

**Earthjustice * Southern Utah Wilderness Alliance
The Wilderness Society * Wild Utah Project**

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**UTAH’S PRECEDENT-SETTING PUBLIC LAND TAKEOVER ATTEMPTS AGAIN
SHOWN TO BE FATALLY FLAWED**

WASHINGTON, DC (June 28, 2005) – Today, as the Interior Department considers four highway claims by the State of Utah under the repealed law known as R.S. 2477, conservationists revealed an in-depth analysis that shows significant flaws with Utah's applications. Based on the shortcomings in the applications, the groups are urging the Bureau of Land Management to deny the applications.

“Our analysis reveals two main problems with the state’s applications,” said Kristen Brengel of The Wilderness Society. “One is that for each of the claims, a review of historical maps and documents cast grave doubts about whether the routes meet the criteria for a legitimate R.S. 2477 highway that was constructed and maintained by the state or county. Two, the state’s applications themselves are incomplete and flawed.”

To date, the state has spent approximately \$12 million in a secretive program to claim that faint trails and jeep tracks are state highways – and have so far failed to establish the legitimacy of a single route.

Utah is claiming the four highways under the controversial January 2003 “disclaimer” regulation issued by the Interior Department and an equally controversial April 2003 agreement between Interior and Utah. The analysis shows that even under the relaxed standards of the Administration’s new approach, Utah's highway applications fail to provide the kind of evidence needed to prove their claims – namely that the state or county “constructed” a highway across federal lands not set aside for another public use.

In May 2004, the state’s first R.S. 2477 claim – for the 99-mile Weiss Highway in Utah’s west desert region – was withdrawn after conservationists unearthed evidence that the claimed county route was built by and for the U.S. government, meaning that it could not be claimed by the state under the R.S. 2477 loophole.

The new claims in question include two dirt roads in northeast Utah’s Daggett County, one in Beaver County, and one that crosses through both Beaver and Iron counties.

- One of the Daggett County routes (known as D28) is so obscure that the County has repeatedly failed to show major stretches of the route on its highway maps, and BLM apparently closed part of it to off-road vehicles in the 1980s.
- Both route D28 and the other Daggett County route – a mile-long track known as D30 – were established not as “public highways” but as routes along gas pipelines.

- The Hickory Peak route in Beaver County is a private mining road that is little more than a driveway.
- Although much of the remaining road – the Horse Valley route – is in Iron County, county maps do not show all of the route until long after 1976, the last date construction had to occur for the route to become a State right-of-way.

The review of the State of Utah’s evidence also revealed that the State failed to supply any construction or funding records for any of the routes, although it has admitted that such evidence is important in proving its claims. Instead, the State relies largely on a few statements of people who think they remember using the routes up to 64 years ago. The statements, however, sometimes contradict each other and are often at odds with hard data. For example, two men state that they remember trucks driving route D28 in 1941, although aerial photos show no sign of any scar on the ground for the central portion of the route nine years later.

“You can’t buy a real house with Monopoly money, but that’s just what Utah is trying to do here,” said Ted Zukoski of Earthjustice. “Before considering giving away land that belongs to all of the American people, the Interior Department should have real, hard evidence. Utah has simply refused to do their homework.”

“This first thing to understand about the State’s approach is that it has nothing to do with roads and everything to do with seizing control of public lands – scenic, beloved treasures – that belong to all Americans,” said Heidi McIntosh of Southern Utah Wilderness Alliance. “The end of Utah’s misguided strategy would be a spiderweb of needless roads and ATV tracks across our National Parks, National Wildlife Refuges, potential wilderness areas, and other public lands.”

R.S. 2477 was repealed by the Federal Land Policy and Management Act of 1976, which replaced the old land-grab law with a modern, comprehensive process for establishing rights-of-way on federal lands. But in January 2003, the Interior Department issued a “disclaimer” regulation to speed up highway claims under R.S. 2477 that may have existed before 1976. If approved by the Interior Department, the new claims would represent the first given away under the new disclaimer regulation, serving as national precedents for thousands of potential claims under R.S. 2477. In February 2004, Congress’s research arm, the General Accounting Office (GAO), concluded that the Administration’s approach in Utah is illegal.

In addition to pushing disclaimer applications, the State of Utah is suing the National Park Service to formally establish a road in Canyonlands National Park that crosses an ecologically sensitive streambed more than 60 times, and has stated its intent to use R.S. 2477 in an attempt to overturn the first trail plan for off-road vehicle use in a scenic area of central Utah known as the San Rafael Swell. Federal land managers released the plan in 2003 after ORVs had caused widespread damage in this popular area.

“Because many of Utah's R.S. 2477 claims threaten streams, wildlife, canyons, and archaeological treasures, the stakes are too high to let the state take shortcuts,” said James Catlin of the Wild Utah Project. "Utah needs an open process to make transportation decisions and at the same time ensure legitimate vehicle access while protecting the places we care about."

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For documents and maps related to Utah's new R.S. 2477 claims, visit www.highway-robbery.com/lands/utah.htm and follow links. For copy of the in-depth analysis submitted by The Wilderness Society, call Kristen Brengel at 202/429-2694.