

To: Cynthia Staszak[cstaszak@blm.gov]
From: Ashcroft, Tyler
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[162-1.pdf](#)
[157-main.pdf](#)
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From: **Ashcroft, Tyler** <tashcrof@blm.gov>
Date: Thu, Jul 20, 2017 at 12:37 PM
Subject: Kane County MTD Documents
To: James Karkut <james.karkut@sol.doi.gov>

Documents provided to Cindy.

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Kane County, Utah (2), (3), (4) and State of Utah v. United States,
Consolidated Case No. 2:10 cv 01073 RJS

United States' Replies to Kane County's Comments on List of Claimed Roads
in Kane County (2) and (3) Open to Public Motor Vehicle Use¹

Exhibit 1 to Defendant United States' Reply to Kane County's Objections and Response (Dkt. No. 153)
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<u>Kane County (2) Claimed Roads Open to Public Motor Vehicle Use²</u>			
No.	Road Number	Road Name	Plan Status
1.	K1200	Red Knoll Road	Open (Kanab)
2.	K1300	Elephant Cove Road	Open (Kanab)
3.	K1300D	Elephant Cove D Road	Open (Kanab)
4.	K1535	Yellow Jacket Ranch Road	Open (Kanab)

<u>Kane County (2) Claimed Roads Open to Public Motor Vehicle Use²</u>			
No.	Road Number	Road Name	Plan Status
5.	K2000	North Fork Road ³	<p>Open (Kanab)</p> <p>County Response: DOES NOT APPEAR ON MAP 10, in T39S R9W SECTION 13, T39S R8 SECTION 7.</p> <p>United States' Reply: The United States agrees that two segments of this road crossing BLM Kanab Field Office (KFO) lands in the referenced Section 7, totaling approximately 900 feet and 1,800 feet in length, respectively, were inadvertently missed in the BLM's original road inventory that was completed in connection with the Kanab Plan and that these segments therefore were not shown on the Kanab Plan's Map 10. However, the BLM designated other segments of the road located in other sections on KFO lands as "open" on the Kanab Plan's Map 10 and regards the entire road as an open road. Consequently, the omission of the two referenced segments in Section 7 was an administrative error, and the BLM had no intent to close the road in its travel planning. In fact, the BLM subsequently depicted the entire road, 14.26 miles of which are claimed on KFO lands, as a "Class 3 Primary Road" on the North Fork Virgin River and Orderville Glendale Kanab RMP travel maps implementing the Kanab Plan. These travel maps, which the KFO also refers to as "designated route" and "travel route" maps, are available to the public at the KFO and on the BLM's website.</p> <p>There are ten travel maps covering the KFO lands and two index maps, one for Kane County and one for Garfield County. These maps were originally created in late December 2008 and January 2009 (after final approval of the Kanab Plan on October 31, 2008) and updated in October 2010. The KFO understands that the "Class 3 Primary Road" classification is a classification utilized by the State of Utah and that the State of Utah has applied this classification to roads that it considers to be significant or primary roads. The KFO further understands that the State has applied this classification to this particular road in an internal inventory of roads maintained by the State. The KFO borrowed this classification from the State in depicting the status of this road on the referenced maps.</p> <p>Open (Forest Service)</p>

<u>Kane County (2) Claimed Roads Open to Public Motor Vehicle Use²</u>			
No.	Road Number	Road Name	Plan Status
6.	K2050	Meadow Canyon Road	Open (Kanab)
7.	K2100	Mineral Springs Road	Open (Kanab)
8.	K2145	Troys Road	Open (Kanab)
9.	K2150	Muddy Canyon Road	Open (Kanab)
10.	K2350	Stout Canyon Road	<p>Open (Kanab) County Response: DOES NOT APPEAR ON MAP 10, in T39S R7W SECTION 25. United States' Reply: The United States agrees that this road is not formally designated as open on the Kanab Plan's Map 10 or on the KFO's North Fork Virgin River travel map, which implements the BLM's Kanab Plan. However, the United States notes that this Class B road is located almost entirely on Forest Service and private lands and only crosses KFO lands for less than a tenth of a mile. The failure to designate this segment located on KFO lands appears to be an inadvertent, administrative oversight due to its short length rather than any intent to close the road. The United States has nonetheless revised the entry for this road above to strike out the prior designation of this road as open under the Kanab Plan, which prior entry was the result of inadvertent error. Open (Forest Service)</p>
11.	K2450	Eight Mile Gap Road	<p>Open (Kanab) Major Road County Response: DOES NOT APPEAR ON MAP 10, in T44S R5W SECTIONS 4, 3 & 10. United States' Reply: The United States agrees that this road was inadvertently missed in the BLM's original road inventory that was completed in connection with the Kanab Plan and that this road therefore was not shown on the Kanab Plan's Map 10. However, the BLM regards the entire road as an open road. Consequently, the omission of this road from Map 10 was an administrative error, and the BLM had no intent to close this road in its travel planning. In fact, the BLM subsequently depicted the entire road, 0.95 miles of which are claimed on KFO lands, as a "Class 3 Primary Road" on the Kanab East RMP travel map (see explanation in Item No. 5 above re: "Class 3 Primary" roads).</p>

<u>Kane County (2) Claimed Roads Open to Public Motor Vehicle Use²</u>			
No.	Road Number	Road Name	Plan Status
12.	K2565	Kanab Canyon Road	<p>Open (Kanab) Major Road</p> <p>County Response: APPEARS OPEN ON RMP, MAP 10.</p> <p>United States' Reply: The County does not appear to dispute the status of this road, as shown on the United States' original list of open roads. However, the United States has determined that the segment of this road located on KFO lands, which is claimed to be approximately 0.39 miles in length, was inadvertently missed in the BLM's original road inventory that was completed in connection with the Kanab Plan and that this road therefore was not shown on the Kanab Plan's Map 10. Nonetheless, the BLM regards the entire road as an open road. Consequently, the omission of this road from Map 10 was an administrative error, and the BLM had no intent to close this road in its travel planning. In fact, the BLM subsequently depicted this road as a "Class 3 Primary Road" on the Kanab West and Crocodile RMP travel maps (see explanation in Item No. 5 above re: "Class 3 Primary" roads).</p>
13.	K2700	Old Highway 89/Sands Road	<p>Open (Kanab)</p> <p>County Response: HARD TO DECIPHER MAP AS TWO ROADS ARE PARALELL HERE.</p> <p>United States' Reply: The County does not necessarily appear to object to the status of this road, as shown on the United States' original list of open roads, but instead appears to assert that that Map 10 of the Kanab Plan is "hard to decipher." Consistent with the United States' original list of open roads, the United States has verified that this road was designated as open under the Kanab Plan and is also shown as open on the KFO's more detailed maps that were used to prepare Map 10 under the Kanab Plan.</p>

<u>Kane County (2) Claimed Roads Open to Public Motor Vehicle Use²</u>			
No.	Road Number	Road Name	Plan Status
14.	K2990	Cutler Point Road	<p>Open (Kanab)</p> <p>Open/ATV (Monument)</p> <p>County Response: APPEARS OPEN ON RMP, MAP 10, APPEARS OPEN ON GSENM MAP ALSO.</p> <p>United States' Reply: The County does not appear to dispute the status of this road on Monument lands, as shown on the United States' original list of open roads, but instead appears to assert that there is a segment of the road located on KFO lands that is designated as open on KFO Map 10. The United States has verified that a segment of this road is located on KFO lands and is designated as open under the Kanab Plan. The United States has revised the entry for this road above to add the open status of this road under the Kanab Plan. Consistent with the original list of open roads, the United States has also verified that this road is designated as "Open/ATV" under the Monument Plan.</p>
15.	K2995	Cutler Point Spring Road	<p>Open/ATV (Monument)</p> <p>County response: APPEARS OPEN ON GSENM MAP 2.</p> <p>United States' Reply: The County does not appear to dispute the status of this road, as shown on the United States' original list of open roads. Consistent with the original list of open roads, the United States has verified that this road is designated as "Open/ATV" under the Monument Plan.</p>

<u>Kane County (2) Claimed Roads Open to Public Motor Vehicle Use²</u>			
No.	Road Number	Road Name	Plan Status
16.	K3000	Johnson Canyon Road	<p>Open (Kanab)</p> <p>Open (Monument)</p> <p>County Response: DOES NOT APPEAR OPEN ON RMP MAP 10, T43S-R5W SECTIONS 24 & 25, T42S-R5W-SEC-22 & 27, DOES NOT APPEAR ON GSENM MAP 2 ON T42-R5W-SECTION 14, ALSO NOT ON GSENM GIS DATA AT SAME LOCATION AND STREET LEGAL ONLY, NO ATV.</p> <p>United States' Reply: With respect to the portions of this road that cross KFO lands, the United States agrees that three segments of the road were inadvertently missed in the BLM's original road inventory that was completed in connection with the Kanab Plan and that these segments therefore were not shown on the Kanab Plan's Map 10. However, the KFO regards the entire road as it crosses KFO lands as an open road. Consequently, the omission of the three referenced segments from Map 10 was an administrative error, and the BLM had no intent to close these segments in its travel planning. In fact, the BLM subsequently depicted the entire road as it crosses KFO lands, including the three segments inadvertently omitted from the Kanab Plan's Map 10, as a "Class 3 Primary Road" on the Kanab East and Crocodile Kanab RMP travel maps (see explanation in Item No. 5 above re: "Class 3 Primary" roads).</p> <p>With respect to the segment of the this road that is on Monument lands in the referenced Section 14, the United States disputes the County's assertion that this segment does not appear on GSENM Map 2 or in the Monument's GIS data. This segment (which the BLM estimates to be slightly over 800 feet in length), along with the remainder of the road on Monument lands, is designated as "Open" on Map 2 of the Monument Plan (and in the Monument's GIS data), for a total length of 5.7 miles that is designated as "Open" on Monument lands. The County's comments appear to stem from the fact that the majority of this road, as it crosses the referenced Section 14, is on private lands outside Monument boundaries. Although the Monument boundary has not been surveyed in this section, the Monument has depicted on Map 2 all portions of the road that it believes to be outside Monument boundaries on private lands under the designation "Other Roads" rather than "Open." Otherwise, the entirety of the road on Monument lands is designated as "Open." The United States has revised its original open roads list above to add the status of this road under the Monument Plan.</p>

