

BLUERIBBON COALITION NATIONAL LAND USE UPDATE!

Utah's Kane County Wins Important Victory In Appeals Court

Dear BRC Action Alert Subscriber.....

Kane County, Utah, has just won another important victory in the ongoing dispute over control of roads across public lands. An en banc panel of the 10th Circuit Court of Appeals on Tuesday ruled in favor of Kane County and dealt a major blow to Utah wilderness groups fighting over who owns a handful of back roads in rural Kane County.

Click [here](#) to read the actual decision.

The case arose from a Kane County ordinance that sought to assert the County's authority over RS 2477 rights of way within the Grand Staircase-Escalante National Monument. The Court's decision marks a welcome reversal in favor of Kane County.

Originally, the County requested that BLM remove closure signs on some of the asserted RS 2477 routes which the BLM had failed to designate as open for use. Essentially attempting to stand in the legal shoes of the United States, the Wilderness Society and Southern Utah Wilderness Alliance filed suit and, in spite of the County's motion to dismiss, the preservationists won in the district court.

Upon appeal of the district court's decision, a three-judge panel of the 10th Circuit Court affirmed the district court's decision, but also voted to rehear the case en banc or full bench. In the en banc hearing, the majority decision remarkably reverses the district court's decision and directs the district court to dismiss their case. The decision, which turns on technical legal questions involving "prudential standing," was joined by six of the eleven judges, with three judges concurring in the result. The remaining two judges vigorously dissented, claiming the decision "grants , and every other state and local government in the circuit... a green light to flout federal law."

The decision addresses many RS 2477 issues and other procedural matters that may have broader implications in public lands litigation.

You can read the Salt Lake City Tribune article on the decision here: <http://www.sltrib.com/sltrib/home/51031969-76/court-wilderness-groups-rights.html.csp>

As always, if you have any questions or concerns, please contact BRC.

Thanks,
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