John Justman*
John Justman, Chair



Attest:

Stella Reiner, by Lisa Westmoreland
Mesa County Clerk & Recorder

AGENDA ITEM SHEET

I-1

Date Submitted: 12/27/13
Hearing Date Requested: 1/13/14
Submitter: Julie Constan Phone: 255-5045
Presenter: Julie Constan
Return originals to: Julie Constan Location: MCCS /
Engineering
Number of originals to return to submitter: 2

To: Mesa County Board of Commissioners

Title of Item: Resolution Regarding Federal Financial Responsibility for Storm Water Flows Originating on Federal Lands

Type of Item:

- | | | | | | |
|--------------------------------------|--|--|------------------------------------|---|--|
| <input type="checkbox"/> Agreement | <input type="checkbox"/> Finance | <input type="checkbox"/> Insurance | <input type="checkbox"/> MOU | <input type="checkbox"/> Policy/Procedure | <input type="checkbox"/> Reports/Official |
| <input type="checkbox"/> Appointment | <input type="checkbox"/> Finance/General | <input type="checkbox"/> Letter of Support | <input type="checkbox"/> Ordinance | <input type="checkbox"/> Purchase Order | <input checked="" type="checkbox"/> Resolution |
| <input type="checkbox"/> Contract | <input type="checkbox"/> Grant | <input type="checkbox"/> Liquor License | <input type="checkbox"/> Petition | <input type="checkbox"/> Real Estate | <input type="checkbox"/> Salaries/Benefits |

IF YOU ARE REVISING OR RENEWING AN EXISTING AGREEMENT OR RESOLUTION, INDICATE MCA OR MCM NUMBER ____.
SUMMARIZE CHANGES.

Recommended Board Action: Adopt a Resolution of the Board of County Commissioners of Mesa County, Colorado, regarding Federal financial responsibility for storm water flows originating on Federal Lands.

Justification or Background: All the members of the 521 Drainage Authority and the 521 Drainage Authority are submitting the attached resolution to the Congress of the United States of America. The purpose of the Resolution is notify Congress that 521 Drainage Authority would like some financial assistance in managing the storm water that originates on Federal Land.

Fiscal Impact: This item is budgeted in the following account code: NA
County: \$____ Federal: \$____ State: \$____ Other: \$____

Review:

Administration: Approved Date: (1/8/2014) Denied Date: (____) Approved with Changes Date: (____)
 Briefing Date: (____)

County Attorney: Approved Date: (12/27/13) Denied Date: (____) Approved with Changes Date: (____)

Finance: Approved Date: (NA) Denied Date: (____) Approved with Changes Date: (____)

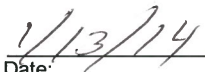
Risk: Approved Date: (NA) Denied Date: (____) Approved with Changes Date: (____)

****FOR ADMINISTRATION USE ONLY****

Approved Hearing Date: 1/13/2014

Approved Denied Approved with Changes


Steve Acquafresca, Chair, Board of Commissioners


Date: