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## State, 6 counties sue federal government

By Joe Baird  
The Salt Lake Tribune

Utah and six of its counties have followed through on their intent to file suit against the federal government over right-of-way, or R.S. 2477, road claims.

The state and Beaver, Box Elder, Emery, Uintah, Washington and Wayne counties filed a complaint Wednesday in U.S. District Court, seeking title to six roads and the right to conduct what the suit calls "ordinary maintenance activities" on them, including widening projects and the building of culverts, ditches, shoulders and road signs.

Revised Statute 2477 was passed by Congress in 1866 and allowed for right-of-way construction of highways over public lands. The statute was repealed in 1976, but enabled states and counties to maintain right-of-way claims made prior to that year.

Among the roads claimed in the suit:

1 The Geothermal Road, Beaver County.

1 Goose Creek, Grouse Creek and Pilot Mountain Road, Box Elder County.

1 Black Dragon to Hatt Ranch Road, Emery County.

1 Atchee Ridge Road, Uintah County.

1 Lytle (Little) Ranch Road, Washington County.

1 Bert Avery Road, Wayne County.

The suit argues that the Department of Interior, through its Bureau of Land Management (BLM), has essentially hindered the state and counties from making what they consider to be valid right-of-way claims.

The complaint charges that Interior has continued to manage state and county rights of way under a 1994 set of draft regulations that "reversed virtually the entire scope" of R.S. 2477 legal precedent - even though Congress has never granted it authorization to do so.

The suit also says that BLM has "generally engaged in a pattern and

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practice of interfering with normal maintenance activities," essentially by imposing standards it never enforced in the past. And it accuses the federal agency of imposing itself in day-to-day decision-making about the roads, interfering with the state and counties' traditional role as manager.

Finally, the state and

counties charge that the BLM has taken a position that any construction activities on the roads degrade the land "and therefore constitute trespass, regardless of whether the R.S. 2477 rights of way exist." They claim the BLM has also refused to ignore R.S. 2477 claims where no regular maintenance has occurred, taking a position that the mere use of vehicles is "insufficient" to establish a claim.


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