

Executive Document

Governor's Executive Order Directing the Attorney General to File Notice of Intent to Quiet Title to R.S. 2477 Rights-of-Way Throughout the State.

Issued: May 5, 2000

EXECUTIVE ORDER

Directing the Attorney General
to File Notice of Intent to Quiet Title
to R.S. 2477 Rights-of-Way Throughout the State

WHEREAS, in 1866 the United States Congress passed a law, commonly known as R.S. 2477, which granted a right for the construction of roads over public lands;

WHEREAS, R.S. 2477 was instrumental in facilitating and promoting the settlement of the West;

WHEREAS, in reliance upon the authority of, and the property interest granted by, R.S. 2477, thousands of miles of roads were established in the state of Utah;

WHEREAS, approximately 6,000 R.S. 2477 rights-of-way exist nationally, 5,000 of which are in Utah;

WHEREAS, these rights-of-way are a crucial means of access to property within the state and have been essential for ranching and other traditional activities for more than a century;

WHEREAS, Congress repealed R.S. 2477 effective October 21, 1976, although the repealer could not affect existing rights-of-way because they were vested property rights;

WHEREAS, because R.S. 2477 granted rights-of-way by operation of law and without the necessity of notice to the federal government, documentation for the rights-of-way is sometimes lacking or questionable;

WHEREAS, in recent years, federal agencies have acknowledged the theoretical existence of R.S. 2477 rights-of-way but have been unwilling to identify specific roads as R.S. 2477 rights-of-way or to specify the scope of the rights-of-way necessary for use, maintenance, and improvement;

WHEREAS, attempts to negotiate a greater level of certainty and a recognition of these rights-of-way have not born fruit;

WHEREAS, the state of Utah holds with the counties of Utah the joint and undivided title to R.S. 2477 rights-of-way in this state;

WHEREAS, the Legislature, in its 2000 general session, made possible an

annual appropriation of up to \$2 million to fund the resolution of this question, by litigation if necessary;

WHEREAS, the state and its counties have agreed to move forward jointly to assert, defend, and litigate their rights under R.S. 2477;

WHEREAS, the partnership between the state and its counties is an unprecedented, cooperative effort that presents an ideal opportunity to resolve these issues;

WHEREAS, a massive, statewide quiet title action, while requiring a tremendous effort, will introduce a new dynamic into the effort to achieve certainty about the future of public lands in Utah;

NOW, THEREFORE, I, Michael O. Leavitt, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and laws of the State of Utah, hereby order as follows:

1. The attorney general shall file appropriate documents to put the federal government on notice that the state and its political subdivisions intend to quiet title to R.S. 2477 rights-of-way throughout the state.
2. The attorney general shall gather evidence, in partnership with the counties, and prepare and file a quiet title action after the expiration of the required six-month notice.

IN WITNESS WHEREOF, I have hereunto set my hand and cause to be affixed the Great Seal of the State of Utah. Done at the State Capitol in Salt Lake City, Utah, this 5th day of May, 2000.

(State Seal)

MICHAEL O. LEAVITT
Governor

Attest:

OLENE S. WALKER
Lieutenant Governor

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