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County to fight for road's status

By ADELLA HARDING, Free Press Staff Writer

ELKO - Elko County has decided to seek a legal opinion on whether South Canyon Road in Jarbidge is an RS 2477 road, which would mean the county owns the road.

Elko County District Attorney Gary Woodbury has informed the U.S. Attorney's Office in Las Vegas the county is prepared to take the issue to federal court.

Elko County commissioners had decided in March they wouldn't go back to court on the road question until they knew what the final outcome would be of an environmental impact study on options for the road. However, they gave Woodbury authority to decide whether to go to court.

The final study is out, and Humboldt-Toiyabe National Forest Supervisor Bob Vaught issued a decision on the road that calls for closing the last four-tenths of a mile while leaving the rest of the road open in a primitive condition.

Vaught said Friday he had received a copy of Woodbury's letter.

He said, however, that he believes his decision on South Canyon Road is a good solution, at least until the RS 2477 issue is settled.

The Forest Service earlier agreed in a settlement with Elko County that it wouldn't contest road ownership, but federal Judge David Hagen said the agency couldn't make such a deal. The ruling came as the result of a lawsuit filed by environmental organizations opposing reopening of the road. One concern is for the bull trout on the Jarbidge River.

"We have known RS 2477 is very important. The only problem for me is that's not my responsibility to make a decision about that," Vaught said.

Woodbury's June 24 letter to Assistant U.S. Attorney Blaine Welsh states that the status report the county was to submit to federal court this week would reject administrative proceedings and a proposed road and trails easement.

"I assume Elko County's rejection of the court's alternatives will result in an order to commence litigation, at least over the validity of the RS 2477 easement, and possibly over the trespass and Clean Water Act claims," he wrote.

Woodbury tied his decision on seeking litigation now rather than delaying action a year, as Welsh suggested, to the appeals recently filed against Vaught's decision on South Canyon Road.

Woodbury said the appeals is likely to lead to judicial review, and "God only knows what the EIS and the selected alternative will look like by the time the 9th Circuit gets done with it two or three years from now."

His decision is on the agenda for the Elko County Board of Commissioners meeting next week, and Elko County Manager Rob Stokes said the commissioners need to talk about how to "deal with it."

He said, however, that he didn't believe the process would be too costly for the county since "a lot of research was done before."

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