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PHOTOS BY TRENT NELSON / The Salt Lake Tribune



Provo River flows next to the winding path of U.S. 189 in Provo Canyon; Steve Provo, talks about his property and access to the river; Ault shows damaged spanning signs; a locked gate managed by Ault is posted with a no trespassing sign in Provo Canyon.

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point. Ley said, they shared the navigability evidence they found with the state river analyst in 2018 — mostly newspaper archives, some of which they also shared with The Tribune.

For instance, a short piece published in a December 1881 edition of the Territorial Examiner applauded a Mr. Dan Jones for "cutting [railroad] ties in Provo canyon and floating them down the river, a distance of thirty miles ... despite the unfavorable prediction of many." The article stated that Jones planned to "get out several thousand more ties by the same source before winter is through."

An August 1888 edition of the Daily Enquirer also reported that 150,000 ties had recently come down the river, and that more men were working in the canyon cutting ties "than there has ever been in the history of Provo."

But with no input from a river analyst, and with no action from the state, the coalition expressed frustration about the "legal grey area" in its April newsletter.

"If it is designated or adjudicated as navigable, there would be no question that you are permitted to recreate on the beds and banks of the river so long as you enter it from a lawful access point. But," the newsletter read, "It hasn't been deemed navigable

and none of the relevant state agencies appear to be interested in settling this uncertainty."

Faith Jolley, a spokesperson with the wildlife resources division, said property boundaries in the area, especially right below the Deer Creek Reservoir, are "difficult to verify."

She mentioned the lawsuit the division is involved in over confirming a fishing easement in the Lower Provo River, but declined to comment further on the ongoing litigation.

"Public access for fishing is important, and we are doing our best to provide public access for anglers via our angler easement," she said.

But that strategy wouldn't open up the Lower Provo as much as the stream coalition contends it should, Ley argued. There have been no filings in the case since December.

NO ONE'S HAPPY

Ault doesn't buy the stream coalition's navigability argument. He said without the two dams above his portion of land — at Deer Creek and Jordanelle reservoirs, completed in 1941 and 1992, respectively — the river wouldn't be high enough to float more than a "rubber ducky," let alone goods for commerce.

Ault, brother-in-law to former Utah Gov. Gary Herbert, said he doesn't necessarily mind people fishing on his land. He just wants to talk to them, and change them an

access fee.

He said the issue is more about principles — specifically, the sanctity of private property rights, and what he sees as an encroachment of socialist ideas. (He sometimes refers to the Utah Stream Access Coalition as the Utah Socialist Access Coalition.)

"We can own property here, and we can have businesses, and we can do things that they can't in other parts of the world, and yet," he continued, "there's groups and individuals that would take that away."

The 70-year-old, a cyclist who has completed the 100-mile Leadville mountain bike race five times, cited those same principles when he argued against a planned multi-use Provo River Parkway trail meant to run from the mouth of Provo Canyon to Deer Creek Reservoir, connecting trail networks in the Utah and Heber valleys.

From behind the wheel of an off-road vehicle, Ault gestured to an open river bend, where "spectacular pines and quaking aspen and just big, big old trees" once grew, providing shade and shelter to cougars, bears and other wildlife looking for drink.

But now the bend is relatively naked, after a Utah Department of Transportation contractor razed hundreds of trees last year to make room for the path that still hasn't been built.

Instead, right outside his Provo River Resort property, in a narrow section of the canyon, there are signs warning that the path is about to end, with a 3.5-mile gap between trails that won't be filled unless the court rules in EPA's favor over the railroad.



easement litigation.

Fighting the trail was his first battle, he said. Now, he's entangled in several — including the controversy over public river access.

Ault has posted "no trespassing" signs around his property, and just about every week, he said a security guard he hired finds them trashed — pulled from the ground, bent and needing replacement. The guard also routinely finds trash left behind by, they assume, anglers.

"If you take [the stream access coalition's view], and apply this to any other private property owner, you wouldn't want people in your backyard and have a right to be there," Ault said. "You would never allow someone to walk through your yard to get to a gate that goes to a park, right? But that's a very similar situation here."

It's a similar argument to the one U.S. Appeals Judge Gregory Orme made in the Upper Provo case.

"I don't think it would have occurred to the pioneers to run someone out of their river bed that was their friend and neighbor," Orme asserted. "There weren't armies of tourists coming in and making use of that."

Ault contended that some do pay him for access, but then problems sometimes arise between those who paid and those who didn't, leaving no one happy.

Edwards, who owns the fly fishing guide service, said it's easier to just avoid the Lower Provo altogether — until, or if, the issue is settled. But the pause portends a depressing future for businesses like his and anglers who want to fish some of the best waters Utah has to offer.

And there's plenty of demand to fish the Provo — people come from around the world to do it.

Currently, Edwards and other guide services only take anglers to the river's middle section, between Jordanelle and Deer Creek, and it's getting crowded. He worries about overfishing and the longevity of a business where he may need to start building relationships with landowners in exchange for access — with no guarantee that landowners may not one day change their mind.

What happens if the law enforcement issue: Ault, takes a group of anglers onto Ault's property, then runs into someone else on the water without permission to be there?

"Everybody, again now, is mystified as to what is supposed to happen, and we ended up in this limbo where no one wins," Edwards said.

Ault, Edwards and Ley all pointed to other western states they say got this issue right — Colorado, Montana and Idaho, respectively. They hoped that Utah would emulate them.

But the situation remains in flux, and in the meantime, it seems anglers will continue taking risks for the chance to fish one of Utah's crown jewels.

Just after 4 p.m. on a recent Tuesday, minutes after Ault finished showing The Tribune around his property, a man parked his truck outside Ault's locked metal gate, revving his fishing gear. The Tribune approached him, but he pointed to the Airbuds in his ears. He couldn't chat now, he signaled — he was on a Zoom meeting.

Then he turned, rod in hand, and walked past Ault's closed gate down toward the river.

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