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## Kane readies monument suit

### Grand Staircase: Roads, water key elements in action against the feds

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KANAB - Kane County is planning to sue the Interior Department over two elements of the management plan for the Grand Staircase-Escalante National Monument.

The County Commission discussed the issue in executive session Monday. Under the statute of limitations in the Administrative Procedure Act, commissioners said they have until Monday to file a protest to the plan formed six years ago to guide the management of the 91-million-acre monument in Kane and Garfield counties.

The two counties have been at odds with the monument and the anticipated action is the latest in a legal web involving the county, state, environmental groups and Bureau of Land Management, the agency under the auspices of the Interior Department that manages the monument.

Much of the controversy has evolved out of differences on access to roads on the monument, and that was one of the reasons cited by the commission for deciding to file the suit in U.S. District Court.

Commissioner Mark Habbeshaw, who has led opposition to the BLM's decision to close some roads on the monument, said the management plan has to consider the recent ruling by the 10th U.S. Circuit Court of Appeals.

That ruling, issued in early September, said state law and not the BLM can determine which roads can be claimed as a backcountry roads.

"The legality and validity of the transportation plan in the monument plan fails to recognize existing roads," said Habbeshaw. "Unless adjudicated, [the BLM] says it will control roads. We believe that is inconsistent with the recent [10th Circuit] decision."

The other issue that will be cited in the suit concerns state water rights on the monument.

Habbeshaw said that the management plan fails to recognize the state's right to transport water off the monument for beneficial uses.

He said that without being able to draw water off the monument, the Kane County Water Conservancy District would have a difficult time meeting water demands from growth in the region of southern Utah.

The county has been unable to resolve the issue in meetings with the Interior Department. Habbeshaw said a court ruling will probably be the only way the issues will be decided.

"That would give us direction," he said.

Commissioner Ray Spencer said the issues demand definitive action.

"These issues have come before us time and time again and now it's time legal action be taken to bring all involved to the table and see that the [issues] are resolved," Spencer said.

In the closed session, the commission met via telephone with attorney Shawn Welch, Water Conservancy Executive Director Mike Noel and commissioners in Garfield County, which will likely join in the suit.

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Other action

I Kane County commissioners amended its off-highway-vehicle ordinance to allow the public to decide which roads, if any, should be closed.

I Under the ordinance, all roads are open for travel by OHV riders, and closures of the roads would occur only after a member of the public requests a closure and it is seconded by the county's Natural Resources Committee.

I The public will have 30 days to submit requests for road closures after the notice to amend the ordinance is published in the *Southern Utah News*, probably in the Nov. 16 edition.