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Testimony will be taken on road disputes

Debate: At issue is whether state and local governments have rights of way on routes that run across federal land

Brent Israelsen The Salt Lake Tribune

A congressional subcommittee plans to hold an oversight hearing in Utah today to gather **testimony** on a 19th century road law that has become one of the most contentious public lands issues in the 21st century. The House Subcommittee on National Parks, Recreation and Public Lands, whose members include Utah Republican Reps. Chris Cannon and Rob Bishop, has called witnesses to testify about the impacts of Revised Statute **2477**, a section of the 1866 mining law that granted broad rights to construct "highways" across unreserved federal lands.

Although the law was repealed in 1976, existing **RS 2477** rights of way were grandfathered. But they were never officially recorded, and today there is widespread dispute over which routes qualify as **RS 2477** roads and, therefore, would belong to state and local governments.

As environmental groups have sought to designate large tracts of lands as federally protected wilderness, rural county commissions have sought to assert their **RS 2477** rights, which lately have been invoked to keep public lands open to off-highway vehicles (OHVs).

The federal government has largely resisted many of the claims, prompting the state of Utah to threaten to sue the U.S. Department of Interior.

Former Gov. Mike Leavitt attempted to head off such a lawsuit by agreeing to a "memorandum of understanding" (MOU) with Interior Secretary Gale Norton that established a formal process for the state and its counties to obtain title to **RS 2477** routes.

Fourteen months after that agreement was signed, however, the tumult over **RS 2477** continues, with Utah at its epicenter:

* Only one rural road, the Weiss Highway in Juab County, has been officially claimed by the state under the MOU, but that claim appears doomed, mainly because the road was built by the federal government.

* The Utah Attorney General's Office has stated it has no plans to claim additional routes under the MOU and last month sent Interior a "supplemental notice of intent," ostensibly renewing the state's threat of litigation.

* The U.S. attorney for Utah is still deciding whether to file a complaint against a Kane County commissioner and sheriff, who last summer pulled up nearly three dozen federally owned road signs within the Grand Staircase-Escalante National Monument. The county said the signs, which mainly restricted OHV use, infringed on the county's **RS 2477** rights.

* The U.S. attorney also is reviewing a federal investigation of an incident in April, when the San Juan County sheriff and a commissioner led a group of Jeep enthusiasts on a tour of Arch Canyon without first obtaining a special event permit from the U.S. Bureau of Land Management (BLM). The county claims Arch Canyon contains an **RS 2477** road and is not subject to federal interference.

* San Juan County last month threatened to remove barriers the National Park Service erected to keep vehicles out of Salt Creek Canyon in Canyonlands National Park. The county later backed down on its threat, instead filing a lawsuit in U.S. District Court to obtain title to the canyon's route under **RS 2477**.

These are expected to be some of the issues discussed at today's hearing, although it probably will be lopsided in favor of **RS 2477** defenders. Of the 11 witnesses invited to testify, nine represent county and state interests. The other two witnesses are a BLM official and an environmentalist.

Today's hearing begins at 9 a.m. at the Dixie Center, 1835 Convention Center Drive, in St. George.

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