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Utah sues BLM over 15-year-old road closures

U-turn: The suit seeks to open tracks the state feels were wrongly closed

By Joe Baird
The Salt Lake Tribune

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The Attorney General's Office filed suit Thursday against the Department of the Interior over three roads in Juab County, as the state of Utah continues to aggressively pursue road claims in rural counties.

The roads in question range from 6.5 to 9 miles long, and are located in the western, largely uninhabited part of the county. They were closed by the Bureau of Land Management in the late 1980s because, according to BLM officials, they extended into a designated wilderness study area.

But Assistant Attorney General Ed Ogilvie said the roads met the parameters for what has been defined by Congress as a public road, "and these roads meet those criteria in every way. These roads were closed without public input and contrary to law."

The suit marks the fifth complaint the state has filed against the Interior Department under Revised Statute 2477, an 1866 law that guaranteed public rights of way over federal land. The statute was repealed in 1976, but existing roads were grandfathered in.

BLM spokesman Don Banks expressed surprise at the suit Thursday, noting that the BLM met with state officials Wednesday and no mention was made of the pending legal action. He defended the agency's closure of the roads.

"The closures have been in effect for 15 years, and were enacted through a very public land-use process," Banks said. "The closures were put in place to protect beautiful areas like Scott's Basin, which was purchased by the Nature Conservancy, then given to the BLM to be held in trust as part of a potentially larger Deep Creeks Wilderness Area.

"The desire for motor vehicle use," Banks added, "has to be balanced with a sensitivity to natural resources. So we close roads, even when it's not a popular thing to do."

A local environmental group harshly criticized Utah's suit, charging that the state has ulterior motives.

"When you're talking about roads extending into wilderness study areas, roads that have been closed for 15 years, this isn't about protecting an existing transportation system," said Heidi McIntosh, conservation director of the Southern Utah Wilderness Alliance. "It's about overturning protections for scenic and ecologically fragile lands."

But state officials are adamant that the roads - Granite Canyon Road, Tom's Creek Road and Trout Creek Road - have legitimate uses. All have been traversed regularly, they claim, by ranchers, sheepherders, prospectors, campers and county residents as far back as the 1930s.

"They were all evaluated and appear to be good candidate roads to select and file upon," said Ogilvie.

The suit Thursday, and the other filed road complaints, are part of a state program called the Public Roads Over Public Lands Project, an ongoing effort to reclaim control of the state's backways. Ogilvie anticipates that more suits will be filed, even as the state pursues an agreement it signed with the Interior Department in 2003 to submit road claims to the BLM and work cooperatively with the agency to settle the disputes.

"Where we come upon roads that merit the additional filing of lawsuits, we anticipate that that will continue to happen," he said.

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