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BLM, greens win round in route dispute

RS 2477: A judge denies the claims of Garfield, San Juan and Kane counties

Brent Israelsen The Salt Lake Tribune

Three rural Utah counties have lost another court battle in their ongoing campaign to control dirt roads on public lands. U.S. District Judge Tena Campbell on Tuesday denied all substantive motions by the counties while granting those filed by federal Bureau of Land Management (BLM), the Southern Utah Wilderness Alliance (SUWA) and the Sierra Club.

Campbell ruled that Garfield, Kane and **San Juan** counties do not have so-called RS 2477 rights to 15 of 16 disputed routes on lands administered by the BLM.

The judge also found that the counties violated federal law by grading and re-aligning the routes in 1996 without the BLM's consent.

And Campbell denied **San Juan** County's motion to file a counterclaim against the BLM, saying the move is untimely and "has no legitimate basis."

San Juan County Attorney Craig Halls said he had not seen Campbell's ruling and had no comment. The counties, however, will evaluate whether to challenge it in the U.S. Circuit Court of Appeals in Denver, he said.

The ruling -- which reaffirmed an earlier judgment Campbell handed down in 2001 -- gives environmental groups legal ammunition to challenge county claims to rights of way on BLM lands.

Those claims are being processed in a deal struck in April by then-Gov. Mike Leavitt and U.S. Interior Secretary Gale Norton. Though the legality of that deal has been questioned by the congressional General Accounting Office, the state and the BLM, an Interior agency, are proceeding to implement the deal.

Environmentalists worry the BLM will grant the counties ownership to "bogus" roads claimed by the counties under a 19th century law called RS 2477. The presence of roads could preclude certain public lands from consideration for protection as wilderness, which by definition must be roadless.

Campbell has ruled that for a route to be a road, it must have been purposely constructed and must serve a public purpose. The counties argue for a more liberal definition of road to include a route established

simply by vehicles traveling over it.

The case before Campbell arose in late 1996, after President Clinton created the Grand Staircase-Escalante National Monument and during the BLM's reinventory of its lands in Utah for possible wilderness protection.

The 16 roads bladed by the three counties were within the monument's boundaries or in areas that environmentalists had targeted for wilderness.

Halls said the six routes bladed on Harts Point east of Canyonlands National Park were a "test case" for RS 2477.

"This is just the tip of the iceberg," he said, noting that **San Juan** County claims ownership to at least 800 such routes in the sprawling southeastern corner of the state.

Kane and Garfield counties also claim hundreds of routes.

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