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OFF-ROAD HIGHWAY VEHICLES

HEARING

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

TO

RECEIVE TESTIMONY REGARDING OFF-HIGHWAY VEHICLE MANAGEMENT ON PUBLIC LANDS

JUNE 5, 2008



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CONTENTS

STATEMENTS

	Page
Adams, Frank, Executive Director, Nevada Sheriffs' & Chiefs' Association, Mesquite, NV	50
Bingaman, Hon. Jeff, U.S. Senator From New Mexico	1
Bisson, Henri, Deputy Director, Bureau of Land Management, Department of the Interior; Accompanied by Jayne Belnap, Ph.D., RH Ecologist, Geological Survey, Department of the Interior	3
Craig, Hon. Larry E., U.S. Senator From Idaho	19
Culver, Nada, Senior Counsel, The Wilderness Society, Denver, CO	38
Holtrop, Joel, Deputy Chief, National Forest System, Forest Service, Department of Agriculture.	7
Moreland, Edward, Vice President For Government Relations, American Motorcyclist Association	28
Mumm, Greg, Executive Director, BlueRibbon Coalition, Rapid City, SD	32
Murkowski, Hon. Lisa, U.S. Senator From Alaska	20
Powell, Bradley, Western Energy and ORV Coordinator, Trout Unlimited, Payson, AZ	47
Salazar, Hon. Ken, U.S. Senator From Colorado	2
Tester, Hon. John, U.S. Senator From Montana	17
Wyden, Hon. Ron, U.S. Senator From Oregon	24

APPENDIXES

APPENDIX I

Responses to additional questions	63

APPENDIX II

Additional material submitted for the record	81

OFF-ROAD HIGHWAY VEHICLES

THURSDAY, JUNE 5, 2008

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The committee met, pursuant to notice, at 9:30 a.m. in room SD–366, Dirksen Senate Office Building, Hon. Jeff Bingaman, chairman, presiding.

OPENING STATEMENT OF HON. JEFF BINGAMAN, U.S. SENATOR FROM NEW MEXICO

The CHAIRMAN. All right, why don't we go ahead and get started. I'm told Senator Domenici is delayed at another hearing and some of the other members are on their way. But in the interest of time why don't we get going.

The committee will today be examining the challenges of managing off-road vehicle recreation on public lands. While the use of off-road vehicles is certainly an appropriate use in many places on public lands, its use has grown dramatically in recent years. It's been accompanied by significant advances in the power and range and capabilities of off-road vehicles. As a result, the challenges of managing off-road use also have grown dramatically, and it appears questionable to me whether either the BLM or the Forest Service have been able to keep up with this challenge of properly managing this use.

A visit to a number of off-road vehicle recreation sites on public lands or a review of law enforcement statistics clearly demonstrates the scope and the seriousness of the challenges. In my State of New Mexico and throughout much of the West, there has been vocal concern from virtually the entire array of public land users about the issue that we're talking about today.

In this committee we are seeing a growing number of legislative proposals that mandate travel planning and off-road recreation management, which I think is further evidence of these concerns.

Both the BLM and the Forest Service have shown, at least in theory, that they recognize that off-road use is a significant management issue. For example, the BLM has identified travel management on its lands as, quote, "one of the greatest management challenges" it faces. Likewise, the Forest Service has identified unmanaged recreation, including off-road vehicle use, as one of the top four threats to the management and health of the National Forest System.

But despite these statements, it seems to me neither agency has been able to successfully manage this off-road use as yet. In some

cases it appears plans are not being enforced, while in others it appears that the agencies are ignoring unregulated use of the public lands, with significant consequences for the health of public lands and communities and adverse effects on other authorized public lands uses.

Given the history of repeated agency recognitions of the problem and the mandate to solve them and the inadequate response as yet, we cannot afford to repeat that history again. I hope we can use today's hearing for a better understanding of these challenges and the agencies' current efforts to address them and any ideas that we can garner on ways to improve the management of public lands for these purposes.

Senator Salazar is here, I notice. If he has any opening statement, I'll defer to him. Otherwise, we'll start with the witnesses. Did you wish to make a statement?

