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Most of suit over ORV limits dismissed

By [Rebecca Palmer](#)

Deseret Morning News

HANKSVILLE, Wayne County — A federal judge last week dismissed most of a lawsuit filed by two [Utah\[0\]](#) counties, Hanksville city and state residents over rules limiting off-roading in the Factory Butte Recreation Area.

The plaintiffs intend to refile their lawsuit, saying it is "still a work in progress."

The case was brought against the Bureau of Land Management by Wayne and Garfield counties, Hanksville, [Utah\[0\]](#) [Shared\[0\]](#) [Access\[0\]](#) [Alliance\[0\]](#) and several individual residents in 2006, after the bureau restricted off-roading in all but about 2 percent of its 145,000-acre park.

The recreation area had previously been completely open to off-roaders.

The changes require that riders use a 4-square-mile "play area" and stay on designated trails. The rules were made in an effort to protect two endangered species of cacti, according to the bureau.

The plaintiffs alleged that the bureau had not followed its own rules in making the changes and had failed to seek adequate public comment on the change. They also claimed closing much of the park to off-road vehicles would harm tourism and that long-term planning by the bureau was biased.

Judge Dee Benson ruled that the plaintiffs could not prove that their claims deserved judicial review.

[Utah\[0\]](#) [Shared\[0\]](#) [Access\[0\]](#) [Alliance\[0\]](#) President Steve Jackson said the plaintiffs plan to refile their lawsuit. The only claim that remained after Monday's summary judgment held that the bureau improperly applied a Nixon-era conservation order by declaring an emergency to protect the cacti.

Jackson said the bureau will not be able to prove an emergency in court because their own records show that the cacti populations have actually increased during the last three years.

But Southern [Utah\[0\]](#) Wilderness [Alliance\[0\]](#) legal fellow David Garbett, who has sided with the bureau, said the plaintiffs have little chance of winning the case based on that claim. Historically, anyone who has used similar claims to challenge the bureau has lost, he said.

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Additional caption: Off-roading has been restricted to a 4-mile-square "play area" of Factory Butte Recreation Area.

Credit: Ravell Call, Deseret Morning News

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