



**BEFORE THE SECRETARY OF THE UNITED STATES DEPARTMENT OF  
INTERIOR AND THE DIRECTOR OF THE BUREAU OF LAND MANAGEMENT**

**BLUERIBBON COALITION, INC. AND  
UTAH PUBLIC LANDS ALLIANCE**

**Petitioners,**

**and**

**SECRETARY OF THE UNITED STATES  
DEPARTMENT OF INTERIOR AND  
DIRECTOR OF THE BUREAU OF LAND  
MANAGEMENT,**

**Responsible Officials.**

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**ADMINISTRATIVE PETITION SEEKING REVISION OF  
43 C.F.R. § 8342.1**

**I. SUMMARY OF PROPOSED ACTION**

Pursuant to the Right to Petition Government under the First Amendment to the U.S. Constitution<sup>1</sup> and the Administrative Procedure Act (“APA”)<sup>2</sup>, the BlueRibbon Coalition and Utah Public Lands Alliance petition the Department of the Interior and the Bureau of Land Management (BLM) to rescind in full 43 C.F.R. § 8342.1, commonly referred to as the “Designation” or “Minimization” Criteria for off-highway vehicle (OHV) route and area designation. This

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<sup>1</sup> “Congress shall make no law . . . abridging . . . the right of the people . . . to petition Government for a redress of grievances.” U.S. Const. amend. I.

<sup>2</sup> See 5 U.S.C. § 553(e).

regulation has become a systemic barrier to public access on federal lands, leading to widespread closures of historically accessible routes and perpetual litigation.

## II. BACKGROUND

Promulgated by the Department of the Interior in 1979, 43 C.F.R. § 8342.1 established a set of criteria by which BLM officials must designate lands as open, limited, or closed to off-road vehicle use. While initially well-intentioned, the regulation has evolved into an enforcement tool used to significantly reduce motorized access to public lands, often without consideration of historical use, Congressional intent, or the needs of multiple user groups.

The Federal Land and Policy Management Act (“FLPMA”) directs public lands be managed “under principles of multiple use and sustained yield.”<sup>3</sup> Section 8342.1, by imposing a minimization mandate, distorts this principle. The regulation encourages closure rather than balanced access and has been used as a tool to prioritize single-use preservationist outcomes, contrary to the statutory requirement that land be managed for a variety of concurrent uses, including recreation, grazing, energy, and access.

8342.1 mandates that BLM route designations minimize damage to resources, harassment of wildlife, and conflicts among users. In practice, these subjective standards have been interpreted in ways that grant wide discretion to land managers to close roads and trails, including those that predate the FLPMA. In essence, BLM has replaced the word “minimize” with “eliminate” in their practical application of the criteria. The rule’s application has contributed to an unprecedented decrease in off-road vehicle access across the American West, despite the multiple-use mandate imposed by statute.

## III. REASONS FOR RESCISSION

### A. The Rule is Vague and Unjustifiably Discretionary, Resulting in Mass Litigation

On January 17, 2025, the then-acting BLM Director Nada Culver issued a policy memorandum<sup>4</sup> (“memo”) seeking to provide guidance on the application of the minimization criteria in light of a ruling from the U.S. District Court for the Northern District of California (“WEMO litigation” or “WEMO”).<sup>5</sup> The court held that the minimization criteria under 43 CFR §

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<sup>3</sup> See 43 U.S.C. § 1732(a).

<sup>4</sup> Nada Culver, *Application of the Minimization Criteria at 43 CFR 8342.1*, BLM, Jan. 17, 2025, <https://www.blm.gov/sites/default/files/docs/2025-01/Policy-Memo-for-Application-of-the-Minimization-Criteria.pdf>

<sup>5</sup> *Center For Biological Diversity v. United States Bureau of Land Management*, 3:21-cv-07171-SI (N.D. Cal. Oct. 15, 2024).

8342.1 impose substantive—not merely procedural—requirements, and that agencies must document, on a route-by-route basis, how they evaluated and sought to minimize impacts.

Despite its intent to elucidate rather than complicate, this memo imposes a regulatory burden that is both impractical in its expectations and unworkable in real-world implementation. While ostensibly designed to minimize environmental and user impacts from OHV use, the memo outlines a travel planning framework so data-intensive, procedurally rigid, and litigation-prone that it severely undermines the efficiency, flexibility, and accessibility of public land management. It transforms what should be a balanced and adaptive planning process into an administrative labyrinth, adding unnecessary complexity and delay.

The San Rafael Swell<sup>6</sup> and Henry Mountains/Fremont Gorge<sup>7</sup> Travel Management Plans illustrate the practical implications of implementing 43 C.F.R. § 8342.1. In both planning areas, the application of the minimization criteria resulted in the closure of thousands of miles of routes, including many that had been in long-standing and regular use. These closures were often made without clear, site-specific justification, raising concerns that the decisions were driven more by the need to meet procedural and documentation requirements than by demonstrable resource protection outcomes. The loss of access affected a wide range of uses, including recreation, hunting, grazing, and emergency response. These cases highlight the challenges of applying a rigid regulatory framework in diverse and dynamic landscapes, where local knowledge and practical land use considerations are essential. Rather than promoting balanced, adaptive management, the outcome suggests that strict adherence to 8342.1 may lead to overly cautious decision-making aimed at legal defensibility, sometimes at the expense of effective, locally informed land stewardship.