STATEMENT OF HON. KEN SALAZAR, U.S. SENATOR FROM COLORADO

Senator SALAZAR. Just a very short statement. Chairman Bingaman, thank you for holding this hearing and for bringing attention to this very important issue for those of us from the West, where we have huge landholdings of both Forest Service and BLM lands. This is a crucial issue.

On the one hand, in Colorado we very much want to make sure that we are protecting the millions of acres that we have under BLM and Forest Service jurisdiction, that we're protecting them not only for today but for the future, and making sure that the ecosystems that are related to those public lands are not ones that we're damaging for the future, and that we're providing for the use and enjoyment of those lands for the long-term.

On the other hand, there is a reality that there are conflicts with OHVs and we need to make sure that we figure out how we continue to allow those uses to continue, but at the same time provide the protection that I articulated as our first value.

It's important as we do that to also recognize that off-highway vehicle users also inject huge amounts of money into our economies. In Colorado it's in the millions of dollars. It is a way in which many of our citizens and visitors in Colorado have an opportunity to have actual enjoyment of our public lands. So how we create the right policy and the right enforcement of those policies to find that balance is very important to me and I look very much, Mr. Chairman, to hearing from our witnesses today.

Senator AKAKA. Thank you very much.

Our first panel is made up of administration witnesses: Henry Bisson, who is a frequent witness before our committee. We're glad to see you again. He's the Deputy Director of the Bureau of Land Management, accompanied by Jayne Belnap, who is a Resource Ecologist with the Geological Survey. Thank you for being here.

Our other witness is Joel Holtrop. Joel is the Deputy Chief of the National Forest System in the Department of Agriculture. Thank you for being here.

Henry, do you want to start, and then we'll hear from Joel?

STATEMENT OF HENRI BISSON, DEPUTY DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR; ACCOMPANIED BY JAYNE BELNAP, PH.D., RH ECOLOGIST, GEOLOGICAL SURVEY, DEPARTMENT OF THE INTERIOR

Mr. BISSON. Thank you. Mr. Chairman and members of the committee: I thank you for inviting me to testify regarding motorized recreational use on BLM-managed lands. I'm going to briefly summarize my remarks and ask that the entire testimony be included in the record.

I am accompanied, as you said, Senator, by Jayne Belnap of the United States Geological Survey, who is prepared to answer any questions related to USGS science regarding OHV impacts on the land.

The BLM strives to preserve and protect resources for the use and enjoyment of future generations while meeting the needs of motorized recreational access today. We at the BLM are responsible for more than 258 million acres of public land. More than 57 million people now live within 25 miles of those lands and the combined effect of population increases in the West, unauthorized user-created roads, explosive growth in the use of OHVs, advances in motorized technology, and intense industry marketing have generated increased social conflicts and resource impacts. Wise management of OHVs and balancing the needs of all the users of public land is our continuing challenge.

The vast majority of OHV users are law-abiding citizens who comply with our rules and regulations and are welcomed by the BLM. The USGS and others have conducted considerable research on the impacts from OHV use on western arid and forested lands and research continues on the impacts of OHV use. The BLM uses this information in a comprehensive approach to address travel management that considers public access needs while protecting resources.

Continued designation of large areas that remain open to unregulated cross-country travel is no longer a practical management strategy. The BLM has sought extensive public participation and input to designate a travel network that is thoughtfully designed and properly managed, and with the completion of new or updated plans the amount of land that is currently designated as limited to roads and trails has dramatically increased and the number of acres of what were open areas has decreased.

Collaboration with our stakeholders and partners continues to be a crucial piece of BLMs OHV management strategy. In many States, partnerships between user groups, local and State governments, and Federal agencies are managing OHV use through cooperative education, enforcement, and trail maintenance programs. This has allowed for more effective use of limited resources to reduce irresponsible use, thus minimizing resource damage.