<u>Kane County (2) Claimed Roads Open to Public Motor Vehicle Use²</u>			
No.	Road Number	Road Name	Plan Status
17.	K3001	Glendale Bench Road	<p>Open (Kanab) Major Road</p> <p>County Response: APPEARS OPEN ON RMP, MAP 10, BUT IS BELOW THE "L" ON GLENDALE ON MAP AT T40S R6W SECTION 35 DOES NOT CONNECT ON RMP GIS DATA AND HAS A MISSING SEGMENT OF ROAD AT SAME LOCATION.</p> <p>United States' Reply: The United States agrees that a short segment of this road, which segment is approximately 1,320 feet in length, along with additional segments not referenced by the County, were inadvertently missed in the BLM's original road inventory that was completed in connection with the Kanab Plan and that these segments therefore were not shown as open on the Kanab Plan's Map 10. However, the BLM regards the entire road as an open road. Consequently, the omission of portions of this road from Map 10 was an administrative error, and the BLM had no intent to close this road in its travel planning. In fact, the BLM subsequently depicted the entire road, 8.35 miles of which are claimed by plaintiffs to be on KFO lands, as a "Class 3 Primary Road," on the Orderville Glendale, Skutumpah, and Crocodile RMP travel maps (see explanation in Item No. 5 above re: "Class 3 Primary" roads).</p>
18.	K3100	Alton Coal Mine Road	<p>Open (Kanab)</p> <p>County Response: APPEARS OPEN ON RMP, MAP 10.</p> <p>United States' Reply: The County does not appear to dispute the status of this road, as shown on the United States' original list of open roads. Consistent with the original list of open roads, the United States has verified that this road is designated as open under the Kanab Plan.</p>
19.	K3100D	Alton Coal Mine D Road	<p>Open (Kanab)</p> <p>County Response: APPEARS OPEN ON RMP, MAP 10.</p> <p>United States' Reply: The County does not appear to dispute the status of this road, as shown on the United States' original list of open roads. Consistent with the original list of open roads, the United States has verified that this road is designated as open under the Kanab Plan.</p>

<u>Kane County (2) Claimed Roads Open to Public Motor Vehicle Use²</u>			
No.	Road Number	Road Name	Plan Status
20.	K3150	Lambs Field Road	<p>Open (Kanab)</p> <p>County Response: APPEARS OPEN ON RMP, MAP 10.</p> <p>United States' Reply: The County does not appear to dispute the status of this road, as shown on the United States' original list of open roads. Consistent with the original list of open roads, the United States has verified that this road is designated as open under the Kanab Plan.</p>
21.	K3200	Johnson Substation Road	<p>Open (Kanab)</p> <p>County Response: DOES NOT APPEAR OPEN ON RMP MAP 10, T43S R4.5W SECTION 30.</p> <p>United States' Reply: Consistent with the United States' original list of open roads, the entirety of this road, 2.05 miles of which are claimed by plaintiffs to be on KFO lands, is designated as open under the Kanab Plan. The County's comments appear to stem from the fact that a short segment of this road, which is claimed to be approximately 0.10 miles long, appears to be covered up by the wide line used to depict U.S. Hwy 89 on Kanab Map 10. However, that segment is clearly shown as open on the Kanab East RMP travel map.</p>

<u>Kane County (2) Claimed Roads Open to Public Motor Vehicle Use²</u>			
No.	Road Number	Road Name	Plan Status
22.	K3210	Old Highway 89/The Seeps Road	<p>Open (Monument) Open (Kanab) Major Road County Response: DOES NOT APPEAR OPEN ON RMP MAP 10, T43S R4.5W SECTION 27, ALSO NOT ON RMP GIS DATA. United States' Reply: The County does not appear to dispute that the portions of this road located on Monument lands are designated as "Open" under the Monument Plan. Consistent with the United States' original list of open roads, the United States has verified that these portions of the road are designated as "Open" under the Monument Plan.</p> <p>With respect to the portions of this road that cross KFO lands, the United States agrees that this road was inadvertently missed in the BLM's original road inventory that was completed in connection with the Kanab Plan and that these segments therefore were not shown on the Kanab Plan's Map 10. However, the KFO regards the entire road as an open road on KFO lands. Consequently, the omission of this road from Map 10 was an administrative error, and the KFO had no intent to close this road in its travel planning as it crosses KFO lands. In fact, the KFO subsequently depicted the entire road as a "Class 3 Primary Road" on the Kanab East RMP travel map (see explanation in Item No. 5 above re: "Class 3 Primary" roads).</p>

<u>Kane County (2) Claimed Roads Open to Public Motor Vehicle Use²</u>			
No.	Road Number	Road Name	Plan Status
23.	K3305	Crescent Butte Trail Road	<p>Open (Kanab)</p> <p>County Response: DOES NOT APPEAR OPEN ON RMP MAP 10, T43S R4.5W SECTION 30, ALSO NOT ON RMP GIS DATA.</p> <p>United States' Reply: The United States agrees that a segment of the Crescent Butte Trail Road that crosses the western edge of KFO lands in the referenced section 30 was inadvertently missed in the BLM's original road inventory that was completed in connection with the Kanab Plan and that this segment therefore was not shown on the Kanab Plan's Map 10. However, the BLM regards the entire road as an open road. Consequently, the omission of the referenced segment was an administrative error, and the BLM had no intent to close this segment in its travel planning. In fact, the BLM subsequently depicted the entire road, including the segment inadvertently omitted from the Kanab Plan's Map 10, as a "Class 3 Primary Road" on the Kanab East RMP travel maps (see explanation in Item No. 5 above re: "Class 3 Primary" roads).</p>
24.	K3400	Seaman Spring Road	Open/ATV (Monument)
25.	K3400D	Seaman Spring D Road	<p>Open/ATV (Monument)</p> <p>County Response: APPEARS OPEN / ATV GSENM MAP 2.</p> <p>United States' Reply: The County does not appear to dispute the status of this road, as reflected on the United States' original open roads list. Consistent with the original list of open roads, the United States has verified that this road is designated as "Open/ATV" under the Monument Plan.</p>
26.	K3450	Seaman Wash Road	<p>Open/ATV (Monument)</p> <p>County Response: APPEARS OPEN / ATV GSENM MAP 2.</p> <p>United States' Reply: The County does not appear to dispute the status of this road, as reflected on the United States' original open roads list. Consistent with the original list of open roads, the United States has verified that this road is designated as "Open/ATV" under the Monument Plan.</p>

<u>Kane County (2) Claimed Roads Open to Public Motor Vehicle Use²</u>			
No.	Road Number	Road Name	Plan Status
27.	K3600	Deer Springs Wash/Nephi Pasture Road	<p>Open (Kanab) (per minor correction to Kanab Plan data discussed below)</p> <p>Open/ATV (Monument)</p> <p>County Response: K3600B DOES NOT APPEAR OPEN ON RMP MAP 10, T40SR4W-SECTION 16. ALSO BEGINNING IS NOT ON GSENM GIS DATA, BUT IS DEPICTED OPEN / ATV ON MAP 2.</p> <p>United States' Reply: The County does not appear to dispute that the portion of this road that is located on Monument Lands is designated as "Open/ATV" on Map 2 of the Monument Plan, as reflected on the United States' original open roads list. Consistent with the original list of open roads, the United States has verified that this road is designated as "Open/ATV" on Map 2 of the Monument Plan. The BLM has also verified that the entire portion of this road that is located on Monument lands is designated as "Open/ATV" in the Monument's GIS data for this road. The beginning portion of the road that is not designated as "Open/ATV" in the Monument's GIS data is believed to be located on KFO lands beyond the unsurveyed boundary between Monument and KFO lands in this area.</p> <p>With respect to KFO lands, the United States has determined that a segment of this road, which is approximately 840 feet in length, is located on KFO lands along the KFO's unsurveyed boundary with the Monument. The United States agrees that this segment was inadvertently missed in the KFO's original road inventory that was completed in connection with the Kanab Plan and that this segment therefore was not shown on the Kanab Plan's Map 10. However, the BLM regards the entire road as an open road. Consequently, the prior omission of the referenced segment was an administrative error, and the BLM had no intent to close this segment in its travel planning. In fact, the KFO subsequently noted the inadvertent omission of this road segment from the Kanab Plan and revised its GIS data set for the Kanab Plan to show the segment as open. The KFO also subsequently published a two-sided map titled "Recreation Opportunities and Transportation Routes in the Kanab Field Office," which was finalized on or around November 16, 2011 and which became available to the public in 2012. This map shows the segment of this road on KFO lands as open. The BLM considers this revision to be a correction of a minor data error and a refinement of baseline information under the Kanab Plan and presently administers this segment as open. The United States has revised the entry for this road above to show that the KFO administers this segment as open under the Kanab Plan.</p>

<u>Kane County (2) Claimed Roads Open to Public Motor Vehicle Use²</u>			
No.	Road Number	Road Name	Plan Status
28.	K3700	Timber Mountain Road	<p>Open/ATV (Monument)</p> <p>County Response: GSENM MAP 2 SHOWS K3700D ENDING AT T41S R4W SECTION 34 ON GSENM MAP 2, ALSO NOT ON GSENM GIS DATA, K3700D CONNECTS TO K3000 ON SOUTH END.</p> <p>United States' Reply: The County's comments pertain to the K3700D road, claimed in <u>Kane County (3)</u>, (included in 91st Cause of Action in <u>Kane 3</u>), not the K3700 road claimed in <u>Kane County (2)</u> (28th cause of action in <u>Kane 2</u>). Consistent with the United States' original open roads list, the K3700 road, as claimed in <u>Kane County (2)</u>, is designated in its entirety as "Open/ATV." The United States does not dispute that all or portions of the K3700D road, which connects to the K3700 road, are not designated as open under the Monument Plan and accordingly did not list that separate Class D road in its original list of open roads.</p>
29.	K3701	Timber Mountain Spur Road	<p>Open/ATV (Monument)</p> <p>County Response: K3701 DOES NOT APPEAR OPEN ON GSENM MAP 2 OR ON GSENM GIS DATA.</p> <p>United States' Reply: The United States agrees that this spur road, which is less than 800 feet in length, is not designated as "Open" or "Open/ATV" under the Monument Plan. The identification of this road as "Open/ATV" in the United States' original list of open roads was the result of inadvertent error. The United States has revised the entry for this road above to strike out the prior designation of this road as "Open/ATV," which prior entry was the result of inadvertent error.</p>
30.	K3900	Alton Road	Open (Kanab)
31.	K3975	Bunting Ranch Road	Open (Kanab)
32.	K3980	Brinkerhoff Ranch Road	Open (Kanab)
33.	K4000	Petrified Hollow Road	Open (Monument)
34.	K4015	Petrified Hollow North Road	Open/ATV (Monument)

