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IN THE UNITED STATES JUDICIAL DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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KANE COUNTY, UTAH,  
a Utah political subdivision,

Plaintiff,

THE STATE OF UTAH,

Intervenor-Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

**KANE COUNTY'S MOTION FOR  
PARTIAL SUMMARY JUDGMENT**

Case No. 2:08-CV-0315 CW

Judge Clark Waddoups

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Kane County, Utah, a Utah political subdivision ("Kane County"), by and through counsel, hereby respectfully submits this Motion for Partial Summary Judgment pursuant to Fed. R. Civ. P. 56.

Kane County respectfully requests the Court to grant partial summary judgment quieting title to Kane County's R.S. 2477 public highway rights-of-way for the eight roads listed below.

1. The Mill Creek road, designated as Kane County road K4400 and including segments known as the Tenny Creek road K4410 and the Oak Canyon road K4405 (First Cause of Action – Quiet Title);

2. The Bald Knoll road, designated as Kane County road K3935 (Second Cause of Action – Quiet Title);

3. The Skutumpah road, designated as Kane County road K5000 (Third Cause of Action – Quiet Title);

4. The Sand Dune road, designated as Kane County road K1000 (Fourth Cause of Action – Quiet Title);

5. The Hancock road, designated as Kane County road K1100 (Fifth Cause of Action – Quiet Title);

6. The Swallow Park/Park Wash road, designated as Kane County road K4360 (Sixth Cause of Action – Quiet Title);

7. The North Swag road, designated as Kane County road K4370 (Seventh Cause of Action – Quiet Title); and

8. The Nipple Lake road, designated as Kane County road K4290 (Eighth Cause of Action – Quiet Title).

These roads have long been Kane County public thoroughfares, and continue to provide needed access from private and public lands to cities, schools, stores, places of employment, and recreational areas within Kane County. Where these eight roads cross public lands, the rights-of-way were granted by Congress through R.S. 2477. R.S. 2477 was an express grant of rights-of-way. The undisputed facts demonstrate Kane County's acceptance of the express grant for the

eight roads listed above by showing at least ten years of continuous public use prior to October 21, 1976. The undisputed facts also demonstrate Kane County's acceptance of the express grant through designation of these roads as Class B – County General Highways and/or Kane County's improvement, maintenance, or repair of these roads at Kane County's and the State of Utah's expense.

This Motion for Partial Summary Judgment is supported by the Memorandum in Support of Motion for Partial Summary Judgment submitted herewith.

Dated this 22<sup>nd</sup> day of July, 2010.

HOLME ROBERTS & OWEN LLP

/s/ Janna Custer  
Shawn T. Welch  
Janna B. Custer

*Attorneys for Kane County, Utah*