As part of the BLM's commitment to implementing its land use plans and protecting resources, use of law enforcement and at times area closures to OHV use are necessary. We deploy 195 law enforcement rangers and 56 special agents cross the public lands, about one for every 1.2 million acres. High-use recreation areas such as sand dunes in southern California, Utah, Idaho, and Ne-

vada continue to be a primary focus for law enforcement, especially on long holiday weekends and during major events.

The BLM works closely with local law enforcement agencies on patrols, safety, enforcement, and emergency medical responses. We greatly benefit from the strong support of many county sheriffs and State highway patrol organizations throughout the West.

We will continue to prioritize and target resources to preserve and protect the public land for the use and enjoyment of current and future generations.

I thank you for the opportunity to testify and I'd be happy to answer any questions.

[The prepared statement of Mr. Bisson follows:]

PREPARED STATEMENT OF HENRI BISSON, DEPUTY DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

INTRODUCTION

Thank you for inviting me to testify regarding motorized recreational use on the public lands. My testimony today will highlight the ongoing efforts within the Bureau of Land Management (BLM) to manage off-highway vehicle (OHV) use and will highlight a 2007 United States Geological Survey (USGS) study synthesizing the literature regarding OHV impacts on the land. The BLM manages public lands to sustain the health, diversity, and productivity for the use and enjoyment of present and future generations.

OHV Use on BLM-Managed Public Lands

The BLM strives to preserve and protect resources for use and enjoyment of future generations while meeting the need for motorized recreational access today. With more than 57 million people living within 25 miles of BLM administered public lands, motorized recreation on these 258 million acres of public land is managed consistent with the multiple-use mandate of the Federal Land Policy and Management Act of 1976 (FLPMA). Wise management of OHVs and balancing the needs of all the users of the public lands is a continuing challenge.

This challenge has been building over time. What was once the vast and spacious public land of the West that few knew about and fewer actively used for recreational purposes has now become something quite different. Today, with the suburban sprawl of many western cities and the increased pressure for more outdoor recreational opportunities, the BLM has had to adjust its management of these lands to ensure their health for future generations.

Challenges

Some facts and figures help to illustrate the reality of our management challenges: OHV use has been a major recreational activity across the West for the past four decades. The BLM-administered public lands will host 58 million recreation visits from across the country and other nations this year, a number that has nearly doubled in the last 25 years. Many of these visitors will be responsibly riding ATVs or motorcycles. The Motorcycle Industry Council conservatively estimates there are four times more OHVs in the West than there were a decade ago.

The extensive network of roads and trails, now primarily associated with motorized and non-motorized recreation use, has largely been inherited from historical access patterns dating back nearly 200 years. The majority of roads and trails in use today were originally developed for trade, mineral exploration, ranching, forestry and many other purposes.

The combined effect of population increase in the West, unauthorized user-created roads, explosive growth in the use of OHVs, advances in motorized technology, and intense industry marketing have generated increased social conflicts and resource impacts on the public land. The BLM faces many challenges—protecting resources, minimizing user conflicts, safeguarding visitor safety, and providing reasonable and appropriate access.

Over the last decade, increasing recreational demand has led to an increase in legislation, litigation and intense public interest regarding BLM's management of OHV travel. The United States Geological Survey (USGS) and others have conducted considerable research on the impacts from OHV use on western arid and forested lands. Research continues on the impacts of OHV use. A synthesis of available

scientific literature related to the effects of OHV use is available as a USGS Open-File Report (USGS OFR 2007-1353, "Environmental Effects of Off-Highway Vehicles on Bureau of Land Management Lands: A Literature Synthesis, Annotated Bibliographies, Extensive Bibliographies, and Internet Resources"). The report was compiled by the USGS with funding from the BLM National Science and Technology Center.

BLM is addressing travel management as part of a comprehensive approach that considers public access needs for all modes of transportation. BLM has sought extensive public participation and input to designate a travel network that is thoughtfully designed and properly managed and makes the best use of resources. Public participation is essential to the BLM planning process and serves to improve communication, develop enhanced understanding of different perspectives, and identify solutions to issues and problems.

Additionally, in order to help address increased use of BLM lands, the 2009 Budget proposes directing approximately $8 million from field offices experiencing little or no population growth to field offices in or adjacent to expanding communities. Recreation and law enforcement are among the programs in which these funding shifts will occur.

