

Norton issues guidance on Western road claims

By Jennifer Talhelm

ASSOCIATED PRESS

7:06 p.m. March 21, 2006

WASHINGTON – In a decision environmental groups said could have disastrous effects on national parks and other sensitive lands, Interior Secretary Gale Norton is revising how the federal government determines who owns the countless miles of paths and tracks that crisscross the West.

A Civil War-era law gives states and local governments the right to claim rights of way over federal land. But the law, known as Revised Statute 2477, has led to bitter disagreements as claims have been made to dirt paths and even stream beds through national parks and other federal lands.

Norton says federal land managers should determine whether a road claim is valid by following a recent 10th U.S. Circuit Court of Appeals ruling.

She is expected Wednesday to formally sign the policy in the form of a memo to assistant secretaries, just days before she plans to step down.

Lawyers for the department said the policy will protect federal lands because National Park Service and Bureau of Land Management officials will be able to decide based on maps and other evidence whether someone has a valid claim to a road and then set how best to manage the activity around the road.

But environmentalists predicted the policy will lead to more claims in national parks, wildlife refuges and proposed wilderness areas. Conservation groups had hoped the federal government would not allow road claims in those areas.

States from Colorado to California to Alaska have claims zigzagging through them, including miles in several national parks.

“It's bad news,” said Kristen Brengel, of the Wilderness Society. “I guess the next Secretary of the Interior will have to deal with the repercussions. It is going to be messy.”

Department officials said the timing of the decision has nothing to do with Norton's decision to leave at the end of the month.

“We've taken this long because this is a complicated issue,” said Dan Domenico, special assistant to the solicitor. “We wanted to make sure we get it right.”

The 10th Circuit decision dealt with an Utah county's claim that jeep tracks on federal land were a county road. The court ruled last fall that Utah's law – not the BLM's policy – should determine what is a road.

Norton's memo scraps previous agreements dealing with R.S. 2477 and advises officials to follow state law and consult with all the affected people when making their decisions.

“Nothing in this changes the level of protection,” Domenico said. “The idea you may be getting that we're going to use this to open up all these roads to do all sorts of things – that's just not true. This is just about how to maintain the status quo without too much conflict.”

The law, originally intended to help settle the West and its vast public land, was repealed in 1976, but counties were allowed to claim ownership of rights of way that existed before then if they could show they had roadlike qualities.

Still, Denny Huffman, the former superintendent of Dinosaur National Monument, said he and a coalition of National Park Service retirees are concerned the department wants to open roads in parks, harming plants, animals and disturbing the peace and quiet of wild areas.

“If they're successful, we could easily see the map of a park looking like a plate of spaghetti,” he said, adding that he thought the department should have asked for public input on the policy. “We think the public should have a hand in what kind of policies manage their parks.”