

Why are Utahns being ticketed for driving on State Roads without a Federal Permit by Federal Forest Rangers?

Utahns are being unlawfully issued Federal tickets for driving on State Roads without a Federal Permit by Federal Forest Rangers. This unlawful ticketing is occurring on State R.S. 2477 roads in Cardiff, Big Cottonwood Canyon, Utah like Cardiff Fork Road, and Day's Fork Road. **Why?**

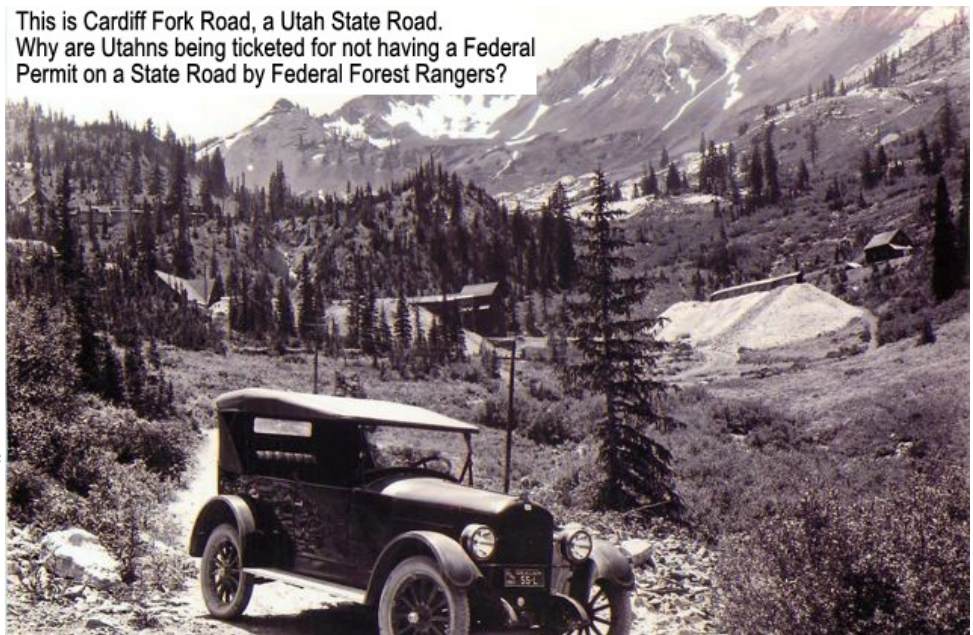


The Federal Government is the Servant of the States not their Master.

The tired old story of the big and powerful pushing around the small and powerless is endless. The Feds push around the states. The states push around the counties. The counties push around the cities. The cities push around the locals.

Big Cottonwood Canyon has a rich history of pioneer heritage for economic industries including timber, mining, and recreation.

Prior to the creation of the Forest Service (The Forest Reserve which later became Wasatch Cache National Forest), the Cardiff Fork Mining Company in cooperation with Salt Lake County and Salt Lake City Corporation contributed money for the construction of the Cardiff Fork Road (Mill D South Fork) in Big Cottonwood, Utah. Users were taxed or required to work in lieu of taxes to maintain the Cardiff Fork Road in Big Cottonwood Canyon.



R.S. 2477 Roads are created under the self-executing Revised Federal Statute 2477 authorized by a 1866 Act of Congress allowing the construction of roads across federal lands for the purpose of developing the West. R.S. 2477 Roads are not claims or the result of a permitting process. Once the roads were constructed they became monuments unto themselves and require no further documented evidence of acceptance or validity by the Federal Government. The land which comprised the roads going across Federal land became the real property of the State. Both the public and private citizens accessing private lands became the owners of rights to use these roads.

