

ASSOCIATED GOVERNMENTS OF NORTHWEST COLORADO

Resolution no. 14-01

Resolution to Support the Authority of Member Counties Over Certain Roads, Rights-Of-Way, and Routes of Travel within Their 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 member Counties (“Counties”) is held by those Counties to protect the health, safety, welfare and commercial opportunities of all people within those Counties; and

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

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

WHEREAS, Counties also have 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 several roads, which are essentially tied to the access of these resources, and for other uses set forth above, has been encumbered and impeded by obstructions placed in various locations by non-county agencies, and such obstructions 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;

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in Section 8 of the Mining Act of 1866, reenacted and recodified as Revised Statutes 2477, (R.S. 2477) 43 U.S.C. 932 (repealed October 21, 1976); and

WHEREAS, The above-mentioned right to pass across public lands, except those withdrawn from public use effected a grant, which was accepted whenever and wherever roads and ways were established over unreserved federal land by construction or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, The term "highway" in this resolution includes, but is not limited to, pedestrian trails, horse paths, livestock trails, wagon roads, pedal bike paths, motor bike trails (single track), ATV/OHV routes, jeep trails, logging roads, homestead roads, mine-to-market roads, alleys, tunnels, bridges, dirt or gravel roads, paved roads, and all other ways and their attendant access for maintenance, reconstruction, and construction; 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 Statutes; 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; and

BE IT THEREFORE RESOLVED, That nothing in this resolution shall limit the authority of the member County Commissioners to modify, vacate, abandon, or the expand the legal rights-of-way assertions under RS 2477 or the Colorado Revised Statutes.

BE IT FURTHER RESOLVED, That the Associated Governments of Northwest Colorado (“AGNC”) hereby supports the inherent right of its member counties to control and manage the roads, rights-of-way and routes of travel located within the United States Forest Service land and Bureau of Land Management, US Fish and Wildlife Service, and National Park Service land located within their boundaries and not located on any nationally recognized Indian reservation, tribal trust land, or otherwise located on Indian Country; and

BE IT FURTHER RESOLVED, That the AGNC supports its member counties in their efforts to assert these rights, and in taking action as they see fit to maintain access, and prohibit restriction of access, to the highways, roads, rights-of-way and routes of travel described above; and

BE IT FURTHER RESOLVED, That the AGNC supports the introduction of federal legislation to establish a procedure for resolving claims to rights-of-way under the Revised Statutes, Section 2477.