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Kane County, BLM land dispute heats up

2-year quarrel: The county has 2 weeks to remove signs designating roads through federal lands, or the feds are prepared to initiate . . . legal action

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The Bureau of Land Management on Tuesday gave Kane County two weeks to take down signs it has posted designating roads through federal lands or face legal action, marking an escalating response to the county's continued defiance.

Kane County began posting signs in February designating off-road-vehicle (OHV) routes across BLM-administered land, and last month designated a new route through an area northeast of Coral Pink Sand Dunes State Park that is being studied for potential wilderness designation.

Most recently, BLM officials say, the county has posted an estimated 60 to 80 signs inside the Grand Staircase-Escalante National Monument along the Hole in the Rock road and its vicinity, directing OHV users into areas that the BLM had previously closed to off-road use, including national historical areas such as the Hole in the Rock trail itself.

In a letter Tuesday to Kane County Commissioner Mark Habbeshaw, BLM State Director Sally Wisely said her office wants to work with Kane County, but charges that county officials have refused to cooperate on route and sign issues. She demanded that the county remove the signs and coordinate any future actions with the BLM - or face the consequences.

"Please be aware that in the event the county fails to take these steps within two weeks of receipt of this letter, the BLM is prepared to initiate appropriate legal action against the county," Wisely wrote.

The BLM would not specify what "appropriate legal action" might entail. The U.S. Attorney's Office has declined comment regarding the county's actions. But the Department of Interior also could initiate a complaint.

"We've certainly been talking to [the U.S. Attorney's Office]," Wisely said in an interview. "They're fully aware of the letter and are supportive."

Habbeshaw said Tuesday that the county would welcome such legal action, though he hoped it could be done in a friendlier manner.

"We'd like the opportunity to dialogue with the BLM; we're always willing to go back to the table," he said, disputing the agency's contention that the county has not cooperated to settle the dispute. "But until a judge says they're a county road, they're BLM roads and we have no control. We don't accept that premise. It's not what case law says. If Sally believes that, then we need to go to court."

Until ordered otherwise by a judge or a settlement is reached, Habbeshaw says Kane County will continue to post signs on what he calls the county's "transportation system."

Kane County has long been the epicenter of battles with the federal government over who owns roads that cross federal lands.

The county claims that a Civil War-era mining law known as Revised Statute 2477 grants counties ownership of "highways over public lands." The law was repealed in 1976, but counties and local governments are allowed to claim a road if they can show the road existed before the act was repealed.

The county has fought in court and on the ground to gain legal ownership to the roads.

The current dispute started nearly two years ago, when Habbeshaw and the County Sheriff Lamont Smith tore down 31 signs designating routes inside the Grand Staircase-Escalante National Monument off-limits to off-road vehicles. A grand jury investigation was launched, but no charges were filed.

Wisely says she has been compelled to act in the wake of the most recent episodes, because it has now reached the point where public safety could be impacted.

"For years we've been handing out travel information that now may not match up with what people are seeing on the ground, and that worries me," she said. "We have an issue that needs to be resolved. Our hope is we can still do it cooperatively. But if we can't, we're prepared to take it to court."

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About the Law

Revised Statute 2477 is a Civil War-era federal law aimed at encouraging settlement. It granted "a right of way for the construction of highways across public lands."

The law was repealed in 1976, but counties and local governments can claim a road if they prove the road existed before the act was repealed.