It appears Federal Forest Rangers have crossed the line and are ticketing for Federal violations on Utah State Roads? **Why?**

Utah is an area of 84,904 square miles which converts to 54,338,559 acres of land. 70% of Utah or, 38 million acres of 54 million acres are Federally owned. 38 million acres are owned and controlled by the Federal Government. **That is enough.** We do not want more Congressional control of our land with this Forrest Ranger nonsense and more so-called Wilderness for phony watershed protection. **Who are these watershed militant do-gooders acting with impunity while violating state and federal law?**

In 1871, a road notice was recorded on Salt Lake County Records as the "1871 Wagon Road & Trail

Notice” by the miners Reed and Benson who also named the mountain range between Cardiff Fork and Day's Fork.¹

The 1871 Wagon Road & Trail road is now referred to as the Cardiff Fork Road or Mill D South Fork in Big Cottonwood Canyon, Utah.

On September 17, 1903, in the United States Surveyor General's Office² surveyor Jas D. Freeman officially mapped Big Cottonwood Canyon's Township 2 South, Range 3 East of the Salt Lake Base and Meridian, Utah which delineated the Cardiff Road. This 1903 Surveyor's General Office Map was published by the Federal government. According to the September 17, 1903 Map there were only 309.15 acres of Public Land. **This means, that all Forest Service lands in Big Cottonwood Canyon except these 309.15 acres is re-acquired private land.** This is an important distinction, because lands that have left the sovereign and gone into private hands and then later been re-acquired by the Forest Service are subject existing rights of way. R.S. 2477 roads are owned by both the public at large and private citizens using their roads to access their private property. Therefore, the Forest Service cannot extinguish states roads or private easements and rights of way predating the Forest Service.

Moreover, this September 17, 1903 Federal Government Map categorically pre-dates the Forest Service's claim of authority over these roads delineated on the September 17, 1903 Jas. D. Freeman Surveyor General's Office Map of Big Cottonwood Canyon, Utah notoriously published by the Federal Government.

In 1954, there existed a “General Highway Map Salt Lake County Utah” prepared by the Utah State Road Commission Highway Planning Department prepared in cooperation with the U.S. Department of Commerce Bureau of Public Roads which also delineated and described the Cardiff Fork Road.³ This 1954 General Highway Map of Salt Lake County, Utah was also notoriously published.

In 2000-2001, Vaughn Butler Salt Lake County Surveyor and staff participated in the Office of the Governor's RS 2477 Project. It appears \$100,000 was spent by the Office of the Governor to catalog R.S. 2477 Roads in Salt Lake County. An R.S. 2477 Roads Salt Lake County Surveyor map was produced with notations of “SU 20000263 Project” and “SU20010283” which also delineated the Cardiff Fork Road in Big Cottonwood Canyon, Utah.

On September 29, 2009, Utah's Automated Geographic Reference Center (AGRC) provided a map of State Geographic Information Database (SGID) Roads for Big Cottonwood Canyon with an index⁴ which also delineated the Cardiff Fork Road and calls into question Federal Forest Rangers unauthorized ticketing on Utah state roads R.S. 2477 Roads. 90% of Utah's roads are R.S. 2477 roads. Approximately 1,073 Federal tickets have been issued in the past 10 years according to a September 29, 2009 Freedom of Information Act (FOIA) response.⁵

On May 19, 2003, Salt Lake County Deputy District Attorney Jeffery H. Thorpe stated:

“Salt Lake County is of the position that this road [Cardiff Fork Road] is a valid RS2477 right-

1 “We the undersigned do hereby claim and locate a Wagon Road and Trail to our . . . mines” 1871 Page 174 Book 26? Salt Lake County Record.

2 September 17, 1903 United States Surveyor General's Office Map by Jas. D. Freeman of Township 2 South Range 3 SLBM Public Land 309.15 acres Mineral Land 16,724.14 acres Mining Claims 2,362.34 Total Number of Acres 19,395.63 acres surveyed in Big Cottonwood Canyon, Utah.

