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## Road guidelines issued

*Action by Norton angers environmental groups*

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WASHINGTON — Outgoing Interior Secretary Gale Norton issued guidelines Wednesday defining what qualifies as a locally owned road and likely sparking a new round of disputes between environmentalists and local development interests.

Norton's memo outlining the policy upholds a September ruling by the 10th Circuit Court of Appeals that state officials say is good news but environmentalists say threatens protected areas with potential road construction and maintenance.

"This is classic Gale Norton," said Heidi McIntosh, conservation director for the Southern Utah Wilderness Alliance. "It's like getting punched in the head with a velvet glove."

Local government officials could not be reached for comment late Wednesday.

The policy centers on a Civil War-era mining law, Revised Statute 2477, that gave states and counties rights of way across federal lands. Congress repealed the law in 1976 but did not cancel the rights of way created under the law, leading to disputes between local governments and environmental watchdogs over which routes are actual roads that should be maintained.

The federal government created several policies, including a 2003 agreement with then-Gov. Mike Leavitt, on how to handle the complicated task of defining a road claim under the law and who controls it.

But the 10th Circuit Court of Appeals ruled last year in a case brought by SUWA that the Bureau of Land Management did not have the authority to determine what constituted a road and rejected several requirements a road claim needed to meet, such as that roads must be established by mechanical construction.

SUWA had long contended that county governments were grading cattle trails, streambeds and long-abandoned jeep tracks across public lands to hurt the chances of the land from being designated as wilderness.

The court also ruled that while only courts could finally determine the ownership issue, state law — such as Utah's statute that says an R.S.2477 route is a road if it had continuous use for 10 years prior to 1976 — is good enough to establish a right of way.

Norton's memo applies the 10th Circuit's ruling nationwide. The new guidelines protect federal lands by clarifying that these roads cannot be expanded or significantly improved without consultation with federal land managers, according to the Interior Department. It ends the 2003 agreement made with Utah and previous policies guiding R.S.2477 claims.

"The court's decision provides a thoughtful and reasonable way to resolve road disputes between the federal government and counties," Norton said. "The decision allows the roads to be maintained at the status quo; it does not authorize automatic expansion of roads. Our new guidelines respect the obligation that Interior has to protect federal lands and environmentally sensitive areas, particularly parks, refuges and congressionally designated wilderness areas."

State Public Lands Policy Coordinator Lynn Stevens said clear guidance for the agency is a "good thing." But "this doesn't mean every road is going to be claimed," he said.

Environmental groups are angry at Norton's creation of such an important policy as she "walks out the door" without any public input. Norton resigned earlier this month and will leave next week.

"This secretive scheme is typical of how Secretary Norton has made decisions over the last five years," said Kristen Brengel of the Wilderness Society.

McIntosh and others said that no one wants to shut down existing roads or highways but the concern lies in states laying claim to streambeds or cattle trails or other suspect transportation routes that could expose environmentally or culturally sensitive areas to destruction and vandalism.

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