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State backs off its claim to disputed Juab road

Federal land: Position was full of errors; Utah now seeks title to Daggett roads

Robert Gehrke The Salt Lake Tribune

WASHINGTON -- Utah attorneys have abandoned their bid to gain ownership of a disputed road in Juab County after evidence showed the state's claim was riddled with errors. At the same time the state withdrew its claim to the **Weiss Highway** on Tuesday, it asked the Bureau of Land Management to consider granting the state title to two other roads crossing a total of 4 1/3 miles in the northeast corner of Daggett County, used primarily to access a Questar natural gas storage facility.

The short stretches of dirt road are now the new test for a 2003 agreement between Interior Secretary Gale Norton and then Gov. Mike Leavitt to establish a procedure for Utah to claim ownership of roads across federal land.

The state had hoped the 99-mile **Weiss Highway**, which it said was built in the 1930s by ranchers and farmers in Juab County, would provide its first test case for the Norton-Leavitt agreement.

However, records and newspaper articles showed the road was built by the Civilian Conservation Corps, a federal work program during President Franklin Roosevelt's New Deal, meaning the state and county couldn't claim ownership.

"That ended badly, didn't it?" Rainer Huck, director of the Utah Shared Access Alliance, an off-road vehicle group, said via cell phone while he was riding his dirt bike.

"That was certainly bad luck that the first one they picked had that kind of a bad situation that caused it to be one of the most inappropriate choices possible."

Kristen Brengel, a road specialist with The Wilderness Society, said the **Weiss Highway** experience shows the peril of the Norton-Leavitt agreement, and promised that conservation groups will give the new Daggett roads the same scrutiny.

"I think it's absolutely critical for the conservation community to make sure this route is legitimate, because others aren't doing the work," she said. "To go from saying [the **Weiss Highway**] application was a slam dunk to now withdrawing it should be a caution flag to every other state and county in the country that would even consider using this process."

The issue involves ownership of roads under Revised Statute 2477, a Civil War-era federal law aimed at

encouraging settlement of the frontier. It stated that counties could retain ownership of traditional **highways** across federal land.

In April 2003, Leavitt and Norton reached an agreement allowing the federal government to disavow any ownership in the road, streamlining the process for the state or county to assert a claim.

The state's new targets in Daggett County are traveled on a daily basis by Questar Pipeline workers at the company's Clay Basin Field, one of the largest gas repositories in the Rocky Mountain West.

Daggett County Commissioner Chad Reed said there have not been conflicts over the ownership of the road and it was primarily the state's decision to seek title to the paths.

"These roads are definitely two roads that are undisputable," Reed said. "We want them recognized by the BLM and Forest Service and even the state of Utah."

Brengel said the concern remains that the state will use the RS2477 road claims to gain entry into national parks and potential wilderness areas.

The state has joined San Juan County in suing the Interior Department over ownership of the Salt Creek Road, a dirt path that runs several miles into Canyonlands National Park. The National Park Service closed the road, which is popular with off-road vehicle users, saying further use could damage the park resources.

"Giving away national parks and other public lands is a big deal and should be treated like a big deal," Brengel said.

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