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Suit would open San Rafael roads

Dispute: OHV advocates want to force Emery County and the state to reverse closures of 2003

By Brent Israelsen The Salt Lake Tribune

A Utah off-highway-vehicle (OHV) advocacy group has filed a lawsuit to force Emery County and Utah to open routes the federal government closed in the San Rafael Swell last May.

The Utah Shared Access Alliance (USA-ALL) believes the so-called "San Rafael Swell Route Designation Plan" is an affront to the county's alleged rights to a number of dirt trails and streambeds.

USA-ALL last week filed a lawsuit in 4th District Court in Emery County to compel the state, the County Commission and sheriff to "remove all obstructions blocking all RS 2477 highways in Emery County."

RS 2477 is an 1866 law that gave counties and states title to routes across federal land. It was repealed in 1976, but existing roads were grandfathered.

However, there is wide dispute over which routes qualify as RS 2477, said Emery County Attorney David Blackwell, noting that the counties' RS 2477 claims in the San Rafael are just that: claims.

"We're stuck in the middle," Blackwell said. "If we go along with closure of some roads, we get sued by the OHV people. If we don't go along, we get sued by environmental groups."

To reduce damage caused to natural resources by OHVs, the BLM's Price office implemented the travel plan, which prohibited OHVs from going off of designated routes and closed several routes to motor vehicles.

The county agreed to the plan and accepted federal money to help the BLM enforce it.

Among those routes contested by USA-ALL are Junes Bottom, Segers Hole and the Muddy River, according to a news release issued by USA-ALL's president, Rainer Huck.

Huck said the county has previously claimed those routes as RS 2477 routes and, therefore, should continue to protect them as public rights of way.

USA-ALL's lawsuit cites state law and a Utah Supreme Court case that requires counties and the state to keep public roads open to the public.

The Southern Utah Wilderness Alliance (SUWA), which has sued the BLM over OHV damage in wilderness areas, will consider intervening in USA-ALL's lawsuit.

SUWA attorney Steve Block said the lawsuit shows USA-ALL's "radical agenda" for unrestricted motorized use.

"They say it's about reasonable access, then turn around and seek to have streambeds like Muddy Creek reopened," Block said. "Muddy Creek is not a trail. It's a stream. They want to run their vehicles in the middle of a streambed and that's inappropriate."