<u>Kane County (2) Claimed Roads Open to Public Motor Vehicle Use²</u>			
No.	Road Number	Road Name	Plan Status
35.	K4020	Petrified Hollow East Road	Open/ATV (Monument) County Response: APPEARS OPEN / ATV GSENM MAP 2. United States' Reply: The County does not appear to dispute the status of this road, as reflected on the United States' original open roads list. Consistent with the original list of open roads, the United States has verified that this road is designated as "Open/ATV" under the Monument Plan.
36.	K4035	Heaton Ranch Road	Open (Monument)
37.	K4050	North End Kaibab Road	Open/ATV (Monument) County Response: K4050B APPEARS OPEN / ATV ON GSENM MAP 2, K4050D IS ADMINISTRATIVE USE ONLY FOR SHORT DISTANCE AND NOT ON MAP 2 WHERE IT CONNECTS TO K6000. United States' Reply: The County's comments pertain to the K4050D road (38th Cause of Action in <u>Kane County (2)</u>), not the K4050 road (37th cause of action in <u>Kane County (2)</u>). Consistent with the United States' original open roads list, the K4050 road is designated in its entirety as "Open/ATV" under the Monument Plan. The United States does not dispute that all or portions of the K4050D road, which connects to the K4050 road, are not designated as open under the Monument Plan and accordingly did not list that separate Class D road in its original list of open roads.
38.	K4170	Five Mile Mountain Road	Open/ATV (Monument) County Response: APPEARS OPEN / ATV GSENM MAP 2. United States' Reply: The County does not appear to dispute the status of this road, as reflected on the United States' original open roads list. Consistent with the original list of open roads, the United States has verified that this road is designated as "Open/ATV" under the Monument Plan.

<u>Kane County (2) Claimed Roads Open to Public Motor Vehicle Use²</u>			
No.	Road Number	Road Name	Plan Status
39.	K4170D	Five Mile Mountain D Road	Open/ATV (Monument) County Response: APPEARS OPEN / ATV GSENM MAP 2. United States' Reply: The County does not appear to dispute the status of this road, as reflected on the United States' original open roads list. Consistent with the original list of open roads, the United States has verified that this road is designated as "Open/ATV" under the Monument Plan.
40.	K4200	Kitchen Corral Road	Open/ATV (Monument) County Response: APPEARS OPEN / ATV GSENM MAP 2. United States' Reply: The County does not appear to dispute the status of this road, as reflected on the United States' original open roads list. Consistent with the original list of open roads, the United States has verified that this road is designated as "Open/ATV" under the Monument Plan.
41.	K4241	Paria Movie Loop Road	Open (Monument)
42.	K4245	Paria Cemetery Loop Road	Open (Monument) County Response: DOES NOT APPEAR TO BE ON GSENM MAP 2, NOT ON GSENM GIS DATA. United States' Reply: The United States agrees that this short road, which is claimed in the amended complaint in <u>Kane County (2)</u> to be 0.09 miles in length (43rd Cause of Action), is not designated as "Open" under the Monument Plan. The identification of this road as "Open" in the United States' original list of open roads was the result of inadvertent error. The United States has revised the entry for this road above to strike out the prior designation of this road as "Open," which prior entry was the result of inadvertent error.
43.	K4250	Paria Townsite Road	Open/ATV (Monument)

<u>Kane County (2) Claimed Roads Open to Public Motor Vehicle Use²</u>			
No.	Road Number	Road Name	Plan Status
44.	K4254	Paria Cemetery Road	<p>Open (Monument)</p> <p>County Response: DOES NOT APPEAR TO BE ON GSENM MAP 2, NOT ON GSENM GIS DATA.</p> <p>United States' Reply: The United States agrees that this short road, which is claimed in the amended complaint in <u>Kane County (2)</u> to be 0.08 miles in length (45th Cause of Action), is not designated as "Open" under the Monument Plan. The identification of this road as "Open" in the United States' original list of open roads was the result of inadvertent error. The United States has revised the entry for this road above to strike out the prior designation of this road as "Open," which prior entry was the result of inadvertent error.</p>
45.	K4600	Sheep Creek Road	Open/ATV (Monument)
46.	K6000	House Rock Valley Road	<p>Open (Monument) and Open/ATV (Monument)</p> <p>County Response: BEGINNING AND END OF K6000 APPEARS OPEN /STREET LEGAL ONLY ON GSENM MAP 2, CENTER SECTION OF K6000 APPEARS OPEN / ATV ON GSENM MAP 2.</p> <p>United States' Reply: The County appears to claim that the United States' original list of open roads is in error, not because a portion of this road is closed, but because a portion of this road is designated as "Open/ATV" rather than "Open." The United States agrees that the northern and southern portions of this road are designated as "Open" and that the portion of the road connecting the Five Mile Mountain and Mustang Tank roads is designated as "Open/ATV." The United States has corrected the entry for this road above to reflect the status of the portion of this road that is designated "Open/ATV." The failure to reflect the status of this portion of the road in the prior open roads list was the result of inadvertent error.</p>

<u>Kane County (2) Claimed Roads Open to Public Motor Vehicle Use²</u>			
No.	Road Number	Road Name	Plan Status
47.	K6020	Long Canyon Road	<p>Open (Monument)</p> <p>County Response: DOES NOT APPEAR TO THE END OF K6020 ON GSENM MAP 2.</p> <p>United States' Reply: Consistent with the United States' original open roads list, the K6020 road is designated in its entirety as "Open" under the Monument Plan. The northern most mile of the road crosses private land and is not administered by the Monument. To the extent the County's comments pertain to the K6020D road (49th Cause of Action in <u>Kane County (2)</u>), the United States does not dispute that all or portions of the K6020D road, which connects to the K6020 road, are not designated as open under the Monument Plan and accordingly did not list that separate Class D road in its original list of open roads.</p>

<u>Kane County (2) Claimed Roads Open to Public Motor Vehicle Use²</u>			
No.	Road Number	Road Name	Plan Status
48.	K7000	Cottonwood Canyon Road	<p>Open (Kanab)</p> <p>Open (Monument)</p> <p>County Response: APPEARS OPEN / STREET LEGAL ON GSENM MAP 2. DOES NOT APPEAR ON RMP MAP 10 OUTSIDE GSENM BOUNDARY ON NORTH END.</p> <p>United States' Reply: The County does not appear to dispute that the entirety of the road located on Monument lands is designated as "Open," as reflected on the United States' original open roads list. Consistent with the original list of open roads, the United States has verified that this portion of the road is designated as "Open" under the Monument Plan.</p> <p>With respect to the segments of the road that are located on KFO lands, the United States agrees that these segments were inadvertently missed in the BLM's original road inventory that was completed in connection with the Kanab Plan and that these segments therefore were not shown on the Kanab Plan's Map 10. However, the KFO regards the entire road as it crosses KFO lands as an open road. Consequently, the omission of the referenced segments was an administrative error, and the KFO had no intent to close these segments in its travel planning. In fact, the KFO subsequently depicted the entire road as it crosses KFO lands as a "Class 3 Primary Road" on the Paria Wilderness and Cannonville RMP travel maps (see explanation in Item No. 5 above re: "Class 3 Primary" roads). The United States has revised the entry for this road above to reflect the status of this road as it crosses KFO lands.</p>
49.	K7200	Smokey Hollow Road	<p>Open/ATV (Monument)</p> <p>Open (NRA)</p>

<u>Kane County (2) Claimed Roads Open to Public Motor Vehicle Use²</u>			
No.	Road Number	Road Name	Plan Status
50.	K7310	Horse Flat Road	Open/ATV (Monument) County Response: BEGINNING PORTION OF K7310 APPEARS OPEN / ATV ON GSENM MAP 2, LOWER PORTION OF K7310 IS AN ADMINISTRATIVE USE ONLY ROAD ON GSENM MAP 2 AND LOWER SECTION OF K7310 IS NOT ON GSENM MAP 2. United States' Reply: Consistent with the United States' original open roads list, the K7310 road (55th Cause of Action in Kane County (2)) is designated in its entirety as "Open/ATV" under the Monument Plan. To the extent the County's comments pertain to the K7310D road (56th Cause of Action in Kane County (2)), the United States does not dispute that all or portions of the K7310D road, which connects to the K7310 road, are not designated as open under the Monument Plan and accordingly did not list that separate Class D road in its original list of open roads.
51.	K7340	Tommy Water Road	Open/ATV (Monument)
52.	K8000	Smokey Mountain Road	Open/ATV (Monument) County Response: SECTION OF K8000 WHERE K8001 DOES NOT APPEAR ON GSENM MAP 2. United States' Reply: The United States agrees that the segment of the road referenced by Kane County, estimated at approximately 2,000 feet in length, is not designated as open to public motor vehicle use under the Monument Plan. However, the remainder of the road is designated as "Open/ATV" under the Monument Plan. The road has a total claimed length of 13.96 miles, the entirety of which is located on Monument lands. The United States has nonetheless revised the entry for this road above to reflect that a small segment of this road is not designated as "Open/ATV." The prior listing of this road as "Open/ATV" in its entirety was the result of inadvertent error. Open (NRA)
53.	K8001	K8001 Road	Open (Monument)
54.	K8400	Croton Road	Open/ATV (Monument)

<u>Kane County (3) Claimed Roads Open to Public Motor Vehicle Use</u>			
No.	Road Number	Road Name	Plan Status
55.	K1010	One of Dixie Knoll Roads	Open (Kanab)* ⁴
56.	K1015	One of Dixie Knoll Roads	Open (Kanab)*
57.	K1020	One of Dixie Knoll Roads	Open (Kanab)*
58.	K1035	One of Moquith Mountain Roads	Open (Kanab)*
59.	K1045	One of Moquith Mountain Roads	Open (Kanab)*
60.	K1050	One of Moquith Mountain Roads	Open (Kanab)*
61.	K1055	One of Moquith Mountain Roads	Open (Kanab)*
62.	K1105	One of Yellow Jacket Canyon East Roads	Open (Kanab)*
63.	K1110	One of Yellow Jacket Canyon East Roads	Open (Kanab)*
64.	K1111	One of Yellow Jacket Canyon East Roads	Open (Kanab)*
65.	K1115	One of Yellow Jacket Canyon East Roads	Open (Kanab)*
66.	K1120	One of Yellow Jacket Canyon East Roads	Open (Kanab)*
67.	K1125	One of Red Knoll Roads	Open (Kanab)*
68.	K1130	One of Red Knoll Roads	Open (Kanab)*
69.	K1140	One of West Fork Roads	Open (Kanab)*
70.	K1145	One of West Fork Roads	Open (Kanab)*
71.	K1146	One of West Fork Roads	Open (Kanab)*
72.	K1150	One of West Fork Roads	Open (Kanab)*
73.	K1155	One of West Fork Roads	Open (Kanab)*
74.	K1160	One of Red Knoll Roads	Open (Kanab)*
75.	K1165	One of Red Knoll Roads	Open (Kanab)*

