



04/20/03

A Road By Any Other Name

...

Agenda 2003: Environment

Across the West, illegal and damaging dirt roads crisscross public lands. Several states and counties, insisting the primitive tracks are highways, claim ownership of the federal land the roads traverse.

The resulting feud between environmentalists and off-road vehicle groups has been long and bitter.

Recently, two elected leaders proposed solutions: U.S. Rep. Mark Udall, a Boulder Democrat, introduced a bill to close illegal roads while keeping open legitimate highways that connect rural communities.

Utah Gov. Mike Leavitt, a Republican, inked a deal with the U.S. Interior Department that would let vehicles use many of Utah's desert roads.

The controversy stems from an 1866 law, RS 2477, that encouraged the West's settlement. The outdated statute was superseded by a 1976 measure, yet counties still claim rights to dirt tracks that clearly aren't highways.

The issue is particularly contentious in northwest Colorado, where Moffat County claims "highway" rights to dirt paths across deserts that environmentalists want designated as wilderness. But it's also a problem in Utah. Leavitt fears, correctly, that if this isn't settled, it will take years to sort out in court.

Under the deal Leavitt signed with the Interior Department, Utah could claim rights to roads that lead to human facilities, such as livestock water tanks. The roads must be visible from aerial photos and be passable to vehicles with four wheels, so his plan excludes primitive, single-lane paths.

Leavitt's plan contains good provisions but has troubling gaps. Decisions about what roads would stay open would be made by bureaucrats, not in a public process.

His plan also doesn't fully resolve the issue because it doesn't stop counties or individuals from claiming other roads.

Udall's bill, by contrast, would settle all claims, whether brought by states, counties or individuals. Unlike the bureaucrats-only process set up by the Leavitt/Interior pact, Udall's approach gives the public a say.

Importantly, Udall's bill also sets a three-year deadline for anyone to file any road claims, so the process wouldn't drag on forever.

Like Leavitt's plan, Udall's H.R. 1639 would bar counties from claiming roads in national parks, wildlife refuges and designated wilderness areas. But Udall also would protect national monuments, scenic rivers and areas that could be future wilderness areas.

In addition, Udall's bill would protect private property. In most Western states, federal land surrounds or is interspersed with private property. In many places, off-road drivers zoom along illegal roads on public lands, then just keep going when they reach private property.

So ecological and noise woes on public lands haunt many private- property owners as well.

Udall and Leavitt should be commended for tackling a difficult issue. But of the two plans, Udall's is a more comprehensive solution.