

Last, in *Kane County, Utah v. U.S.*, the U.S. District Court for Utah defined scope as the “width of [the easement’s] alleged rights-of-way, including both the travel surface and the disturbed area width.”¹ In a parallel case, the court determined that the scope of an easement should not be limited to the actual road surfaces, and made fact-specific determinations of the right-of-way width in relation to actual road surfaces.² The court addressed rights-of-way widths for several roads in question, and determined that because it was “unduly cumbersome” to declare and administer different widths along different stretches of roads, it was necessary to establish a set width for the full length of each road.³ For three larger roads with surface widths ranging from 24 – 30 feet, the court determined that a 66 foot right-of-way (33 feet on both sides of the center line) was needed to allow room to “maneuver equipment, repair culverts, clear vegetation, obtain fill,” divert water to maintain the roads, allow for shoulders for emergency pull-offs, and provide room to address any future realignments or other improvements necessary to increase safety.⁴ The court concluded that considering all the facts and circumstances for those roads, a right-of-way of that particular width was reasonable and necessary.⁵

¹ *Kane County, Utah v. United States*, 934 F. Supp. 2d 1344, 1359 (D. Utah 2013), fn. 8, *rev’d in part and aff’d in part by Kane County, Utah v. United States*, 772 F.3d 1205 (10th Cir. 2014), *petition for cert. docketed, Utah v. United States*, -- U.S.-- (June 22, 2015) (No. 14-1497) and (July 7, 2015) (No. 15-27).

² *Kane County, Utah (1) v. United States*, 2013 WL 1180764 (D. Utah 2013) at 63, *rev’d in part and aff’d in part by Kane County, Utah v. United States*, 772 F.3d 1205 (10th Cir. 2014), *petition for cert. docketed, Utah v. United States*, -- U.S.-- (June 22, 2015) (No. 14-1497) and (July 7, 2015) (No. 15-27).

³ *Id.*

⁴ *Id.*

⁵ *Id.*