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In Utah, Trying to Undo a Federal Claim Bit by Bit

By [FELICITY BARRINGER](#)

KANAB, Utah - Nine winters have whitened the red cliffs of southern Utah since President [Bill Clinton](#) wrapped new protections around them. But time has not soothe the pockets of anger here in Kane County, where some people feel that Mr. Clinton did not so much give Grand Staircase-Escalante National Monument to the nation as take it away from them.

Local leaders want to take the monument back, if not all at once, bit by bit.

Kane County's commissioners are in a land war with the government, claiming ownership of hundreds of miles of dirt roads, dry washes and riverbeds on the 1.7 million-acre monument and adjoining federal lands. The more vestigial rights-of-way they own, the commissioners believe, the more they can control what happens on the land around them.

In addition to filing lawsuits and applying political pressure, they have graded roads and put up fiberglass signposts, inviting all-terrain vehicles onto federal lands.

The explosion in the use of those vehicles, whether motorized dirt bikes or four-wheelers, has left its echoes and tracks on a landscape where only people, horses and burros went before. Such trails strengthen the local claims to roads, whose very existence may be disputed by others.

Kane County, which borders Arizona, generally wants to encourage local people and tourists who bring the vehicles because tourism is the core of the economy, while the federal government is concerned that excessive use of the vehicles could permanently mar the landscape that it seeks to preserve.

The Kane County struggle blends a Civil War-era question - who owns the roads that crisscross federal lands from Montana to Arizona - and the newer issue of access to the backcountry by all-terrain vehicles, or A.T.V.'s.

"Together, the two form a much broader issue than they do separately," said Dave Hunsaker, the manager of the monument.

"The increase in A.T.V.'s has been nothing short of phenomenal, particularly in Utah," Mr. Hunsaker added. "It poses a whole new set of challenges."

Environmental groups have compiled reams of evidence of the damage the vehicles' deep tire treads do to fragile soils; they fear that as A.T.V.'s churn up the landscape, the damage could be widespread.

"By having an explosive amount of off-road vehicles on the ground, wildlife habitat could be

fragmented, cultural artifacts could be ruined, visitors expecting quiet scenery could be disrupted," said Kristin Brendel, a lawyer for the Wilderness Society.

Heidi McIntosh of the Southern Utah Wilderness Alliance added, "The issue is not access but excess."

The Kane County confrontation is playing out on several stages. Two lawsuits have recently been filed in Salt Lake City, and other legal skirmishes continue.

In early November, the county commissioners sued the Bureau of Land Management over its decisions about what vehicles can be used at the monument. In Salt Lake City, environmental groups sued Kane County for an unconstitutional appropriation of federal land.

In Washington, a Democratic senator had held up the nomination for the No. 2 post at the Interior Department over the Kane County dispute. The senator, Richard J. Durbin of Illinois, said he would not let the nomination come up for a vote until he had assurances that the department was not letting Kane County ride roughshod over federal lands.

In a letter sent after meeting with the senator last week, Secretary of the Interior Gale A. Norton said the department would start formal consultations with Kane County on Nov. 30 over the roads' ownership and their appropriate use.

Consultations have not always been Kane County's style. "When negotiations don't work, we take action," said Mark Habbeshaw, a county commissioner.

In August 2003, Mr. Habbeshaw went to the monument and ripped out 31 fiberglass stakes with federal signs. Since then, the county has set up more than 200 of its own stakes within the monument and nearby.

In some places, the federal stakes stand side by side with the county stakes. The Bureau of Land Management signs say "No Vehicles." The county signs bear icons of riders on four-wheelers, inviting them in.

Mr. Hunsaker, the monument director, said in a recent interview that the federal land bureau had left 600 miles of trails open for all-terrain vehicles. But the county's claims exceed 1,000 miles, he said. Under state law, roads eligible for county ownership must have existed since 1966.

In a recent interview, Mr. Habbeshaw outlined his approach. "If we devise a strategy of acting like these roads are ours," he said, "and we stay within the law, they will have a hard time going after us."

The county is taking out legal advertisements in the local weekly newspaper inviting people to suggest the closing of any route to all-terrain vehicles. In effect, Mr. Habbeshaw is asking Mr. Hunsaker to acknowledge the county's sovereignty over the disputed routes.

A former Las Vegas police detective who has lived in town less than a decade, Mr. Habbeshaw is leading the charge for local families, many of whose ancestors arrived with the original Mormon pioneers. The federal lands where they ran their cows or farmed or mined felt in many ways like their own.

"I was born and raised here; my ancestors settled here and I had family in ranching at the time I was

growing up," said Terril Honey, who manages Honey's Jubilee, a supermarket. "A lot of what I feel is that our local residents who live off the land and have made good use of it - for timber, for manufacturing, for mining - have been cut out."

Mr. Habbeshaw went further. "I think the designation of the Grand Staircase was an abuse" of federal law, he said.

Some residents, newcomers in particular, are less enthusiastic about the county's approach. The town blends the spiritual descendants of Brigham Young, the Mormon pioneer leader, and the spiritual descendants of Edward Abbey, the fervent environmental writer who set a novel in Kane County.

The Southern Utah Wilderness Alliance, or SUWA, ran an advertisement criticizing the county commissioners and all-terrain vehicles in the county's weekly newspaper.

Some of the response was vitriolic. "The self-appointed aristocrats at SUWA, in their great arrogance, have decided 'We the People' can't be trusted to govern ourselves," wrote Arnold M. Studebaker.

On a ranch outside town, Ron Smith and his wife, who manage their ranch as a wildlife preserve, found that siding with the federal government was a risky business.

In the late 1990's, before Mr. Habbeshaw was elected, Mr. Smith wrote a letter to the federal land bureau suggesting that a road the county claimed had existed before 1966 had actually just been constructed. The manzanita leaves under the overturned rocks, he said, are still green.

A few months later, Mr. Smith and his wife returned from a vacation to find the gate to their road unlocked and a road grader on their land. After many inquiries, they said, they discovered that the county was claiming their road under the same law that underpins its claims on federal lands. After two years in court, the county backed off its claim.

Mr. Smith, a former raft guide on the Colorado River, was one of the first people in the region to own a four-wheel all-terrain vehicle, which he built with his own hands.

Today, he said, hundreds of A.T.V. owners "want to be able to use the land."

"But it's abuse, not use," he said, adding, "Once they're running all over the land, it will never be the same again."