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# The Salt Lake Tribune

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## Court rules public has say in lawsuits over rural roads

SUWA can intervene in legal dispute between county, Canyonlands

By **Patty Henetz**  
The Salt Lake Tribune

Article Last Updated: 10/05/2007 03:55:43 PM MDT

Correction: While the public cannot be excluded from participating in lawsuits over rural road ownership, the Southern Utah Wilderness Alliance was denied in its petition to intervene in a federal court case pitting San Juan County and the state against the National Park Service over who owns the Salt Creek Road in Canyonlands National Park. The 10th Circuit Court of Appeals ruled that SUWA had failed to prove it would argue the case any differently than the park service. A headline indicated SUWA could intervene in the case.

Members of the public or conservation groups have the right to participate in lawsuits over rural road ownership, a federal appeals court ruled Tuesday.

The 10th U.S. Circuit Court of Appeals decision involved a road claim by San Juan County on Salt Creek Road, which is in Canyonlands National Park and which the park service first closed to motorized travel in 2000 due to concern about environmental damage.

While that road dispute has not been resolved, the effort to categorically exclude the public from legal action in road cases has failed, said Jim Angell, an Earthjustice attorney who argued the case on behalf of the Southern Utah Wilderness Alliance before the court.

SUWA last year sought to join a legal conflict that pits the National Park Service against San Juan County and the state of Utah over who owns Salt Creek Road. The dirt two-track jogs in and out of the stream bottom for about 10 miles in the Needles section of the park on the way to Angel Arch, a popular destination for four-wheelers.

SUWA successfully sued the Park Service to close the road to off-highway riding, a decision it made provisionally in 2000 and finalized in 2003.

San Juan County quickly took the Park Service to court, claiming the county owned the road because it had been in general use even before the park's designation in 1962.

The county and state have sought to reopen the road under Revised Statute 2477, an old mining law that granted rights of way across public land. The law was repealed by Congress three decades ago, but existing claims were grandfathered in, leading to a series of road ownership disputes that must be argued in federal court, road-by-road.

Arguing against SUWA's intervention in the case, the Park Service, San Juan County and the state said the Salt Creek case was a straight property dispute that should be resolved only by the two parties laying claim to the road.

The 10th Circuit dismissed that argument, saying that SUWA had an absolute right to intervene. However, the court denied the environmental group's petition to do so because SUWA failed to prove they would argue the case any differently than the Park Service.

Had the decision gone otherwise, a far-reaching precedent would have been set allowing the government to lock out the public in public-land cases, Angell said.

Should the Park Service settle the case in a way SUWA dislikes or proceeds with the lawsuit less vigorously than SUWA would, the group can intervene, the court ruled.

Attempts to reach attorneys for the Park Service or San Juan County were unsuccessful.

Angell said the court's ruling "gives us some guidance on what we need to do in the future."

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