



## SALT CREEK ROAD

---

### Who Has Jurisdiction?

*Foreword, by Brian Hawthorne*

*Although the last 11 miles of Salt Creek Road remains closed today, pro access interests can actually count that as a victory.*

*Here's why: Congress did not make the National Park System to be vast "core Wilderness areas." The anti-access groups are working to change that via political strong-arm tactics and litigation.*

*Yellowstone, the PWC ban at Lake Powell and the Salt Creek Road case are all pivotal battles in this effort. The lawsuit to close Salt Creek, as well as all of the other roads in Canyonlands National Park, was one of the first salvos in the fight.*

*BRC is at the forefront of this battle today, and we were there in Canyonlands at the first shot. Although we've suffered some setbacks, no one can deny that the fact that folks are able to snowmobile in Yellowstone and use PWC on Lake Powell is a significant victory.*

*I'll be honest with you. The situation with Salt Creek Road is grave. We've exhausted our options in court and it is now between San Juan County and the National Park Service. The anti-access groups are pushing to get in the case. If the anti-access lawyers are allowed to bring argument in District Court, our intervention will be extremely expensive.*

*Speaking as BRC's land use guy, the opportunity to continue the fight for Salt Creek Road after all these years is just plain exciting! And there is no way we are going to leave the playing field now. I hope you'll help us by earmarking support over and above your membership dues to help our legal effort.*

*I hope you enjoy our update!*

The BlueRibbon Coalition, the Utah Shared Access Alliance and the United Four Wheel Drive Associations continue to defend historical access in the ongoing legal wrangling over the Salt Creek Road in Canyonlands National Park, Utah.

The recreation groups had, in recent correspondence with counsel for the parties, expressed our clear intent to enter a lawsuit filed by San Juan County and the State of Utah. The lawsuit was filed against the federal government seeking to once-and-for-all determine who has jurisdiction over the Salt Creek Road. The dispute focuses on the last 11-mile section of the Road, which leads to the scenic Angel Arch.

"We are closely monitoring this ongoing situation and seek to have the same role in this litigation as is provided to wilderness activists," said Brian Hawthorne, Public Lands Director for the BlueRibbon Coalition. "If wilderness activists who want to close the road are allowed to participate, then the people who use the Road should be allowed as well," Hawthorne added.

The current quiet title suit is the latest in a series of lawsuits involving the Salt Creek Road. Until 1998, street-legal motor vehicles were permitted to travel along the Road above the Peekaboo campsite and up to Angel Arch canyon. In 1995, the Park Service established a permit system and daily limits on the number of vehicles allowed in this area. Vehicle access opponents, including the Southern Utah Wilderness Alliance (SUWA) challenged that plan in federal court. The bulk of their suit, which sought closure of all dirt roads in the Park, was rejected, but the court found that the agency had failed to justify its decision to open the upper section of Salt Creek Road. BlueRibbon and the other recreational groups successfully appealed that decision to the US Tenth Circuit Court of Appeals, which remanded the matter for further proceedings. The Park Service eventually issued a new decision to close the upper Salt Creek Road, and the US District of Utah court upheld that decision. (See "A Brief History Of The Salt Creek Road," page 10.)

The County filed its quiet title action in 2004, contending the federal authorities have limited authority over the Road because it was an established highway prior to the creation of the Park. SUWA and other access opponents sought to intervene in the case, but their motion was denied by the US District of Utah court, which reasoned that only the governmental entities could rightfully claim title and attain party status in the County's suit. SUWA appealed, and a three-judge panel of the Tenth Circuit Court reversed the district court. However, a majority of the Circuit Court judges have agreed to rehear that appeal. District court proceedings remain stayed while the appeals court resolves the intervention issued.

"We don't know how the appeal will ultimately be resolved," stated Paul Turcke, the Boise, Idaho, attorney representing the coalition. "In the interest of efficiency for all involved we are not formally moving to intervene at this time, but we are making our intentions to do so clear should the Circuit Court affirm its earlier decision and determine that SUWA and other private groups can be parties to this case," Turcke concluded.

A new hearing on the appeal is scheduled to occur during the Tenth Circuit Court's September 2006 session. Meanwhile, the disputed section of Salt Creek Road remains closed to motorized travel by the public.

*--For questions or comments on this article or related issues, contact: The BlueRibbon Coalition, 4555 Burley Drive, Suite A, Pocatello, ID 83202 1921. Phone: 208-237-1008, Fax: 208-237-9424. Email: <[brbrian@sharetrails.org](mailto:brbrian@sharetrails.org)>.*

[BlueRibbon Magazine, June, 2006](#)