3 1954 General Highway Map Salt Lake County Utah prepared by the Utah State Road Commission Highway Planning Department in cooperation with U.S. Department of Commerce Bureau of Public Roads

4 September 29, 2009 GRAMA Request to AGRC for R.S. 2477 records response from Public Land Policy Coordination Office

5 September 29, 2009 USDA Forest Service FOIA Response File Code: 6270-09-43-2272

of-way, which is currently being claimed jointly by Salt Lake County and the State of Utah. This right-of-way has not been vacated by the County or the State.”⁶

How can trained legal officials of Salt Lake County's Attorney's Office review the R.S. 2477 Road right-of-way materials, affidavits, and depositions of John Andersen, Salt Lake County Surveyor Vaughn Butler and others who have continuously used these roads for over 10 years and whose mechanical construction of the road predates the Forest Service created in 1904 on one hand determining these roads are R.S. 2477. And on the other hand a few elected official review the same materials, depositions and affidavits and come to a diametrically opposed contradictory conclusion? Whether a road is a R.S. 2477 right-of-way is a long settled legal question not a shifting political position. R.S. 2477 roads are 66 feet wide rights of way.

On December 16, 2003, Salt Lake County Mayor Nancy Workman stated:

“This request does not constitute a waiver of any rights Salt Lake County may have with respect to RS 2477 right of way generally.”⁷

On April 11, 2006, Salt Lake County Mayor Peter Corroon stated: “I have decided to withdraw any current or future claim by Salt Lake County for the following roads under RS2477.”⁸

On April 26, 2006, Federal U.S. District Judge Paul G. Cassell issued an “ORDER DISMISSING CASE” Civil No. 2:07-CV-146 denying Wayne Crawford standing to a title interest in the Cardiff Fork Road, because Judge Paul G. Cassell determined the Cardiff Fork Road was an R.S. 2477 Road precluding claims from the public. Importantly, the Court did not determine whether or not Wayne Crawford would have standing to bring a quiet title action against the Federal Government on the basis of Wayne Crawford accessing his private patented land using an R.S. 2477 road.

Federal U.S. District Judge Paul. G. Cassell wrote: “However, Mr. Crawford cannot state a claim under QTA [Quiet Title Action] because he, as a private party and a member of the public, cannot assert title in an R.S.2477 right-of-way.”⁹ Judge Cassell opined that because Cardiff Fork Road was an R.S. 2477 right-of-way, Wayne Crawford was denied the ability to assert a claim against the Federal Government due to lack of standing. Translation, the Federal Government does not own title to the Cardiff Fork Road.

Cyle Buxton¹⁰, a Cardiff canyon land owner, has been ticketed 39 times. All 39 tickets have been

6 District Attorney Salt Lake County Jeffery H. Thorpe Deputy District Attorney Letter Dated May 19, 2003 cc Neil Stack Andrea Pullos Jena Walker

7 Salt Lake County Mayor Workman December 16, 2003 letter to Utah State Attorney General's Office: “Dear Mr. Boyden, Salt Lake County requests the withdrawal from consideration as candidates fro RS 2477 claim status the following roads: 1. Mill F East Fork 2. Mill D South Fork [Cardiff Road] 3. Mineral Fork 4. Silver Fork 5. Days Fork 6. Honeycomb Fork 7. Willow Heights Canyon 8. American Hollow This request does not constitute a waiver of any rights Salt Lake County may have with respect to RS 2477 rights of way generally.” Cc. Mayor Workman David Marshall Alan Dayton Karl Hendricksen

8 Salt Lake County Mayor Peter Corroon letter dated April 11, 2006 to John Boyden Utah State Attorney General's Office 5110 State Office Building Salt Lake City, Utah 84114 “In evaluating previous claims made by Salt Lake County to road under RS2477, my staff has met with District Ranger for the the United States Forest Service, representatives from the environmental community, and the Salt Lake County District Attorney's Office. Records have been reviewed and onsite(sic) inspections completed. After much dialog, research and deliberation, I have decided to withdraw any current or future claim by Salt Lake County for the following roads under RS2477-Killyons Canyon -Little Mountain -Extension for Millcreek Canyon Road -Church Fork -Porter's Fork -Pole Canyon -Alexander Fork -Mill D North Fork - Mill F East Fork -Mill D South Fork [Mill D South Fork] -Mineral Fork -Honeycomb Fork -Willow Heights Canyon -American Hollow -Yellow Fork -Butterfield Canyon -Rose Canyon

