

Battle for roads pits feds vs. Cache

County Council asserts ownership of 197 miles of national forest byways

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LOGAN - Cache is not the first Utah county to tangle with a federal land agency. But its claim to own most every mile of road on the Wasatch-Cache National Forest is surely one of the boldest.

With two resolutions in six months, the Cache County Council has declared it owns 197 miles of roads through the national forest in the mountains east of Logan. Eventually, the county intends to claim the remaining 150-plus miles.

"We as a county are stepping up and saying . . . these are our roads," says Cory Yeates, the council member who for years has heard constituents' complaints that forest roads are too often blocked or in poor condition.

"By law, they are [now] county roads," says Yeates.

The Forest Service's response? Not so fast.

Just because the county claims it owns a road doesn't make it so, says Kay Shurtz, engineer for the Wasatch-Cache National Forest.

"The Forest Service and other federal agencies don't really have the right to grant that to them," said Shurtz.

It would take a court to determine whether the county's claims to the roads under Revised Statute 2477 are valid, he said.

That Civil War-era mining law allowed counties and cities to use routes across federal land.

It was repealed three decades ago, but existing rights-of-way were grandfathered in.

What constituted an "existing right-of-way," though, was vague and led to dozens of disputes.

The 10th U.S. Circuit Court of Appeals ruled in a southern Utah case two years ago that state laws dictate the meaning. In Utah, the law says that "existing" roads are those that had 10 years of continuous use before 1976.

Yeates said Cache County has spent a considerable amount of time documenting 10 years of use to back up its claims to the roads.

"We have histories going back to the 1870s. Most of these were built with county funds," said Yeates.

Some began as nothing but horse trails used in commerce. Others were built by prospectors or sawmill operators.

"These were roads in the county long before the Forest Service came into existence in 1904," Yeates said.

The county has no plan to take the Forest Service to court to prove its claims, but will if it finds its

rights infringed, he said.

"We're not afraid of letting a judge to adjudicate because we know we're right."

The Salt Lake City-based environmental group Save Our Canyons doubts that Cache County will be able to prove the roads were highways maintained by the county, as required by law.

Moreover, the group worries about the Forest Service's ability to control land uses if it loses control of the roads.

"These roads that lie within the Forest Service are best managed by the Forest Service - by the agency that manages the land," said Carl Fisher, issues coordinator for Save Our Canyons.

While the Forest Service and Cache County differ over the county's claims to roads, they are negotiating an agreement so that the county can apply for Class B road funds on the 197 miles and use the money to help the Forest Service maintain them.

Cache County wants another 58 miles added to the list, which the Forest Service rejects because it has other plans for those roads, Shurtz said.

The Forest Service will insist that the final agreement include phrasing to reflect that it does not accept Cache County's R.S. 2477 claims to the roads.

Other counties such as Utah, Tooele, Davis and Weber, have agreements to maintain portions of roads on the forest, but no other county has staked a claim to all forest roads, Shurtz said.

"Cache County is the big one."

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