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<u>Kane County (3) Claimed Roads Open to Public Motor Vehicle Use</u>			
No.	Road Number	Road Name	Plan Status
76.	K1175	One of Red Knoll Roads	Open (Kanab)*
77.	K1180	One of Red Knoll Roads	Open (Kanab)*
78.	K1185	One of Red Knoll Roads	Open (Kanab)*
79.	K1190	One of Red Knoll Roads	Open (Kanab)*
80.	K1205	One of Pine Spring Roads	Open (Kanab)*
81.	K1220	One of Shunes Hollow Roads	Open (Kanab)*
82.	K1225	One of Shunes Hollow Roads	Open (Kanab)*
83.	K1250	One of Shunes Hollow Roads	Open (Kanab)*
84.	K1255	One of Pine Spring Roads	Open (Kanab)*
85.	K1260	One of Oak Flat Roads	Open (Kanab)*
86.	K1265	One of Oak Flat Roads	Open (Kanab)*
87.	K1275	One of Oak Flat Roads	Open (Kanab)*
88.	K1280	One of Oak Flat Roads	Open (Kanab)*
89.	K1285	One of Oak Flat Roads	Open (Kanab)*
90.	K1287	One of the Barracks Area Roads	Open (Kanab)*
91.	K1290	One of the Barracks Area Roads	Open (Kanab)*
92.	K1305	One of Dixie Knoll Roads	Open (Kanab)*
93.	K1320	One of Dixie Knoll Roads	Open (Kanab)*
94.	K1325	One of Dixie Knoll Roads	Open (Kanab)*
95.	K1330	One of Harris Springs Roads	Open (Kanab)*
96.	K1335	One of Harris Springs Roads	Open (Kanab)*
97.	K1340	One of Harris Springs Roads	Open (Kanab)*

<u>Kane County (3) Claimed Roads Open to Public Motor Vehicle Use</u>			
No.	Road Number	Road Name	Plan Status
98.	K1345	One of Harris Springs Roads	Open (Kanab)*
99.	K1350	One of Harris Springs Roads	Open (Kanab)*
100.	K1355	One of Harris Springs Roads	Open (Kanab)*
101.	K1360	One of Harris Springs Roads	Open (Kanab)*
102.	K1365	One of Harris Springs Roads	Open (Kanab)*
103.	K1370	One of Harris Mountain Roads	Open (Kanab)*
104.	K1375	One of Harris Mountain Roads	Open (Kanab)*
105.	K1400	One of Harris Mountain Roads	Open (Kanab)*
106.	K1415	One of Block Mesas Roads	Open (Kanab)*
107.	K1425	One of Block Mesas Roads	Open (Kanab)*
108.	K1445	One of Joseph Canyon Roads	Open (Kanab)*
109.	K1451	One of Joseph Canyon Roads	Open (Kanab)*
110.	K1455	One of Joseph Canyon Roads	Open (Kanab)*
111.	K1460	One of Joseph Canyon Roads	Open (Kanab)*
112.	K1465	One of Upper Clay Flat Roads	Open (Kanab)*
113.	K1470	One of Upper Clay Flat Roads	Open (Kanab)*
114.	K1475	One of Upper Clay Flat Roads	Open (Kanab)*
115.	K1500	Harris Mountain Loop Road	Open (Kanab)*
116.	K1505	One of Wacker Springs Roads	Open (Kanab)*
117.	K1510	One of Wacker Springs Roads	Open (Kanab)*
118.	K1515	One of Wacker Springs Roads	Open (Kanab)*
119.	K1520	One of Wacker Springs Roads	Open (Kanab)*

<u>Kane County (3) Claimed Roads Open to Public Motor Vehicle Use</u>			
No.	Road Number	Road Name	Plan Status
120.	K1525	One of Wacker Springs Roads	Open (Kanab)*
121.	K1530	One of Wacker Springs Roads	Open (Kanab)*
122.	K1536	One of Sethy's Canyon Roads	Open (Kanab)*
123.	K1540	One of Sethy's Canyon Roads	Open (Kanab)*
124.	K1545	One of Sethy's Canyon Roads	Open (Kanab)*
125.	K1550	One of Sethy's Canyon Roads	Open (Kanab)*
126.	K1555	One of Sethy's Canyon Roads	Open (Kanab)*
127.	K1560	One of Sethy's Canyon Roads	Open (Kanab)*
128.	K1600	Poverty Wash Road	Open (Kanab)*
129.	K1600D	K1600D	Open (Kanab)*
130.	K1605	One of Co Op Creek Roads	Open (Kanab)*
131.	K1610	One of Co Op Creek Roads	Open (Kanab)*
132.	K1620	Coal Hill Gravel Road	Open (Kanab)*
133.	K1620D	K1620D	Open (Kanab)*
134.	K1625	One of Mineral Gulch North Roads	Open (Kanab)*
135.	K1630	One of Mineral Gulch North Roads	Open (Kanab)*
136.	K1640	One of Mineral Gulch North Roads	Open (Kanab)*
137.	K1655	One of Mineral Gulch South Roads	Open (Kanab)*
138.	K1710	One of Birch Hollow Roads	Open (Kanab)*
139.	K1715	One of Birch Hollow Roads	Open (Kanab)*
140.	K1720	One of Birch Hollow Roads	Open (Kanab)*
141.	K1730	One of Orderville Roads	Open (Kanab)*

<u>Kane County (3) Claimed Roads Open to Public Motor Vehicle Use</u>			
No.	Road Number	Road Name	Plan Status
142.	K1735	One of Orderville Roads	Open (Kanab)*
143.	K1750	One of Orderville Roads	Open (Kanab)*
144.	K1800	Zion Narrows Trailhead Road	Open (Kanab)*
145.	K1800D	K1800D	Open (Kanab)*
146.	K1810	K1810	Open (Kanab)*
147.	K2005	One of Orderville Roads	Open (Kanab)*
148.	K2024	One of Meadow Creek Roads	Open (Kanab)*
149.	K2025	One of Meadow Creek Roads	Open (Kanab)*
150.	K2080	One of Dave's Canyon Roads	Open (Kanab)*
151.	K2090	One of Dave's Canyon Roads	Open (Kanab)*
152.	K2095	One of Dave's Canyon Roads	Open (Kanab)*
153.	K2105	One of Spring Hollow Roads	Open (Kanab)*
154.	K2115	One of Spring Hollow Roads	Open (Kanab)*
155.	K2120	One of Spring Hollow Roads	Open (Kanab)*
156.	K2125	One of Burnt Flat Gulch Roads	Open (Kanab)*
157.	K2130	One of Burnt Flat Gulch Roads	Open (Kanab)*
158.	K2140	One of Burnt Flat Gulch Roads	Open (Kanab)*
159.	K2300D	One of Swains Creek Roads	Open (Kanab)*
160.	K2305	One of Swains Creek Roads	Open (Kanab)*
161.	K2480	K2480	Open (Kanab)*

<u>Kane County (3) Claimed Roads Open to Public Motor Vehicle Use</u>			
No.	Road Number	Road Name	Plan Status
162.	K2500	K2500	<p>Open (Kanab)*</p> <p>County Response: SMALL SEGMENT IN T43S R6W SECTION 15 DOES NOT APPEAR ON RMP GIS DATA.</p> <p>United States' Reply: As claimed by plaintiffs, this road crosses 4.04 miles of KFO lands. The United States agrees that a short segment of this road that crosses KFO lands, which segment is approximately 370 feet in length, was inadvertently missed in the BLM's original road inventory that was completed in connection with the Kanab Plan and that this segment therefore was not shown on the Kanab Plan's Map 10. However, the BLM asserts that the omitted segment is located in Section 22 of the referenced township and range, not the referenced Section 15. In any event, the omission of this short segment was an administrative error and/or the result of discrepancies in GIS data collected, and the BLM had no intent to close this segment in its travel planning. The United States has nonetheless revised the entry for this road above to strike out the prior designation of the entirety of this road as open under the Kanab Plan, which prior entry was the result of inadvertent error.</p>
163.	K2503	One of Dry Canyon Roads	Open (Kanab)*
164.	K2504	One of Dry Canyon Roads	Open (Kanab)*
165.	K2505	One of Dry Canyon Roads	Open (Kanab)*
166.	K2515	One of Dry Canyon Roads	Open (Kanab)*
167.	K2540	One of Thompson Point Roads	Open (Kanab)*
168.	K2555	One of Thompson Point Roads	Open (Kanab)*
169.	K2560	One of Thompson Point Roads	Open (Kanab)*
170.	K2570	One of John R. Flat Roads	Open (Kanab)*
171.	K2575	One of John R. Flat Roads	Open (Kanab)*
172.	K2576	One of John R. Flat Roads	Open (Kanab)*
173.	K2580	One of John R. Flat Roads	Open (Kanab)*

<u>Kane County (3) Claimed Roads Open to Public Motor Vehicle Use</u>			
No.	Road Number	Road Name	Plan Status
174.	K2582	One of John R. Flat Roads	Open (Kanab)*
175.	K2586	One of Wygaret Terrace Roads	Open (Kanab)*
176.	K2587	One of Wygaret Terrace Roads	Open (Kanab)*
177.	K2588	One of Wygaret Terrace Roads	Open (Kanab)*
178.	K2590	One of Wygaret Terrace Roads	Open (Kanab)*
179.	K2592	One of Wygaret Terrace Roads	Open (Kanab)*
180.	K2600	One of John R. Flat Roads	Open (Kanab)*
181.	K2605	One of Sand Hills Roads	Open (Kanab)*
182.	K2610	One of Sand Hills Roads	Open (Kanab)*
183.	K2620	One of John R. Flat Roads	Open (Kanab)*
184.	K2625	One of Dry Lake Canyon Roads	Open (Kanab)*
185.	K2640	One of Brown Canyon Roads	Open (Kanab)*
186.	K2643	One of Brown Canyon Roads	Open (Kanab)*
187.	K2645	One of Brown Canyon Roads	Open (Kanab)*
188.	K2665	One of White Tower Roads	Open (Kanab)*
189.	K2670	One of Sand Hills Roads	Open (Kanab)*
190.	K2672	One of Sand Hills Roads	Open (Kanab)*
191.	K2680	One of White Tower Roads	Open (Kanab)*
192.	K2690	One of White Tower Roads	Open (Kanab)*
193.	K2705	One of Sand Hills Roads	Open (Kanab)*
194.	K2715	One of Diana's Throne Roads	Open (Kanab)*
195.	K2720	One of Diana's Throne Roads	Open (Kanab)*