9 In the United States District Court District of Utah, Central Division Wayne Crawford v. USDA Forest Service Order Dismissing Case Civil No. 2:07-CV-146 Filed U.S. District Court 2007 APR 26 P2:09

10 United States of America v. Cycle V. Buxton Order Granting Leave to Dismiss Violation Notices F3783943, F3783844,

dismissed. Is Cyle Buxton a chronic law breaker and canyon hellion? Or is Cyle Buxton, the BSA Scout Master and family man being harassed and Why?

Approximately 90% of Utah's Road's are based on RS 2477.¹¹ 70% of Utah is owned by the Federal Government. Another 5% is owned by Cities, Counties, and State. This leaves only 1 of 4 acres in Utah privately owned and subject to city and county zoning.

R.S. 2477 right-of-ways are not claims, but are roads constructed on congressional authority by means of the self-executing Federal Statute R.S. 2477. This means Salt Lake County Mayors cannot claim or un-claim an R.S. 2477 roads according to their political base. If this were true, then 90% of Utah roads would be subject being un-claimed at any time by willy nilly transient politicians.

Why would any local politicians cede control of local roads and local lands to the Federal Government and Congress under the alibi of Wilderness or watershed protection? No Utahns want more Federal Government control and interference with their lives and property.

More Federal Wilderness and more Federal roads in Utah is anti-Utah.

Despite 3 of 4 acres being owned by government, scarce tax dollars are used to buy out, deny access, deny development, and over regulate Utah's remaining private lands.

The push by government employees against private property rights has crossed the line. A more centrist policy is required for sustaining Utah as an independent state of the Union.

Why is there no middle ground to reduce the acrimony, contention and friction in the canyons? Why is it a Salt Lake City scorched earth policy or nothing? The Utah Legislature needs to change the law to stop Salt Lake City from depriving the public of legitimate use of water for their land.

There are common sense solutions and operating guidelines which would cease pitting Federal Officers against Utahns and private canyon land owners who own 1 of 5 acres in Big Cottonwood Canyon like a private property build out policy allowing one house per 20 acres. The law needs to be clarified that land owners with water shares or water rights have the right to use that water on their lands. The perpetual de-watering of private land by Salt Lake City should be outlawed. Likewise, ceding control of Utah land and water to Congress and Salt Lake City should not be State Policy or tolerated.

1 of 4 acres is private property in Utah. 1 of 5 acres in Big Cottonwood Canyon is private property.

Private Big Cottonwood Canyon land owners own as much land as Salt Lake City, but do not have equal representation. Why?

There were once rail roads, saloons, hotels, stores, timber and mining companies in Big and Little Cottonwood Canyons.¹² In 1872, 500 people lived in Big Cottonwood Canyon.¹³ As many as 2,500

and F3783945 Magistrate Judge Brooke C. Wells United States District Court Judge Central Division

11 Road and Access Law in Utah: How to Research and Resolve Access Disputes National Business Institute 1999 "This focus is intentional, since something close to 90% of the State's transportation infrastructure is based on this 1866 congressional act which provided for the creation of rights-of-way across federally-owned lands."

12 The Lade in the Ore Bucket: A History of Settlement and Industry in the Tri-Canyon Area of the Wasatch Mountains by Charles L. Keller "Figure 27. A Shay locomotive of the Little Cottonwood Transportation Company. This railroad, running from Wasatch to Alta, operated from 1918 through 1921. (UHS)"

13 **Utah State History Markers and Monuments Data Base The Blind Miner/Big Cottonwood Mining (2)**

Plaque A: (East) BLIND MINER OF THE WASATCH James LeRoy "Roy" Newman (1894-1974) Roy Newman was blinded and nearly killed when a stick of dynamite misfired in this mine in 1929. But the determined miner recovered and returned to his mine alone - for another 45 years! You can see the mine portal to the right of this sign across the creek at the

people lived in Big Cottonwood Canyon.

