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Bogus roads

U. S. District Judge Tena Campbell began shining some needed light on the murky issue of road claims in Utah with her ruling last week. The judge held that three rural Utah counties do not have legitimate claims on 15 of 16 disputed routes the counties illegally carved on lands administered by the Bureau of Land Management. The 16 roads at issue in Judge Campbell's court were bladed by Kane, Garfield and San Juan counties within the boundaries of the Grand Staircase-Escalante National Monument. This was in 1996, not long after President Clinton created the monument and during the BLM's reinventory of Utah land for possible wilderness designation. In addition to denying the counties' road claims, Campbell found that they had violated federal law by grading and realigning the routes without the BLM's consent.

Her decisions should make rural county officials stop and think before asserting their "rights" by ignoring the law.

The counties' illegal blading in 1996 and Kane County officials' removal of BLM signs limiting access on disputed dirt tracks last October rightly fueled concerns that rural counties want ownership to "bogus" roads to preclude the public lands they're on from consideration for protection as wilderness, which must be roadless.

The judge's sensible ruling that for a route to be a road under Revised Statute 2477 it must have been purposely constructed before 1976 and must serve a public purpose begins to sort out the nearly 30-year-old war between the federal government and states over old road claims on federal lands.

The dispute is rooted in the 19th century law, RS 2477, that granted rights of way for construction of highways across federal lands not reserved for other public uses. When RS 2477 was repealed in 1976, prior state and county claims were grandfathered, but many had not been well-documented.

Last April, former Gov. Mike Leavitt and U.S. Interior Secretary Gale Norton signed an agreement that created a process for the state to claim rights of way that unquestionably are part of the state's transportation system. It sets out criteria for what constitutes a road, including that it is capable of accommodating automobiles or trucks with four wheels and has been regularly maintained.

The legality of the agreement has been questioned by the congressional General Accounting Office, but the state and the BLM are moving to implement it anyway.

Campbell's ruling sets a proper standard for future RS 2477 road claims under the Leavitt-Norton agreement. Counties should pay heed to its warning that lawlessness won't be tolerated in this road war.

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