<u>Kane County (3) Claimed Roads Open to Public Motor Vehicle Use</u>			
No.	Road Number	Road Name	Plan Status
196.	K2725	One of Diana's Throne Roads	Open (Kanab)*
197.	K2730	One of State Barn Wash Roads	Open (Kanab)*
198.	K2732	One of State Barn Wash Roads	Open (Kanab)*
199.	K2734	One of State Barn Wash Roads	Open (Kanab)*
200.	K2735	One of State Barn Wash Roads	Open (Kanab)*
201.	K2740	One of State Barn Wash Roads	Open (Kanab)*
202.	K2755	K2755	Open (Kanab)*
203.	K2790	One of Glendale Bench Roads	Open (Kanab)*
204.	K2820	One of Glendale Bench Roads	Open (Kanab)*
205.	K2825	One of Glendale Bench Roads	Open (Kanab)*
206.	K2835	One of Glendale Bench Roads	Open (Kanab)*
207.	K2840	One of Glendale Bench Roads	Open (Kanab)*
208.	K2870	One of Fourmile Hollow Roads	Open (Kanab)*
209.	K2880	One of Fourmile Hollow Roads	Open (Kanab)*
210.	K2890	One of Fourmile Hollow Roads	Open (Kanab)*
211.	K2892	One of Fourmile Hollow Roads	Open (Kanab)*
212.	K2900	One of Fourmile Hollow Roads	Open (Kanab)*
213.	K2915	One of Skutumpah Terrace West Roads	Open (Kanab)*
214.	K2935	One of Skutumpah Terrace West Roads	Open (Kanab)*
215.	K2940	One of Skutumpah Terrace West Roads	Open (Kanab)*
216.	K2950	One of Skutumpah Terrace West Roads	Open (Kanab)*
217.	K2970	One of Skutumpah Terrace East Roads	Open (Kanab)*

<u>Kane County (3) Claimed Roads Open to Public Motor Vehicle Use</u>			
No.	Road Number	Road Name	Plan Status
218.	K2998	One of Skutumpah Terrace East Roads	<p>Open (Kanab)</p> <p>Not Designated as Open (Monument)</p> <p>County Response: EAST END DOES NOT APPEAR ON GSENM MAP 2.</p> <p>United States' Reply: As described in the amended complaint in <u>Kane County (3)</u> (included in 63rd cause of action), this road is approximately 1.96 miles in length, of which 0.57 miles are located on federal lands in three segments. Two of these segments, of approximately 0.31 (Segment 3) and 0.01 miles (Segment 5) in length are located on KFO lands and are designated as open under the Kanab Plan. The third segment (Segment 1) is approximately 0.09 miles in length and is located on Monument lands. The United States agrees that this third segment is not designated as open under the Monument Plan. The United States has revised the entry for this road above to reflect that the segment of this road located on Monument lands is not designated as "Open." The omission of this segment from the original list of open roads was the result of inadvertent error.</p>
219.	K3005	One of Swain Hollow Roads	Open (Kanab)*
220.	K3015	One of Swain Hollow Roads	Open (Kanab)*
221.	K3040	One of Threemile Hollow Roads	Open (Kanab)*
222.	K3045	One of Threemile Hollow Roads	Open (Kanab)*
223.	K3050	One of Threemile Hollow Roads	Open (Kanab)*
224.	K3075D	One of Black Mountain Roads	Open (Kanab)*
225.	K3080	One of Black Mountain Roads	Open (Kanab)*
226.	K3115	One of Sink Valley Wash North Roads	Open (Kanab)*
227.	K3125	One of Sink Valley Wash North Roads	Open (Kanab)*
228.	K3135	One of Sink Valley Wash North Roads	Open (Kanab)*
229.	K3140	One of Sink Valley Wash North Roads	Open (Kanab)*

<u>Kane County (3) Claimed Roads Open to Public Motor Vehicle Use</u>			
No.	Road Number	Road Name	Plan Status
230.	K3145	One of Sink Valley Wash North Roads	Open (Kanab)*
231.	K3155	K3155	Open (Kanab)*
232.	K3164	One of Coal Hollow Roads	Open (Kanab)*
233.	K3215	One of Shinarump Cliffs Roads	Open (Kanab)*
234.	K3220	One of Shinarump Cliffs Roads	Open (Kanab)*
235.	K3230	One of Shinarump Cliffs Roads	Open (Kanab)*
236.	K3245	One of Shinarump Cliffs Roads	Open (Kanab)*
237.	K3250	One of Shinarump Cliffs Roads	Open (Kanab)*
238.	K3270	One of Shinarump Cliffs Roads	Open (Kanab)
239.	K3282	One of White Sage Wash South Roads	Open (Kanab)*
240.	K3283	One of White Sage Wash South Roads	Open (Kanab)*
241.	K3284	One of White Sage Wash South Roads	Open (Kanab)*
242.	K3285	K3285	Open (Kanab) Open (Monument)
243.	K3410	One of Johnson Lakes Canyon Roads	Open/ATV (Monument)
244.	K3425	One of Johnson Lakes Canyon Roads	Open/ATV (Monument)
245.	K3490	One of Telegraph Wash Roads	Open/ATV (Monument)
246.	K3510	One of Clay Hole Wash Roads	Open/ATV (Monument)
247.	K3520	One of Telegraph Wash Roads	Open/ATV (Monument)
248.	K3525	One of Clay Hole Wash Roads	Open/ATV (Monument)
249.	K3550	One of Nephi Point Roads	Open (Monument)
250.	K3600D	K3600D	Open/ATV (Monument)
251.	K3663	One of Johnson Lakes Canyon Roads	Open/ATV (Monument)

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<u>Kane County (3) Claimed Roads Open to Public Motor Vehicle Use</u>			
No.	Road Number	Road Name	Plan Status
252.	K3675	One of Johnson Lakes Canyon Roads	Open/ATV (Monument)
253.	K3830	One of Red Breaks Roads	Open/ATV (Monument)
254.	K3915	One of Fisher Canyon Roads	Open (Kanab)*
255.	K3920	One of Fisher Canyon Roads	Open (Kanab)*
256.	K3930	Leach Ranch Road	Open (Kanab)*
257.	K3937	One of Fisher Canyon Roads	Open (Kanab)*
258.	K3938	One of Fisher Canyon Roads	Open (Kanab)*
259.	K3940	One of Fisher Canyon Roads	Open (Kanab)*
260.	K3942	One of Fisher Canyon Roads	Open (Kanab)*
261.	K3945	One of Oak Canyon Roads	Open (Kanab)*
262.	K3955	One of Ford Pasture Roads	Open (Kanab)*
263.	K3960	One of Ford Pasture Roads	Open (Kanab)*
264.	K3985	One of Thompson Creek Roads	Open (Kanab)*
265.	K4030	One of White Sage Wash North Roads	Open/ATV (Monument)
266.	K4065	One of Pine Hollow Canyon Roads	Open/ATV (Monument)
267.	K4085	One of Kaibab Gulch South Roads	Open/ATV (Monument)
268.	K4115	One of Kaibab Gulch South Roads	Open/ATV (Monument)
269.	K4120	One of Kaibab Gulch South Roads	Open/ATV (Monument)
270.	K4130	One of Pine Hollow Canyon Roads	Open/ATV (Monument)
271.	K4150	One of Kaibab Gulch South Roads	Open/ATV (Monument)

<u>Kane County (3) Claimed Roads Open to Public Motor Vehicle Use</u>			
No.	Road Number	Road Name	Plan Status
272.	K4190	One of Fivemile Mountain Roads	<p>Open/ATV (Monument)</p> <p>County response: A SEGMENT OF K4190 DOES NOT APPEAR ON GSENM MAP 2 BUT DETOURS ON K4193, ALSO GSENM GIS DATA CONFIRMS THIS.</p> <p>United States' Reply: As described in the amended complaint in <u>Kane County (3)</u> (included in the 105th cause of action), this road is approximately 4.6 miles in length, all of which are located on federal lands. The majority of this road is designated as "Open/ATV" under the Monument Plan, but the United States agrees that a segment of the road that is approximately 1.06 miles in length is not designated as open under the Plan, but is instead rerouted onto K4193, which runs immediately parallel to K4190 approximately 250 feet to the west. The United States has revised the entry for this road above to strike out the prior designation of this road as "Open/ATV," which prior entry was the result of inadvertent error.</p>
273.	K4193	One of Fivemile Mountain Roads	<p>Open/ATV (Monument)</p> <p>County Response: DETOURS K4190 ONTO THIS SEGMENT.</p> <p>United States' Reply: The County does not appear to dispute the status of this road, as reflected in the United States' original list of open roads. Rather, the County appears to comment on this road to provide additional context relative to its comments on K4190, above. Consistent with the original list of open roads, the United States has verified that this road is designated as "Open/ATV" under the Monument Plan.</p>
274.	K4215	Kimball Valley Waterline Road	Open/ATV (Monument)
275.	K4230	One of Sand Gulch Roads	Open/ATV (Monument)
276.	K4300	One of Deer Springs Wash Roads ⁵	Open (Monument) and Open/ATV (Monument)
277.	K4415	One of Table Mountain Roads	Open (Kanab)*
278.	K4420	One of Table Mountain Roads	Open (Kanab)*
279.	K4422	One of Table Mountain Roads	Open (Kanab)*
280.	K4425	One of Table Mountain Roads	Open (Kanab)*
281.	K4430	One of Table Mountain Roads	Open (Kanab)*