BLM Management and Policy

In 2001, the BLM issued its National Management Strategy for Motorized OHV Use on Public Lands to improve our management of this recreation activity. This strategy sets comprehensive direction for planning and managing motorized recreational use in full compliance with Executive Orders, existing regulations, and policy guidance. Through the planning and travel management process, public lands are designated as "open", "limited", or "closed" to OHV use. Open areas are areas where all types of vehicle use are permitted at all times, anywhere in the area. Limited areas are lands where OHV use is restricted at certain times or use is only authorized on designated routes, and closed areas are lands where OHV use is prohibited. This 2001 strategy recognizes motorized recreational use as a legitimate use of public land wherever it is compatible with established resource management objectives.

Building on this strategy, in 2005 the BLM issued a revised "Land Use Planning Handbook," which included specific guidance for "Comprehensive Travel and Transportation Management." It ensures that all new land use plans developed by the BLM will address public access, travel management and OHV area designations. These land use plans guide the management of all of the 258 million acres for which the BLM is responsible.

Finally, in December 2007, the BLM sent guidance to its field offices to further clarify travel management decisions in the planning process. Specifically, the guidance affirmed that continued designation of large areas that remain open to unregulated "cross-country travel" is not a practical management strategy. Instead, field offices are directed to focus OHV travel on designated roads and trails. Field offices still can and have designated open areas, where unrestricted OHV play is permissible. Additionally, this guidance addresses route planning, inventory and evaluation, innovative partnerships, user education, mapping, signing, and law enforcement. The guidance will result in establishing rational and well-analyzed travel networks, permitting OHV users with continued opportunity to recreate on public lands.

With the completion of new or updated plans, the amount of land designated as limited has increased and the number of acres of open areas has decreased. For example, in the Ely, Nevada, Resource Management Plan (RMP) (2008), the number of acres open to cross-country OHV use declined from 9.8 million acres to zero acres under the preferred management alternative. More than a million acres in the District are closed to OHV use. The closed areas consist of congressionally designated wilderness and Wilderness Study Areas, which is in accordance with the Wilderness Act of 1964 and FLPMA. OHV use on the remaining 10.3 million acres in the planning area is limited to designated roads and trails. This particular area also benefits from a congressionally designated trail system for OHV users.

Open areas have been retained in other RMPs where historical OHV play areas have existed for many years and resource conflicts are minimal. Open areas are appropriate for intensive OHV use where there are no compelling resource protection needs or public safety issues to warrant limiting cross-country use. Examples of areas open to motorized recreational use include El Mirage OHV Area in the Mojave Desert of California, 12,000 acres of flat lakebed used for land sailing and OHV riding, and Hackberry Lake OHV Area in New Mexico, offering 55,000 acres of rolling dunes used for OHV play. These open areas are extremely important local and regional destinations for OHV play with minimal impact.

Closures are sometimes necessary to protect and conserve resources or for public safety in a particular area. Closures can be very controversial. The BLM frequently attempts to work with affected or interested parties to reach agreement on options to address a particular challenge before issuing notices of motorized travel restrictions or temporary closures. Most closures remain in effect until conditions change, impact is reduced or a new decision is addressed in a plan.

For example, to protect public health and safety from exposure to asbestos the BLM issued a temporary closure on 31,000 acres of public land within the Clear Creek Management Area in California on May 1, 2008. The temporary closure order was issued simultaneously with the Environmental Protection Agency's (EPA) release of the final Asbestos Exposure and Human Health Risk Assessment. The findings of the assessment indicate that the asbestos exposures that EPA measured at CCMA are high and that many of the recreation activities authorized by the BLM pose excess lifetime cancer risks above the EPA's acceptable risk. This closure will remain in effect until the signing of a Record of Decision of the Resource Management Plan for the Clear Creek area. The RMP will incorporate the results of the EPA Assessment and analyze alternatives to minimize and reduce the human health risk from exposure to asbestos from visitor use to ensure public health and safety.

