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Document no. 5 of 9  
Thursday, January 12, 2006  
Deseret News  
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Edition: Metro  
Page: B03

## ORV group appeals ruling in BLM suit

By Jon Sarche  
Associated Press

DENVER — The Bureau of Land Management overstepped its authority when it closed hundreds of miles of trails to off-road vehicles in two [Utah\[0\]](#) counties without seeking public comment, an attorney for a group of off-road enthusiasts told a federal appeals court Wednesday.

In 2000, the agency restricted some off-road vehicle use on about 550,000 acres in Box Elder County in northwestern [Utah\[0\]](#), saying it was concerned about existing damage to the land and wanted to prevent creation of new trails. Later that year, it issued similar restrictions covering about 250,000 acres in Grand County in eastern [Utah\[0\]](#), where the town of Moab and surrounding slickrock trails attract crowds of campers, mountain bikers and off-road vehicle users.

Paul Mortensen, representing the [Utah\[0\] Shared\[0\] Access\[0\] Alliance\[0\]](#), told a three-judge panel of the 10th U.S. Circuit Court of Appeals that the BLM ignored its own regulations by failing to seek public comment before issuing the closures.

He also said allowing the agency to continue making such decisions could increase environmental damage elsewhere by concentrating off-road vehicle users in areas that remain open to them.

U.S. District Judge Bruce Jenkins in Salt Lake City threw out the [alliance's\[0\]](#) lawsuit in 2003, and the group appealed to the Denver-based appeals court.

Attorney Eric Biber, representing the Southern [Utah\[0\] Wilderness Alliance\[0\]](#), told the judges the BLM had no choice in issuing the off-road vehicle restrictions without seeking public comment. Federal law and BLM regulations require such action when the agency determines there have been "significant adverse effects" on land it manages.

Biber, whose group was allowed to intervene in the case to support the BLM, said after the hearing that many trails in both areas remain open to off-road vehicles.

Assistant U.S. Attorney Jeff Nelson said if the BLM were required to seek public comment and conduct environmental studies each time its experts determined a closure was because of significant damage to the land, the agency's work would grind to a halt. His group was allowed to intervene in the case to support the BLM.

Nelson said the BLM's regulations also require it to ease such restrictions when the condition of the land affected improve enough to allow restored [access\[0\]](#). That happened in April 2003, when the Box Elder County closure area was reduced to about 189,000 acres, he said.

The judges did not say when they would rule.

The case is No. 05-4009.

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*On the Net: 10th Circuit Court: [www.ck10.uscourts.gov](http://www.ck10.uscourts.gov)*

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**Words:** 437

**Section:** Local

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