<u>Kane County (3) Claimed Roads Open to Public Motor Vehicle Use</u>			
No.	Road Number	Road Name	Plan Status
282.	K4445	One of Slide Canyon Roads	Open (Kanab)*
283.	K4450	One of Slide Canyon Roads	Open (Kanab)*
284.	K4460	One of Lower Podunk Creek Roads	Open/ATV (Monument)
285.	K4475	K4475	Open/ATV (Monument)
286.	K4480	One of Lower Podunk Creek Roads	Open (Monument)
287.	K4500	One of Indian Hollow Roads	Open (Monument)
288.	K4520	One of Indian Hollow Roads	Open/ATV (Monument)
289.	K4615	One of Indian Hollow Roads	Open/ATV (Monument)
290.	K6065	One of East Cove Roads	Open (Monument)
291.	K6125	One of Judd Hollow Roads	Open (Kanab)*
292.	K7010	One of Brigham Plains Roads	Open/ATV (Monument)
293.	K7060	K7060	Open/ATV (Monument)
294.	K7065	K7065	Open/ATV (Monument)
295.	K7150	One of Wesses Canyon Roads	Open/ATV (Monument)
296.	K7422	One of Big Dry Valley Roads	Open (Kanab)
297.	K7425	One of Big Dry Valley Roads	Open (Kanab)*
298.	K7430	Dry Valley Road	Open (Kanab)*
299.	K7432	One of Big Dry Valley Roads	Open (Kanab)*
300.	K7435	One of Big Dry Valley Roads	Open (Kanab)*
301.	K7500	One of Horse Mountain Roads	Open/ATV (Monument)
302.	K8150	K8150	Open (NRA)
303.	K8180	One of Alstrom Point Roads	Open (NRA)

<u>Kane County (3) Claimed Roads Open to Public Motor Vehicle Use</u>			
No.	Road Number	Road Name	Plan Status
304.	K8370	One of Collett Top Roads	Open/ATV (Monument)
305.	K8455	One of East of the Navajo Roads	Open (Monument)
306.	K8500	One of Collett Top Roads	Open/ATV (Monument)
307.	K8625	One of Grand Bench Roads	Open (Monument); Open (NRA)
308.	K8630	One of Grand Bench Roads	Open NRA
309.	K9035	One of Fiftymile Bench Roads	Open/ATV (Monument)
310.	K9085	One of Sooner Bench Roads	Open (Monument)
311.	K9200	One of Chimney Rock Roads	Open (Monument)
312.	K9230	One of Middle Trail Roads	Open (Monument)

¹ Roads designated as “Open (Kanab)” and “Open (Kanab) Major Road” represent roads that are designated as open to public motor vehicle use under the Kanab Resource Management Plan of October 2008.

Roads designated as “Open/ATV (Monument)” represent roads that are open to public motor vehicle use, including all terrain vehicle use, under the Grand Staircase Escalante National Monument Management Plan of February 2000. Roads designated as “Open (Monument)” represent roads that are open to public motor vehicle use, but excluding all terrain vehicle use, under the Monument Plan.

Roads designated as “Open (NRA)” represent roads that are designated as open to public motor vehicle use under the Glen Canyon National Recreation Area General Management Plan of 1979.

Roads designated as “Open (Forest Service)” represent roads that cross National Forest System lands for a portion of their length and which roads are open to public motor vehicle use under the relevant regulations. See Kane County (2), Dkt. No. 33, at 17 and referenced Exhibit D.

Where a claimed road crosses management boundaries (e.g., portions of the road are located on Kanab Management Plan, Monument Management Plan, Glen Canyon National Recreation Area, and/or U.S. Forest Service lands), the status of the roads within each management unit is shown in the table.

² The above table showing Kane County (2) open roads is based upon the tables included in the Memorandum in Support of the Defendant’s Motion to Dismiss Plaintiff’s Amended Complaint filed in that case. See Kane County (2), Dkt. No. 33, at 12 13, 16 18. However, the tables in that brief

Exhibit 1 to Defendant United States’ Reply to Kane County’s Objections and Response (Dkt. No. 153)

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showed the status of all roads claimed in that case, including closed roads and roads limited to administrative use, even though the United States did not seek (and is not seeking) dismissal as to those classes of roads. For the sake of clarity and consistency with the format of the table used in Kane County (3), the United States has omitted closed roads and administrative use only roads from the above table for Kane County (2), and the table only depicts the claimed roads in that case that are open to public motor vehicle use. In addition, the United States has omitted the Hole in the Rock, the Sit Down Bench, and the Little Valley roads from the table for Kane County (2). Even though those roads are designated as open to public motor vehicle use under the Monument Plan (as indicated in the previous tables in Dkt. No. 33), the United States elected not to seek dismissal of those claims for lack of a title dispute for the reasons previously set forth in its opening brief in Kane County (2). See id. at 18 n.14. Finally, the United States has added road numbers to the Kane (2) table, based upon the road numbers used in the amended complaint in Kane County (2), and has sorted the roads in ascending order based upon those road numbers.

³ There are two small portions of the North Fork Road that were not analyzed in the Kanab Plan. The Kanab Field Office still considers these small portions to be “open,” but these portions technically do not have a specific classification under the Kanab Plan. See Kane County (2), Dkt. No. 33, at 16 n.11 and referenced Exhibit E. In fact, as discussed in the entry for this road, above, following the preparation of KFO Map 10, the BLM subsequently depicted the entire road, 14.26 miles of which are claimed on KFO lands, as a “Class 3 Primary Road” on the North Fork Virgin River and Orderville Glendale Kanab RMP travel maps implementing the Kanab Plan.

⁴ Per the Court’s request at the June 26, 2013 hearing on the United States’ motions to dismiss, the United States has identified with an asterisk “*” in the fourth column of the Kane County (3) table all of the open roads in that case that were omitted from the State of Utah’s May 17, 2011 180 day notice of intent sent to the Secretary of the Interior. The full list of those omitted roads is included as Exhibit 16 to the United States’ Memorandum in Support of United States’ Motion for Partial Dismissal of Plaintiffs’ Amended Complaint in Kane County (3). See Dkt. No. 42 7 in Kane County (3).

⁵ The majority of the 9.6 miles claimed for K4300 (One of the Deer Springs Wash roads) is designated as “Open” under the Monument Plan, but 1.2 miles are designated as “Open/ATV” by the Plan.

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

KANE COUNTY, UTAH (2), (3), and (4), a Utah
political subdivision; and STATE OF UTAH,

Plaintiffs (or Plaintiff-Intervenor, as to State of
Utah in Kane County (2)),

v.

UNITED STATES OF AMERICA,

Defendant,

and

SOUTHERN UTAH WILDERNESS
ALLIANCE et al.,

Proposed Defendant-Intervenors,

**SUPPLEMENTAL DECLARATION
OF DANIEL ALBERTS IN SUPPORT
OF UNITED STATES' MOTIONS FOR
PARTIAL DISMISSAL OF
PLAINTIFFS' AMENDED
COMPLAINTS**

Consolidated Case No. 2:10-cv-01073-RJS

(Consolidated with Case Nos. 2:11-cv-
1031-CW and 2:12-cv-476-CW)

Judge Robert J. Shelby

and

CHRIS ODEKERKEN et al.,

Proposed Defendant-Intervenors.

1. I have been employed as a GIS Specialist in the Kanab Field Office of the United States Bureau of Land Management ("BLM"), Department of the Interior, from July 9, 2006, through March 30, 2009, and from July 20, 2009, through the present. In this position, I assisted with preparing portions of the BLM's Kanab Resource Management Plan of October 2008 (the "Kanab Plan") designating roads that are open for motor vehicle use, including Map 10 of the Kanab Plan. Subsequent to the Plan's approval, I have also assisted in maintaining and updating the Kanab Field Office's GIS data for the Kanab Plan.

2. I previously signed a declaration that was filed in support of the United States' motions for partial dismissal filed in Kane County (3), Utah and State of Utah v. United States, Case No. 2:11-cv-0103 (D. Utah). See Exh. No. 6 in Kane County (3) (Dkt. No. 42-6).

3. This declaration supplements my previous declaration that was attached to the open roads list filed as Exhibit No. 6 in Kane County (3). See Dkt. No. 42-6. This declaration also addresses additional rights-of-way claimed in Kane County (2), as listed in the United States' combined list of open roads submitted to the Court on June 28, 2013 (the "Combined Open Roads List.").

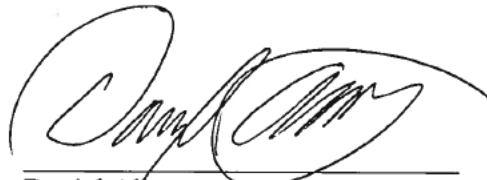
4. I have reviewed the Declaration of Louis L. Pratt, Jr. and his comments on certain of the roads listed in the Combined Open Roads List, dated July 19, 2013. See Dkt. No. 153-1 in

Kane County (2). I have also reviewed the underlying right-of-way claims addressed by Mr. Pratt's comments, as claimed by plaintiffs in these consolidated cases, and have compared these claims and Mr. Pratt's comments to the Kanab Plan, including Map 10 of the Kanab Plan and subsequent maps prepared by the BLM's Kanab Field Office implementing the Kanab Plan.

5. Based on this review, I have assisted in preparing and reviewed the table to which this declaration is attached, which bears the header "United States' Replies to Kane County's Comments on List of Claimed Roads in Kane County (2) and (3) Open to Public Motor Vehicle Use." That table and the United States' replies to Mr. Pratt's comments in that table accurately describe the status of the roads on Kanab Field Office lands addressed by Mr. Pratt's comments.

Pursuant to 28 U.S.C § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed August 1, 2013.



Daniel Alberts
GIS Specialist
U.S. Bureau of Land Management
Kanab Field Office
Kanab, Utah

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political subdivision; and STATE OF UTAH,

Plaintiffs (or Plaintiff-Intervenor, as to State of
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v.

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Defendant,

and

SOUTHERN UTAH WILDERNESS
ALLIANCE et al.,

Proposed Defendant-Intervenors,

**SUPPLEMENTAL DECLARATION
OF ERIC MATRANGA IN SUPPORT
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1031-CW and 2:12-cv-476-CW)

Judge Robert J. Shelby

and

CHRIS ODEKERKEN et al.,

Proposed Defendant-Intervenors.

1. I have been employed as a GIS Specialist for the Grand Staircase-Escalante National Monument (the “Monument”), managed by the United States Bureau of Land Management (“BLM”), Department of the Interior, from March 26, 2012 through the present.

2. I previously signed two declarations that were filed in support of the United States’ motions for partial dismissal filed in Kane County (3), Utah and State of Utah v. United States, Case No. 2:11-cv-0103 (D. Utah). See Exh. Nos. 6 in Kane County (3) (Dkt. No. 42-6 and 42-7).

3. This declaration supplements my previous declaration that was attached to the open roads list filed as Exhibit No. 6 in Kane County (3). See Dkt. No. 42-6. This declaration also addresses additional rights-of-way claimed in Kane County (2), as listed in the United States’ combined list of open roads submitted to the Court on June 28, 2013 (the “Combined Open Roads List.”).

