



R.S. 2477 – UTAH

**APA UTAH CHAPTER SPRING CONFERENCE '23
MAY 11, 2023**

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R.S. 2477

- REVISED STATUTE (R.S.) 2477: “The right-of-way for the construction of highways across public lands not reserved for public purposes is hereby granted.” Mining Act of 1866, ch. 262, 14 Stat. 251
 - Enacted by Congress in 1866 to encourage the settlement of the West, it provided for rights-of-way for road construction across otherwise unreserved federal lands
 - Repealed by the Federal Land Policy & Management Act (FLPMA) in 1976, but roads already in existence were preserved





- 22 of Utah's 29 counties claim R.S. 2477 rights-of-way
- Statewide there are over 12,000 roads that are being claimed under R.S. 2477
- The State of Utah has taken nearly 700 witness depositions about these roads across the state
- The Bellwether trial (*Kane County II*) aims to lay out a standard for determining which roads qualify as valid R.S. 2477 rights-of-way

UTAH'S R.S. 2477 LANDSCAPE



- TRIED IN FEBRUARY 2020 IN THE U.S. DISTRICT COURT FOR THE DISTRICT OF UTAH, THE BELLWETHER TRIAL IS THE NEWEST TEST CASE INVOLVING 15 R.S. 2477 ROADS IN KANE COUNTY, UTAH
 - The objective of the Bellwether trial is to provide a clear legal process by which final title determinations may be made regarding the remainder of Utah’s unadjudicated R.S. 2477 rights-of-way

KANE COUNTY
(II) v. U.S.
(“BELLWETHER”)

BELLWETHER LEGAL ISSUES

- DISPUTE OF TITLE
- PUBLIC USE VERSUS PERMISSIVE USE
- CONTINUOUS USE / FOR TEN YEARS
- WITHDRAWALS & RESERVATIONS
- STATUTES OF LIMITATIONS
- FEDERAL CONSTRUCTION
- LAPSE / ABANDONMENT
- INTERVENING PRIVATE LAND
- FAILURE TO ACCEPT UNDER STATE LAW
- EXISTENCE OF A HIGHWAY





- **1 – QTA LITIGATION**
 - E.g., Bellwether
- **2 – QTA DISCLAIMER OF INTEREST**
 - Federal government issues a disclaimer of interest under the Quiet Title Act
- **3 – FLPMA RECORDABLE DISCLAIMER OF INTEREST (“RDI”)**
 - Bureau of Land Management (“BLM”) issues an RDI
- **4 – CONGRESSIONAL ACTION**
 - Federal legislative means of resolving unadjudicated R.S. 2477 rights-of-way

FOUR AVENUES TO RESOLUTION

ACCESS MAP 360°

- <https://accessmap.utah.gov/>
- Questions? Feedback? Email me at kaitlindavis@agutah.gov