## **B. Unrealistic Data Demands and Procedural Rigor**

The memo places disproportionate emphasis on robust, defensible datasets, requiring exhaustive inventories of resources, user patterns, cultural assets, special status species, and more, even before travel route evaluations begin. These data collection requirements demand time-intensive, preemptive fieldwork, such as pedestrian surveys and literature reviews, that are often difficult to schedule, fund, or complete on a reasonable timeline. The memo simultaneously calls for integration of public input, GIS visualizations, and layered spatial analysis at both route-specific and network-wide scales. For many field offices already stretched thin, these mandates are not just unrealistic—they are prohibitive.

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<sup>6</sup> See Bureau of Land Management, *San Rafael Swell Travel Management Plan Decision Record*, DOI-BLM-UT-G020-2019-0019-EA (Dec. 2024).

<sup>7</sup> See Bureau of Land Management, *Henry Mountain and Fremont Gorge Travel Management Plan Decision Record*, DOI-BLM-UT-C020-2018-0006-EA (Jan. 2025).

Additionally, the requirement to analyze each route by asking multiple questions about impacts, redundancy, proliferation, and conflict on a route-by-route basis multiplies the workload. The BLM must document granular details for every designation, even if those designations ultimately reflect commonsense decisions, such as leaving a heavily used or longstanding route open. Such procedural rigidity slows the planning process, raises staffing and budgetary needs, and often results in paralysis by analysis.

### **C. Misplaced Burden of Proof and Litigation Paralysis**

This also imposes an unreasonable burden of proof on the BLM, compelling it not only to consider minimization in its route designation process but to affirmatively demonstrate minimization in outcome. This effectively means the BLM must prove, for every decision, that it could not have further reduced impacts; a legal and practical standard so high it invites constant litigation.

The WEMO ruling intensifies this effect by mandating either route-by-route or area-specific justifications and rejecting broad or general rationale. Even route reductions are insufficient unless accompanied by explicit, data-backed explanations of how these actions lead to demonstrable impact minimization. The memo even cautions against relying on post-designation mitigation measures unless the route designation is made contingent on their implementation, adding further procedural hurdles. This is a moving target that locks BLM into defending every designation as if it were a final environmental verdict, not a management tool subject to adaptive change.

### **D. Compounding Complexity Without Flexibility**

The memo encourages a “holistic approach,” but in reality, it limits flexibility by requiring overly detailed, data-heavy analysis before any decisions can be made. This rigid process prevents local managers from using their field experience and understanding of access needs or user patterns to make practical choices. Instead, they’re stuck running through an inflexible checklist that often doesn’t reflect what’s happening on the ground or help reduce real impacts.

Moreover, the insistence that route designations cannot rely on future mitigation, or even common-sense tradeoffs, undermines the principle of adaptive management. Managers are expected to make perfect decisions with imperfect information, all while anticipating litigation and justifying every nuance. In the end, this approach slows down important projects like trail repairs, emergency access improvements, and better recreation planning, doing more harm than good.

### **E. Administrative Overload and Planning Paralysis**

By transforming a planning regulation into a litigable standard for ecological perfection, the application of 8342.1 per the Culver memo turns travel planning into a bureaucratic black hole. The resource and staffing needs to fulfill the outlined procedures are not matched by designated budgets or personnel availability in most field offices. The excessive demands risk pushing the BLM into a cycle of perpetual planning, re-planning, and defending rather than implementing functional travel networks.

Instead of fostering durable solutions, the memo fosters delay. Any perceived shortfall in data quality, analytical thoroughness, or procedural clarity can be used as a pretext for legal challenge. Ironically, by overemphasizing defensibility and underemphasizing adaptability, the memo may increase conflict and litigation rather than reduce it.

In sum, 43 C.F.R. § 8342.1 presents significant legal and administrative challenges for all stakeholders, regardless of perspective. The memorandum issued by Nada Culver highlights and compounds these issues by further complicating an already cumbersome process, placing undue strain on the BLM and impeding its ability to effectively carry out its mission of managing public lands in service to the American people and organizations like ours that face significant constraints in time and resources, making it challenging to provide comprehensive, detail-specific comments.

#### **IV. PROPOSED TEXT FOLLOWING RESCISSION**

Following rescission, BLM's regulations should be revised to reflect a multiple-use oriented framework that seeks to maximize access while still considering environmental impacts. The relevant text could read:

“The authorized officer shall designate all public lands as either open, limited, or closed to off-road vehicles. All designations shall be based on the protection of the recreational values and resources of the public lands, and the promotion of the safety of all users of the public lands, and in accordance with the following criteria:

(a) Areas and trails shall be located to maximize multiple use on public lands among recreationists, leaseholders, off-road vehicle users, and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas.”

This framework better aligns with the FLPMA and the Department's responsibility to serve the diverse interests of all public land users, while also helping to reduce the potential for litigation.

## V. CONCLUSION

43 C.F.R. § 8342.1 has ceased to serve its intended purpose and is now a legal and administrative liability that erodes public trust and undermines statutory mandates for public land management. The regulation has also become a prolific source of litigation; consuming agency resources and stalling implementation of travel plans through repeated legal challenges. It should be rescinded in its entirety and replaced with a framework that restores balance, respects historical use, and ensures equitable access for all user groups.

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Respectfully submitted,

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