

## Bill would boost power of counties, states to claim roads

Environmentalists oppose the legislation, saying it could result in a free-for-all over ownership

**By Robert Gehrke**  
The Salt Lake Tribune

Article Last Updated:10/04/2006 02:47:05 AM MDT

WASHINGTON - States and counties could take control of thousands of rural back roads across the West, potentially considered for wilderness designation and defense installations, under legislation proposed by a New Mexico congressman.

A state or county that wants to claim ownership of a road across federal land would only have to present any official map prior to 1986, according to the bill sponsored by Rep. Steve Pearce, R-N.M.

The legislation would not prevent counties from claiming a public right of way across a defense installation or transportation corridor provided it shows up on a federal, state or county map.

If the bill had exempted those, Pearce's spokesman, David Host, said Tuesday, it could have "destroyed rights that have been established."

County leaders in Utah hailed the bill as a way to break the stalemate over Revised Statute 2477, a Civil War-era law that allowed the continued use of traditional routes across federal land. The law was repealed in 1976, but existing roads were grandfathered in.

"It's vital that Congress step in and assert that rights of way are important," said Kane County Commissioner Mark Kane. "But that's fine. It's in the hopper, and we're eager to engage in a public process."

Environmentalists, however, say the legislation lowers the standard of proof for states or counties to claim ownership of roads for-all.

"This is the mother of all public lands giveaways. I've never seen anything like it," said Kristen Brengel, an off-road enthusiast. "It's absolutely 100 percent horrible. It defies all logic."

The bill seeks to build on a ruling by the 10th U.S. Circuit Court of Appeals in a Utah case brought by Kane and other landowners over roads in the Grand Staircase-Escalante National Monument.

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The court ruled just over a year ago that without a federal road map, the statute should dictate what roads do or do not meet the statute's requirements for continuous use before 1976.

On the heels of that decision, Interior Secretary Gale Norton's rewrite of Bureau of Land Management guidelines to conform to the court's opinion.

Pearce's bill would replace that with the uniform guide of whether the road appeared on any official map. States would have to get involvement or approval and could perform routine maintenance without consulting federal agencies.

Host, Pearce's spokesman, said county leaders had asked the congressman to introduce the legislation "to bring counties to launch discussions of what needs to be done to start settling some of the lingering road disputes."

"It's designed to take an untenable situation and move the process along," Host said. "Between now and next Congress, we sit down and hammer out what they think these provisions ought to do. . . . They don't represent an endpoint."

Habbeshaw said the time is right for the discussion.

"It's important that Congress consider and pass this bill because in the last year, there has not been a single recognition of the uncomfortable with the agencies' response to right-of-way claims, even after the 10th Circuit decision and the new guidelines. But Brengel says that, even if the bill doesn't have a shot at passing this year, it is alarming."

"This is such a threat to parks and wilderness and public lands that the public should be very concerned about this."

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\* JOE BAIRD *contributed to this story.*

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