2,500 people once lived in Big Cottonwood Canyon, yet Salt Lake City even banned the 2002 Winter Olympics from local canyons not to protect the so-called watershed, but to wield its water monopoly scepter on the Olympic Officials' heads. Gold Medal for Salt Lake City. The Salt Lake City Water Department told the World Olympic Committee—NO. This was nothing more than a head trip by self-serving water employees whose alibi of watershed protection of Big Cottonwood Creek is hollow, because 50% of Big Cottonwood Creek water runs to waste. Big Cottonwood Creek is also de-watered by Salt Lake City employees from overselling.

Salt Lake City Public Utility employees derive personal satisfaction when they are able to deprive land owners of access to water who will not pay tribute, make donations, pay exaggerated exactions, or deal sweeteners to redistribute private property for their so-called public use. Intentionally de-watered land is purchased and/or obtained for pennies on the dollar by depriving the private citizen the fair market value by withholding water from their land. This is despicable, and reprehensible. Who is accountable and responsible?

How is it possible that one party, a Cardiff Canyon land owner, Scout Master, and family man Cyle Buxton got 39 Forest Service tickets as Salt Lake City offered him pennies on the dollar for his Cardiff land?

The Forest Service has no authority to issue Federal Tickets for accessing a Federal Road without a Federal Permit on a state road like Cardiff Fork Road (Mill D Fork) or any other R.S. 2477 Roads in Big Cottonwood Canyon, Utah. The current state of affairs appears to be prosecutorial misconduct by Forest Service employees including those at the U.S. Attorney's Office. Wrongfully ticketing, and wrongfully prosecuting Utahns for driving on State Roads creates a cause of action and standing for Federal suits against Forest Service employees while employed or post employment.

Please call Forest Supervisor Brian Ferebee at 801-236-3405 or Salt Lake Ranger Cathy Kahlow at 801-733-2675 and ask them to stop issuing tickets to Utahns for driving on a State Roads without a Federal Permit.

Let's improve Utah together. Please call me with any question or comments.

Dr. Kevin Tolton Cardiff Land Owner in Big Cottonwood, Utah

801-608-3456

head of the mine dump. The belief that rich lead, zinc, and silver ores lay deep in the mountain kept Roy working; he did encounter low-grade veins of ore. He drove 1,600 feet using only a hand-held drill, a four-pound hammer, explosives and his ingenuity. Though blind, Roy could faintly detect light in the corner of one eye and he used this ability to keep the mine workings straight. Roy would set a carbide lamp in the middle of the track, several hundred feet from the mine's working face. Then he would stand a pick with its handle up, in the track a few feet from the face. Standing between the pick and the face, Roy moved his head back and forth until the pick handle blocked the light. Repeating this process, he was able to continually center and straighten the workings. Roy lived alone in a cabin near the mine through (sic) the pleasant summers and long harsh winters. With the help of friends and family, who kept him supplied with food and other basic needs, he maintained his optimism and persevered. (sic) "I like the challenge that Mother Nature presents the miner who searches for her secrets," he said. Plaque B: (Middle) BIG COTTONWOOD MINING DISTRICT Big Cottonwood has played a major role in the mining, timber, and recreation history of Utah. Lumber was used to build mine facilities and to build and fuel the settlement of Salt Lake Valley. In the 1850's, steam-powered sawmills peppered canyon tributaries names Mill A, B, D, E and F. Completion of the transcontinental railroad in 1869 provided for the transport and sale of silver, gold, lead, zinc and copper. Mining towns like Gold City, Silver Springs and Argenta flourished during boom times. In 1872, 500 people lived in Big Cottonwood Canyon.