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Kane conniving

County should claim roads through proper process

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Posted: 11:51 AM- Kane County commissioners have finally recognized the obvious - that their ordinance permitting off-highway vehicles on most federally owned lands in the county won't fly in federal court.

That's good news for people who enjoy the solitude and beauty of the Grand Staircase-Escalante National Monument, most of which rightly had been closed to OHV use by the Bureau of Land Management. Environmental groups last year sued over the ordinance that defied the BLM travel plan, and the county, belatedly admitting the blatant illegality of its own action, has rescinded it.

We're glad the county has decided, for now, to let the BLM do what it can to protect sensitive public lands from the growing onslaught of OHV riders, some of whom seem determined to go wherever they want. Protecting the public lands is part of the BLM's job.

But the bad news is that the county commission has a new strategy to fight for ownership of more roads on public lands and give OHVs more unfettered access. That tactic is to get the Legislature to support its right-of-way claims with a new state law.

The county bases its road claims on RS 2477, a 19th-century mining law that granted rights of way across federal lands. Commissioners are claiming many OHV trails and roads were or should have been grandfathered when the law was repealed by Congress in 1976.

In August, U.S. District Court Judge Tena Campbell rejected the county's bid for dismissal of the environmentalists' lawsuit. She said the county must prove ownership of roads in the proper and legal way, by showing 10 years of continuous use, a standard set in an earlier 10th Circuit Court of Appeals ruling.

But the commissioners of Kane County, where defiance of the BLM's public-lands protections was once compared to China's Tiananmen Square protests, have not given up looking for a loophole or creating one to avoid following the orders of both courts.

Open defiance of the BLM failed, thanks to a court challenge. If the county tries a legislative end run around the federal courts' interpretation of federal law, that strategy will likely meet the same fate, at taxpayers' expense.