

## One road at a time: Ruling should help protect public lands from ATVs

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U.S. District Court Judge Bruce Jenkins' ruling in a rural road dispute doesn't mean Kane and Garfield counties don't have rightful claims to some roads on public land. But it does mean that they have to prove all such claims in a court of law.

That should put a long-overdue stop to unfettered expansion of all-terrain vehicle use that the counties are promoting as economic development and that threatens the fragile desert land. That is, if the counties don't continue to flout the law as they have in the past, when they ordered the destruction of federal signs placed to restrict public-land use by ATVs.

The counties sued for access through the Grand Staircase-Escalante National Monument based only on Bureau of Land Management say-so. Further, they wanted the court to overturn rules made to protect the desert's arches, natural bridges, dinosaur fossils and archaeological treasures from ATVs and other off-road vehicles.

Jenkins rightly rebuffed the counties' argument that the BLM alone can make binding decisions on road ownership, blunting the counties' attack on protected scenic lands that belong to all Americans. Instead, he ruled that each road claim must be proven separately in court.

Those who enjoy hiking, cycling and horseback riding on public lands unaccompanied by the roar of motorized vehicles should be relieved by this ruling, along with those who value these scenic but delicate places that are threatened by destructive off-roaders who don't necessarily share their reverence for nature.

The long-running dispute over rural roads - some of them hardly more than cow paths - dates to the repeal in 1976 of RS 2477, a Civil War-era mining law that gave local governments the right to build roads over federal lands. Its repeal grandfathered in existing rights of way, but did not spell out how "existing" rights of way should be determined.

The 10th U.S. Circuit Court of Appeals ruled in 2005 that state law should determine valid right-of-way claims. Utah law says roads must have had a decade of continuous use and county maintenance before the 1976 repeal.

Kane and Garfield counties want to avoid what one county commissioner calls "endless litigation" over road claims. However, there is no way to circumvent the judicial process. Judge Jenkins' ruling affirms that.