

For Immediate Release: Wednesday, September 7, 2005

**Contact:** Kristen Brengel, The Wilderness Society (202-429-2674)  
Heidi McIntosh, Southern Utah Wilderness Alliance (801-486-7939, ext. 3980)  
Ted Zukoski, Earthjustice (303-996-9622)

**UTAH'S HIGHWAY CLAIMS ACROSS PUBLIC LANDS  
CRITICIZED BY FEDERAL AGENCY**

*Agency Asks for More Data to Support Claims to Disputed Routes*

September 7, 2005 - The State of Utah's attempt to take over a half-dozen routes on public land under an increasingly abused loophole known as R.S. 2477 hit another roadblock recently, when the Bureau of Land Management asked the State for additional evidence justifying its highway claims. In an August 26 letter, BLM Deputy State Director Kent Hoffman, noting "discrepancies" in the highway applications, asked Utah officials to submit basic evidence concerning the "sufficiency" of the State's claims.

Under the R.S. 2477 loophole, the State must show that it "constructed" a highway over public lands not "reserved" or set aside for other purposes before October 1976.

Such claims are controversial because they are frequently little more dirt paths and trails, yet would give the State and counties highway rights-of-way in protected areas like wilderness study areas, national parks, and other ecologically important places. They would also disqualify areas from wilderness protection. To support its applications to six routes in Beaver, Iron, Daggett, and Millard Counties, Utah has submitted little more than aerial photos and a few statements from people who say they drove on the roads years ago.

"The Bureau of Land Management is heading in the right direction," said Kristen Brengel of The Wilderness Society. "The six highway claims do not add up and cannot be turned over to the State of Utah. We're glad to see that the BLM is pushing Utah to actually come up with some hard evidence because the evidence we've dug up shows these routes don't meet the test."

Brengel noted that most of the evidence that conservation groups have located showed that the routes were built by and for the federal government, or that the federal government permitted the construction under other laws, meaning the State would not get a right-of-way under the R.S. 2477 loophole.

Some of the basic information that BLM has now requested -- and that was noticeably absent from Utah's applications submitted months ago -- includes "historic and current maps and photographs of the claimed right-of-way, county resolutions for funding proposals, county commission meeting notes, current and past photos of the road, (and) county surveys and plans." BLM gave the State two weeks to come up with a laundry list of additional data.

"These claims, as well as thousands of other bogus R.S. 2477 claims the State intends to pursue, are an enormous waste of money and pose a threat to some of the most spectacular landscapes in the country," said Heidi McIntosh, Conservation Director for the Southern Utah Wilderness

Alliance. “And after spending 5 years and more than \$10 million of taxpayer money, the State still has almost nothing to support the highway claims.”

The Wilderness Society's Brengel also noted that BLM's request for more data was spurred in part by conservationists' criticism of Utah's submissions. “This shows why it's important for the public to have a voice in decisions about the future of our public lands,” said Brengel.

According to Earthjustice attorney Ted Zukoski, the State of Utah and the Interior Department have fought to stifle the public's voice in other places, such as court proceedings related to a Utah claim that Salt Creek, a streambed in Canyonlands National Park, is a “constructed highway” under the R.S. 2477 loophole. The National Park Service previously concluded the State's claim had no basis. Last week, a federal appeals court in Denver rejected the State's argument that the public should be kept out of the case, noting that conservation groups who have fought to protect public lands have an interest in pressing for protection of those lands in court.

“The public should have a seat at the table when Utah and the Interior Department attempt to give away public lands,” said Ted Zukoski, who represented conservation groups in the case. “The appeals court's ruling makes sure the public has that seat.”

A copy of BLM's August 26 letter follows the release. More information on the inadequacy of the six alleged rights-of-way is available at <http://www.rs2477.com/lands/utah6.htm>.

The Tenth Circuit Court of Appeals decision in the Canyonlands right-of-way case is available at [http://www.rs2477.com/documents/ORDER\\_Reversing\\_and\\_Remanding\\_8-30-05.pdf](http://www.rs2477.com/documents/ORDER_Reversing_and_Remanding_8-30-05.pdf).