4. I have reviewed the Declaration of Louis L. Pratt, Jr. and his comments on certain of the roads listed in the Combined Open Roads List, dated July 19, 2013. See Dkt. No. 153-1 in Kane County (2). I have also reviewed the underlying right-of-way claims addressed by Mr. Pratt’s comments, as claimed by plaintiffs in these consolidated cases, and have compared these claims and Mr. Pratt’s comments to the Monument Management Plan (the “Monument Plan”),

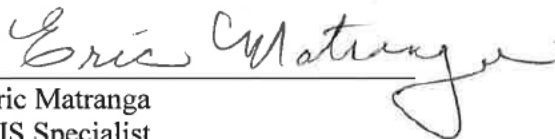
dated February 2000, designating roads that are open for motor vehicle use, including Map 2 of the Monument Plan.

5. Based on this review, I have prepared on behalf of the Monument a response to each of Mr. Pratt's comments to the Combined Open Roads List.

6. I have assisted in preparing and reviewed the table to which this declaration is attached, which bears the header "United States' Replies to Kane County's Comments on List of Claimed Roads in Kane County (2) and (3) Open to Public Motor Vehicle Use." That table and the United States' replies to Mr. Pratt's comments in that table accurately describe the status of the roads on Monument lands addressed by Mr. Pratt's comments.

Pursuant to 28 U.S.C § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed August 1, 2013.



Eric Matranga
GIS Specialist
U.S. Bureau of Land Management
Grand Staircase-Escalante National Monument
Kanab, Utah

Case 2:10-cv-01073-CW-TLW Document 162-1 Filed 10/01/13 Page 1 of 5

Kane County, Utah (2), (3), (4) and State of Utah v. United States,
Consolidated Case No. 2:10 cv 01073 RJS

Addendum to United States' Replies to Kane County's Comments on List of Claimed Roads
in Kane County (2) and (3) Open to Public Motor Vehicle Use

43.	K4250	Paria Townsite Road	<p>Open/ATV (Monument)</p> <p>As claimed by plaintiffs, this road crosses 5.71 miles of Monument lands. Although Kane County does not allege error in the United States' original open roads list as to this road, the United States has determined that a short segment of this road at its northern end, which segment is approximately 0.16 miles long, is not designated as open under the Monument Plan. The United States has revised the entry for this road above to strike out the prior designation of the entirety of this road as open under the Monument Plan, which prior entry was the result of inadvertent error.</p>
45.	K4600	Sheep Creek Road	<p>Open/ATV (Monument)</p> <p>Not Designated as Open (Kanab)</p> <p>As claimed by plaintiffs, this road crosses 2.07 miles of federal lands. Although Kane County does not allege error in the United States' original open roads list as to this road, the United States has determined that a segment of this road, estimated to be approximately 0.45 miles in length, is located on KFO lands and is not designated as open under the Kanab Plan. The failure to designate this segment located on KFO lands appears to be an inadvertent, administrative oversight due to its short length rather than any intent to close the road. The United States has nonetheless revised the entry for this road above to reflect that this segment is not designated as open under the Kanab Plan. The failure to reflect the status of this road, as it crosses KFO lands, in the United States' original open roads list was the result of inadvertent error.</p>
165.	K2505	One of Dry Canyon Roads	<p>Open (Kanab)*</p> <p>As claimed by plaintiffs, this road crosses 1.13 miles of KFO lands. Although Kane County does not allege error in the United States' original open roads list as to this road, the United States has determined that a segment of this road, which segment is approximately 0.8 miles long, is not designated as open under the Kanab Plan. The United States has revised the entry for this road above to strike out the prior designation of the entirety of this road as open under the Kanab Plan, which prior entry was the result of inadvertent error.</p>

Exhibit 2

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v.

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Defendant,

and

SOUTHERN UTAH WILDERNESS
 ALLIANCE et al.,

Proposed Defendant-Intervenors,

**SECOND SUPPLEMENTAL
 DECLARATION OF DANIEL
 ALBERTS IN SUPPORT OF UNITED
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(Consolidated with Case Nos. 2:11-cv-
 1031-CW and 2:12-cv-476-CW)

Judge Robert J. Shelby

and

CHRIS ODEKERKEN et al.,

Proposed Defendant-Intervenors.

1. This declaration supplements my previous supplemental declaration that was attached to the United States' Reply to Kane County's Objections and Response ("Alberts Supplemental Declaration"). See Dkt. No. 157-1 at 35-37.

2. Following the filing of the Alberts Supplemental Declaration, I have undertaken additional review of the table of roads to which that declaration was attached (the "Reply Brief Table") and have determined that there are errors in that table as to the status of the claimed K2505 and K4600 roads, as they cross lands administered by the BLM's Kanab Field Office ("KFO"). The table to which this second supplemental declaration is attached accurately describes the status of those roads under the Kanab Plan. The remainder of the road status listings in the Reply Brief Table are correct as to KFO lands, to the best of my current information and belief.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed September 27, 2013.



Daniel Alberts
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Kanab Field Office
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Plaintiffs (or Plaintiff-Intervenor, as to State of
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v.

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Defendant,

and

SOUTHERN UTAH WILDERNESS
 ALLIANCE et al.,

Proposed Defendant-Intervenors,

**SECOND SUPPLEMENTAL
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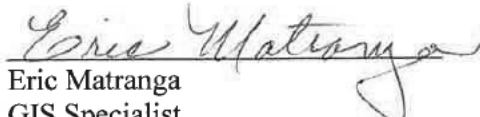
Proposed Defendant-Intervenors.

1. This declaration supplements my previous supplemental declaration that was attached to the United States' Reply to Kane County's Objections and Response ("Matranga Supplemental Declaration"). See Dkt. No. 157-1 at 38-40.

2. Following the filing of the Matranga Supplemental Declaration, I have undertaken additional review of the list of roads to which that declaration was attached (the "Reply Brief Table") and have determined that there is an error in that table as to the status of the claimed K4250 road on Monument lands. The table to which this second supplemental declaration is attached accurately describes the status of that road. The remainder of the road status listings in the Reply Brief Table are correct as to Monument lands, to the best of my current information and belief.

Pursuant to 28 U.S.C § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed September 27, 2013.


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SOUTHERN UTAH WILDERNESS
ALLIANCE et al.,

Proposed Defendant-Intervenors,

**DEFENDANT UNITED STATES'
REPLY TO KANE COUNTY'S
OBJECTIONS AND RESPONSE**

Consolidated Case No. 2:10-cv-01073-RJS

(Consolidated with Case Nos. 2:11-cv-
1031-CW and 2:12-cv-476-CW)

Judge Robert J. Shelby

and

CHRIS ODEKERKEN et al.,

Proposed Defendant-Intervenors.

Defendant United States of America hereby replies to Plaintiff Kane County's Objections and Response, filed July 19, 2013 (Dkt. No. 153) ("Objections"), including the attached Declaration of Louis L. Pratt, Jr. (the "Pratt Declaration") and Attachment 1 to the Pratt Declaration (Dkt. No. 153-1). The Objections concern the United States' list of open roads submitted to the Court by email on June 28, 2013, pursuant to the Court's instruction at the June 26, 2013 hearing on the United States' motions for partial dismissal. In the Objections, Kane County briefly attempts to re-argue the merits of the United States' motions, with a particular emphasis on Judge Waddoups' ruling on jurisdictional issues in Kane County (1), Utah and State of Utah v. United States, Case No. 2:08-cv-315, 2013 WL 1180387 (D. Utah Mar. 20, 2013). Kane County also identifies in the Objections for the first time more than twenty out of the 312 roads on the United States' list of open roads that the County contends "are not on Monument Map 2 or KFO Map 10, in whole or in part."¹ Dkt. No. 153 at 3; see also Dkt. No. 153-1.

I. Reply to Kane County's Legal Arguments.

Kane County argues that it has established a title dispute based upon the "long history of conflict between Kane County and the United States involving the 312 roads on the list, and the

¹ Kane County first raised these objections to specific roads after oral argument on the United States' motions to dismiss and long after the United States first filed its original open roads lists in Kane County (2) on April 22, 2011, Dkt. No. 33 at 12-13, 16-18, and in Kane County (3) on October 12, 2012. Dkt. No. 42-6 (Exh. 6 to memorandum in support of motion to dismiss).

adverse planning actions now implemented in the” Monument and Kanab Plans. Dkt. No. 153 at 2. Kane County also contends that Judge Waddoups in Kane County (1) “did not set any specific criteria necessary to establish a case or controversy, but recounted many different factors confirming a justiciable case or controversy existed.” Dkt. No. 153 at 2-3. Finally, Kane County quotes excerpts from Judge Waddoups’ ruling to suggest that plaintiffs may establish a title dispute based upon the United States’ failure to execute a disclaimer of interest in response to this litigation and the Bureau of Land Management’s (“BLM”) regulation of transportation in the Monument and Kanab Plans. Id. at 3. The County is incorrect in these assertions.

As previously demonstrated in the extensive briefing already filed in these consolidated cases, plaintiffs must demonstrate a specific denial of title as to the particular rights-of-way that are the subject of the United States’ motions in order to establish this Court’s jurisdiction. Here, plaintiffs have failed to carry this burden. Plaintiffs’ reliance upon abstract disagreements over policy and the BLM’s travel management planning simply does not establish the specific denial of title that is necessary in order for this Court to have jurisdiction. See Alaska v. United States, 201 F.3d 1154, 1164-65 (9th Cir. 2000) (holding that the Court lacked jurisdiction over the State’s claim to the bed of the Black River where the United States reserved its position on title, but had never taken a prior position formally disputing the State’s claim). Far from creating a title dispute, the BLM’s designation of roads as open to public motor vehicle use under its travel management plans is entirely consistent with the rights-of-way claimed for these roads by plaintiffs and does nothing to deny their existence.

Plaintiffs’ reliance upon Judge Waddoups’ jurisdictional ruling in Kane County (1) is likewise misplaced. Judge Waddoups specifically recognized that the United States’ waiver of

sovereign immunity under the Quiet Title Act “only applies when the United States claims an adverse interest to the plaintiff. . . . Because the United States’ ownership of federal land does not create an inherent conflict with Kane County’s alleged rights-of-way, Kane County must show something more to sustain a Quiet Title Act [lawsuit].” 2013 WL 1180387, at *10; see also id. (“‘To trigger the [Quiet Title Act] . . . there must be some claim, some assertion of an *adverse* interest.’”) (quoting George v. United States, 672 F.3d 942, 947 (10th Cir. 2012)).

