

The Salt Lake Tribune

<http://www.sltrib.com>

Article Last Updated: 6/28/2005 01:42 AM

New data challenges road titles

Groups say info shows feds own the rural routes

By Robert Gehrke
The Salt Lake Tribune
Salt Lake Tribune

WASHINGTON - The state has failed to prove its ownership of four roads in rural Utah, according to several environmental groups, which uncovered aerial photographs, maps and records disputing the state's claims.

The state has asked the federal Bureau of Land Management to grant the state ownership of two roads in Daggett County, one in Beaver County and another that starts in Beaver and runs into Iron County.

But the coalition of environmental groups, which previously unearthed public records prompting withdrawal of the state's claim to the Weiss Highway, say they have again found information that calls into question the validity of the state's claims.

"They haven't done even a cursory review of their own records," said Kristen Brengel of The Wilderness Society. "What we dug up wasn't rocket science. It really was a very, very humble review of the county and state documents and it raises enough questions that the BLM shouldn't consider moving forward on it."

Tammy Kikuchi, spokeswoman for Gov. Jon Hunstman Jr., said the state's experts on the issue had not seen the data collected by the environmental groups and could not respond.

The state has claimed ownership to four roads under an agreement that former Utah Gov. Mike Leavitt struck with Interior Secretary Gale Norton in 2003, aimed at advancing the state's claims of ownership of roads under a Civil War-era mining law.

Revised Statute 2477 granted states or counties use of highways across federal land. It was repealed in 1976, but the states and counties were granted rights-of-way for any roads that could be shown to exist before then.

Last year, the state withdrew its claim to the Weiss Highway in Juab County - the first road sought under the Leavitt-Norton agreement - after the environmental groups uncovered records showing clear flaws in the state's application.

Those records showed the Weiss Highway had not been built by state or county workers as claimed, but by federal employees and that Juab County signed away all rights to the road in 1936 for \$1. The road was actually named for the Interior Department employee who oversaw its construction.

Data collected on the four pending claims is not as clear-cut, although it raises questions about the validity of the state's claims.

For example, the state claimed the two Daggett County roads had been used since the 1940s. But they are not evident in aerial photographs from 1950, nor do they appear in several maps prepared beginning in the 1960s by the Utah Department of Transportation. In one BLM map in 1993, the road wasn't even identified as a potential off-road vehicle route.

In the case of the Horse Valley Road in Beaver and Iron counties, several county maps do not show portions of the road and there is no documentation for maintenance of the road. In addition, the BLM has included the road in its lists of federally owned and maintained roads.

And the Millard County road, known as the Hickory Peak Road, runs to a private mining claim on federal land, which the environmental groups argue is "little more than an extended driveway," and not a "highway," as defined by the law.

It represents a pattern of the state not doing its homework to show ownership of the roads, said Ted Zukoski, an attorney with the environmental group Earthjustice.

The comments - prepared on behalf of the Wilderness Society, Wild Utah Project and The Southern Utah Wilderness Alliance - were sent to State BLM Director Sally Wisely on Friday. The Interior Department could decide the state's applications after 30 days.