



Kane County Commission

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July 14, 2009

Selma Sierra
State Director, BLM
440 West 200 South, Suite 500
Salt Lake City, Utah 84145-0155

Re: Your e-letter of July 10, 2009 declining to meet with the Commission regarding public safety hazards on roads within Kane County, for which BLM has not acknowledged R.S. 2477 county jurisdiction.

Dear Ms Sierra:

The Commission had hoped that the BLM would still want to meet with the Commission, the State, and the Utah Association of Counties this week to coordinate critically important public safety hazards on roads across federally managed lands within Kane County. This is so because all along the meeting's primary purpose was to address the significant public safety hazards currently existing on non-maintained roads.

Your letter of July 10 is correct in acknowledging the importance of roads across federally managed lands "to the citizens of the County and to the travelling public generally." Such an acknowledgment by you only underscores the wisdom of Congress in granting right-of-way jurisdiction to the counties and states to operate public highway transportation systems across federally managed lands. That system worked successfully for a period of 130 years: until federal land managers, without congressional authority, created policies and planning decisions ignoring county and state highway rights, while assuming administrative authority over local roads.

The County's "positions" you reference in your letter have not changed since the Commission wrote to you explaining the consequences of federal actions over one year ago. The County does not expect to resolve all of the issues related to the federal denial of local and state established highway rights in the next meeting. However, we very quickly must deal forthrightly with the issue of highway jurisdiction on roads across federally managed lands beyond the singular offer of FLPMA Title Vs (current federal policy) as the universal solution to the roads issue.

We successfully resolved our mutual public safety concerns related to road signage during our conference call on June 30. The BLM agreed to install signage on unadjudicated roads across federally managed lands, i.e., roads for which the BLM has yet to acknowledge and recognize R.S. 2477 county jurisdiction. We still need to resolve other hazardous road conditions related to a lack of maintenance and repair, so that all roads in Kane County will "remain open and in good driving condition" as you recognized in your letter.

The County is going to proceed with its meeting on July 15. The Commission asks you and Larry Jensen to reconsider the BLM's refusal to attend. It is important that we immediately coordinate our mutual responsibilities regarding the public's safety on roads in the County. If you would prefer to limit our discussion to that level of coordination, we can defer consideration of other issues until you and your superiors can further study the County's proposals for resolution of road issues related to jurisdiction.

The Commission hopes that DOI and BLM administrators are beginning to understand that the federal position that federal agencies have the authority to make all management decisions as to which roads are open or closed and which roads are restricted as to type of vehicle use, while the County is obligated to perform menial road

maintenance tasks, is unrealistic. The County's role in performing road maintenance is inseparable from its jurisdiction to manage and operate public transportation systems as a public benefit and for the common good, consistent with federal and state law.

If you decline to meet July 15 to discuss our public safety concerns, the Commission requests that you affirm with the County that the BLM will correct the hazardous conditions existing on roads across BLM-managed ground in Kane County for which the BLM has not acknowledged R.S. 2477 county jurisdiction. The County also requests that you direct local BLM managers to coordinate public safety needs with the County. It was encouraging to learn that the Kanab FO not only placed signage on some of the roads, but that the BLM's road crew repaired potholes with cold patch material on the Hancock and Yellow Jacket roads. At minimum, we need to establish that level of coordination (for the public's safety) until the County adjudicates its highway rights or until the BLM issues RDIs on certain roads as proposed in our letter of July 8.

The County has made several requests for public safety coordination with the BLM regarding both hard surface maintenance, and snow and ice removal last winter. The BLM has refused to meet with the County or to put a federal blade on the roads. The BLM has also refused to meet with the public to explain why it is not taking care of roads for which the BLM has not acknowledged R.S. 2477 county jurisdiction. The only federal response to the County's public safety concerns (until the recent signage issue) has been federal offers requiring the County to capitulate to federal jurisdiction over its roads along R.S. 2477 rights-of-way.

The County will provide Kanab FO Manager Harry Barber a citizen's petition with 51 signatures regarding the BLM's failure to maintain segments of the North Fork road. The Commission understands that thousands of people have signed the citizen's petition (attached) and that citizens will be presenting those petitions to the BLM in the near future.

We hope you are willing to respond to the public safety issues regarding road maintenance and repair needs on the rest of the roads within Kane County for which the BLM has not acknowledged R.S. 2477 county jurisdiction, in the same manner that you did regarding road signage and the repair work since our conference call of June 30.

If the Commission can be of any further assistance prior to the meeting on July 15, 2009, please contact Commissioner Habbeshaw who is over the County's Transportation System.

Sincerely,

(e-signature)
Daniel W. Hulet
Commission Chair

(e-signature)
Doug Heaton
Commissioner

(e-signature)
Mark W. Habbeshaw
Commissioner

cc: Secretary Salazar
Lt. Governor Herbert
Utah Association of Counties

attachment: citizen's petition w/o signatures