Moreover, contrary to Kane County’s suggestions, Judge Waddoups did not predicate his finding of a title dispute in Kane County (1) upon the BLM’s mere regulation of the claimed rights-of-way under its travel management plans. For instance, Judge Waddoups did not rely upon the provisions of the Kanab Plan in finding a title dispute as to the so-called Cave Lakes roads. 2013 WL 1180387, at *13. Rather, Judge Waddoups cited to the BLM’s issuance of allegedly conflicting “Title V” right-of-way permits for three of those roads to a third party and the BLM’s filing of an answer in that case in which it denied for lack of information and belief certain allegations pertaining to those roads as the basis for a title dispute. Id. None of those factors are present here. Accordingly, even under Judge Waddoups’ ruling,² plaintiffs must do

² The United States respectfully reserves all rights of appeal concerning Judge Waddoups’ jurisdictional ruling and does not concede that Judge Waddoups correctly found a case or controversy to exist as to the roads addressed by that ruling. By way of example, the United States takes exception to Judge Waddoups’ ruling that a case or controversy need not exist at the time of the filing of an action, but can be based upon the United States’ filings made in defense of an action after the filing of a complaint. See, e.g., Mink v. Suthers, 482 F.3d 1244, 1253-54 (10th Cir. 2007) (“[S]tanding is determined at the time the action is brought, and we generally look to when the complaint was first filed, not to subsequent events.”) (citation omitted); Utah Assoc. of Counties v. Bush, 455 F.3d 1094, 1099 (10th Cir. 2006) (standing is determined as of the time the action is brought); Nova Health Sys. v. Gandy, 416 F.3d 1149, 1154 (10th Cir. 2005) (“[W]e have an obligation to assure ourselves that [plaintiff] had Article III standing at the outset of the litigation”) (quoting Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc., 528 U.S. 167, 180 (2000)). Likewise, the United States takes exception to Judge

more than seek to establish a title dispute based upon general policy disagreements and the BLM's designation of roads as open to public motor vehicle use under its travel management plans.

II. Reply to Kane County's Comments on the United States' List of Open Roads.

The United States in the table and supporting declarations attached as Exhibit 1 replies to the specific objections that Kane County raises with respect to approximately twenty-two of the 312 roads on the United States' open roads list, as well as Kane County's additional comments on approximately fourteen additional roads. As demonstrated by Exhibit 1 (with the United States' replies highlighted in green), the roads on which the County commented and/or objected fall into the following categories:

1. Roads on which the United States erred in compiling its prior open roads list. The United States has determined that it erred with respect to the following roads on its open roads list and that at least portions of these roads are not designated as open to public motor vehicle use

Waddoups' determination that the Monument Plan creates a dispute over scope based upon its provisions addressing routine maintenance and limiting the use of all-terrain vehicles ("ATV") on certain roads. Such provisions are insufficient to establish a title dispute where plaintiffs have failed to establish which of their claimed roads receive routine maintenance, which of these roads cannot be maintained within the Monument Plan's parameters, and which of the claimed roads that are subject to ATV restrictions would purportedly be open to ATV use under County regulation, if the County were to adopt an ordinance purportedly authorizing ATV on certain roads within the County. Finally, as the United States previously noted, see Dkt. No. 127, there is a recent split of authority on these issues within this District, with Judge Benson having granted from the bench the United States' motion for partial summary judgment on similar issues in Emery County (1), Utah and State of Utah v. United States, Case No. 2:05-cv-540-DB (D. Utah). Judge Benson's ruling from the bench and his comments at the hearing on that motion, although not contained in a written opinion, squarely supports the United States' position on the present motions. See U.S. Ex. 23 to Motion to Dismiss in Kane County (3) (Dkt. No. 53-1); see also Dkt. No. 53 in Kane County (3) at 15-16 (U.S. reply memorandum in support of motion to dismiss discussing Judge Benson's ruling, citing referenced Ex. 23 at 18:1-19:5; 20:9-21:22; 22:23-23:16; 30:11-20; 34:14-35:22).

– K2350, K3701, K4245, K4254, K8000, K2500, K2998, and K4190. See Exh. 1 at Entry Nos. 10, 29, 42, 44, 52, 162, 218, 272. The United States withdraws these roads from its present motions to dismiss, but reserves all defenses in connection with these roads, including the right to assert lack of a title dispute as to these roads to the extent it is determined upon further factual investigation that what might be viewed as partial roads closures were inadvertent or de minimis (or that other factors support such a defense).³

2. Roads commented upon by Kane County, but as to which Kane County appears to raise no substantive objections. Kane County’s comments upon the following road numbers do not appear to raise any substantive objections that would affect their status relative to the United States’ motions to dismiss – K2700, K2990, K2995, K3100, K3100D, K3150, K3400D, K3450, K4020, K4170, K4170D, K4200, K6000, and K4193.⁴ See Exh. 1 at Entry Nos. 13-15, 18-20, 25-26, 35, 38-40, 46, 273. The United States therefore simply notes these comments without further response, other than again noting that the right-of-way claims associated with these open roads should be dismissed for lack of a title dispute.

³ As demonstrated by the entries for the relevant roads in the attached Exhibit 1, roads that appear to be subject to particularly de minimis and/or inadvertent closures include K2350, K8000, and K2500. See Exh. 1 at Entry Nos. 10, 52, and 162.

⁴ This category includes one road, K6000, portions of which Kane County notes are designated as “Open” and portions of which are designated as “Open/ATV” under the Monument Plan. See Exh. 1 at Entry No. 46. The United States’ open roads list designated the entirety of this road as “Open” without showing that the BLM allows ATV use on a portion of this road. See id. This discrepancy has no substantive bearing on the United States’ motion to dismiss for this road, as the road is open to public motor vehicle use under both classifications. In addition, this category includes K2700, with respect to which the County did not necessarily raise an objection with respect to the United States’ original open roads list, but instead stated: “HARD TO DECIPHER MAP AS TWO ROADS ARE PARALELL HERE.” As the United States’ has clarified in Exhibit 1, K2700 is designated as open under the Kanab Plan. See Exh. 1 at Entry No. 13.

3. Roads, all or portions of which were inadvertently omitted from the Kanab Plan's Map 10, but which were subsequently shown in their entirety as open on travel maps implementing the Kanab Plan. The United States has determined that the BLM inadvertently omitted all or portions of the following roads from the Kanab Plan's Map 10 – K2000, K2450, K2565,⁵ K3001, K3210, K3305, and K7000. See Exh. 1 at Entry Nos. 5, 11-12, 17, 22-23, 48. However, the BLM had no intent to close these roads and subsequently depicted the entirety of each of these roads as open to public motor vehicle use on travel maps prepared by the BLM implementing the Kanab Plan. These travel maps were first prepared in December 2008 and January 2009 shortly after the approval of the Kanab Plan on October 31, 2008 and are available to the public at the Kanab Field Office and on the BLM's website. See id. The right-of-way claims associated with these open roads should be dismissed for lack of a title dispute.

4. Class B Roads that are designated in their entirety as open to public motor vehicle use, but which are connected to Class D roads separately claimed by the County, all or portions of which are not designated as open to public motor vehicle use. The following Class B roads, as claimed in plaintiffs' complaints, are designated in their entirety as open to public motor vehicle use – K3700, K4050, K6020, and K7310. Kane County asserts that a title dispute exists as to these roads by virtue of the BLM's closure of all or portions of connecting Class D roads that are

⁵ In its Objections, Kane County did not appear to contest that K2565 is designated as open under the Kanab Plan, as shown on the United States' original open roads list. However, in reviewing the County's comments, the United States determined that it erred with respect to this road in compiling this list and that the 0.39 mile segment of this road located on Kanab Field Office lands is not designated as open on Map 10 of the Kanab Plan. Nonetheless, as the United States has clarified in the entry for this road on Exhibit 1, "the omission of this road from Map 10 was an administrative error, and the BLM had no intent to close this road in its travel planning. In fact, the BLM subsequently depicted this road as a 'Class 3 Primary Road' road on the Kanab West and Crocodile RMP travel maps." Exh. 1 at Entry No. 12.

also claimed in these consolidated cases. See Exh. 1 at Entry Nos. 28, 37, 47, and 50. However, plaintiffs have treated these Class D roads as separate roads by claiming them separately under their complaints, see id., and the BLM may do the same for purposes of its motions to dismiss. Plaintiffs specifically acknowledge the differences between Class B and Class D roads under state law, with Class D roads being statutorily defined roads established by use that are not on a regular County maintenance schedule. See Amended Complaint in Kane County (3) (Dkt. No. 7) at ¶34 (“Once designated as a Class B county road, Kane County would spend State and county funds to construct and maintain the road on a regular basis, generally twice per year) (citing Utah Code Ann. § 72-3-103); id. at ¶36 (“Plaintiffs’ Class D roads are those roads established by public use and are suitable for travel in vehicles with four or more wheels.”) (citing Utah Code Ann. § 72-3-105). Consistent with these differences, the right-of-way claims associated with these Class B open roads should be dismissed for lack of a title dispute, even where the BLM has closed all or portions of connecting, but separate Class D roads.

5. Other roads as to which the United States otherwise does not agree with the County’s assertions of error. The United States has identified the following roads as to which it otherwise does not agree with Kane County’s assertions of error – K3000, K3200, and K3600.⁶ The basis for the United States’ disagreement is set forth in the entries for these roads in Exhibit

⁶ K3000 and K3600 are also included in the class of roads listed in paragraph 3, above, as portions of these roads located on Kanab Field Office lands were inadvertently omitted from the Kanab Plan’s Map 10. See Exh. 1 at Entry Nos. 16, 27. However, K3000 was subsequently shown in its entirety as open on travel maps implementing the Kanab Plan. See Exh. 1 at Entry No. 16. Although the omitted segment of K3600 does not appear on those travel maps, the KFO subsequently “revised its GIS data set for the Kanab Plan to show the segment as open. The KFO also subsequently published a two-sided map titled ‘Recreation Opportunities and Transportation Routes in the Kanab Field Office,’ which was finalized on or around November 16, 2011 and which became available to the public in 2012. This map shows the segment of this road on KFO lands as open.” Exh. 1 at Entry No. 27.

1. See Exh. 1 at Entry Nos. 16, 21, and 27. The United States' list of open roads properly depicts the status of these roads under the Monument and Kanab Plans, and the right-of-way claims associated with these roads should be dismissed for lack of a title dispute.

RESPECTFULLY SUBMITTED this 5th day of August, 2013.

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