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Activists suing Kane County over roads

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WASHINGTON - Environmental groups sued Kane County on Thursday, accusing it of flouting federal law by opening national parks and other delicate lands to damaging off-road vehicle use.

The suit, filed by the Southern Utah Wilderness Alliance, Earthjustice and The Wilderness Society, alleges that Kane County declared an array of roads open for off-road vehicle use, including hundreds of miles that have been closed by the Bureau of Land Management.

“We’re filing this lawsuit because Kane County is attempting to seize control of the management of some of America’s most spectacular public lands,” said Ted Zukoski of Earthjustice. “The Constitution and federal law require that these lands be managed for all Americans. Kane County’s bluster and bullying don’t give it the right to trash national parks and other lands by turning them into dirt bike and ATV playgrounds.”

Kane County Commissioner Mark Habbeshaw said the courts are likely the only place where the disputes can be resolved, although he has reservations about the cost of litigating the claims.

“All in all, I think this [lawsuit] puts us on the proper course,” he said. “Once they’re judicially recognized, they’re our rights of way forever. If a court tells us it’s not our road, then we know and we have certainty about it and we can move forward.”

Earlier this year, Kane County posted 268 signs designating off-road vehicle routes across BLM land, including more than 100 inside the Grand Staircase Escalante National Monument. At least 60 of those routes are closed under the monument plan, the lawsuit says. The BLM state director threatened the county with legal action in April and the case was referred to the U.S. attorney for Utah in June, but no action has been taken. BLM spokeswoman Laura Williams said the matter is still being pursued.

In 2003, the county tore down signs posted by BLM closing certain routes. The BLM never took legal action against the county for that instance.

The inaction in both cases forced the environmentalists’ hand. “We couldn’t wait any longer, basically,” said Kristen Brengel of The Wilderness Society. “We hope and encourage [BLM] to join us. This is not to take over where the Interior Department is not necessarily going. We hope they join this lawsuit.”

The case also challenges an August ordinance passed by the Kane County Commission opening all roads in the county to off-road vehicle traffic unless closed by the county, regardless of whether they cross federal lands, national parks, monuments or recreation areas.

Kane County includes parts of Grand Staircase monument, Bryce Canyon and Zion national parks, Glen Canyon National Recreation Area and several wilderness areas.

Habbeshaw said the law grants the counties continued use of roads that existed before the parks or other areas were created and the county is only seeking recognition of its claim to historic roads.

The lawsuit, filed Thursday in U.S. District Court in Utah, was assigned to Judge Tena Campbell, who handed the environmental groups’ victory in a roads ruling in 2004 that was struck down last month by the 10th U.S. Circuit Court of Appeals.