As part of the BLM's commitment to implementing its land use plans and protecting resources, the agency deploys 195 law enforcement rangers and 56 special agents across the public lands, about 1 for every 1.2 million acres. High-use recreation areas, such as sand dunes in Southern California, Utah, Idaho and Nevada, continue to be a challenge, especially on long holiday weekends and during major events, and are a primary focus of BLM law enforcement. Imperial Sand Dunes in California typically has more than 150,000 visitors during winter holidays such as Thanksgiving, New Year's and President's Day. Over the New Year's weekend this year, law enforcement issued 630 citations, arrested 25 individuals. Emergency Medical Services responded to 129 calls. The BLM works closely with local law enforcement agencies on patrols, safety, enforcement and emergency medical responses. We greatly benefit from the strong support of many County Sheriffs and State Highway Patrol organizations throughout the West. The use of short-term work details of BLM officers from other states and officers from other agencies, as well as continued support from local law enforcement agencies through assistance agreements, has proven invaluable.

Partnerships

The vast majority of OHV users are responsible riders. They share the BLM's commitment to the protection of natural and cultural resources and leave no lasting trace on the land. Working with local, state and national OHV groups, we have improved our ability to inform, train and educate the riding public. Partner organizations such as Tread Lightly! and Leave No Trace have worked to develop and disseminate stewardship education materials and have worked with industry to encourage responsible use marketing and messaging.

Collaboration with our stakeholders and partners continues to be a crucial piece of BLM's OHV management strategy. In Colorado, OHV groups have stepped forward to assist in the education of OHV users by promoting responsible recreation use. The Stay the Trail program, a joint project between the Colorado Off-Highway Vehicle Coalition and Federal agencies, reinforces and highlights responsible OHV use and seeks to reduce irresponsible use, thus minimizing resource damage. In Oregon, partnerships have formed between user groups, local and state governments and Federal agencies to cooperatively manage OHV use by jointly developing and implementing education, enforcement and trail maintenance programs. This has allowed for more effective use of limited resources to reduce irresponsible use, thus minimizing resource damage. In Idaho, BLM partners with the state Fish and Game agency to implement the CARE/SHARE program to build awareness and user ethics regarding public access across private lands or ranching allotments.

I would like to share with you some before-and-after photos of restoration work being done in Southern California with the Student Conservation Association and the BLM. The projects are primarily focused on restoring areas defined by travel management implementation decisions. The emphasis is to protect the habitat of several endangered species, including the desert tortoise, as well as to ensure the viability of the designated travel network. As you can see, the efforts have been a success. By using a variety of techniques, including vertical mulching and retexturing the ground surface to erase the impacts, these crews are successfully restoring habitat and rehabilitating degraded trails to prevent erosion.

The BLM is dedicated to improving the health of the land by reducing OHV impacts. Defining a rational network of roads and trails on over 258 million acres of

land is an enormously complex task. Over the next decade, the BLM will work with the public to continue mapping the West's public access travel networks. The BLM will continue to prioritize and target resources and funding to develop and implement travel management plans.

Through public land user education, law enforcement, resource monitoring, public-private partnerships, and continued public involvement in the land-use planning process, the BLM will move closer toward this goal.

Thank you again for the opportunity to testify on this significant issue. I would be happy to answer any questions.

The CHAIRMAN. Thank you very much.

Mr. Holtrop, go right ahead.

STATEMENT OF JOEL HOLTROP, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Mr. HOLTROP. Mr. Chairman and committee members: Thank you for the opportunity to testify before you today on managing the impacts of off-highway vehicles on National Forest System lands.

Today recreation exerts the largest demand on the national forests and grasslands, with over 192 million visits annually. Motorized recreation has contributed to this boom. Nearly 11.5 million visits occur each year on National Forest System lands by visitors engaged in off-highway vehicle, or OHV, activities. Motorized recreation, including operating OHVs, is a legitimate use of National Forest System lands in the right places, with proper management, and when operated responsibly.

We have a tremendous obligation and a great opportunity to serve these users and, through them, our local communities and economies. We see that as an important part of our mission. However, unrestricted cross-country travel with motor vehicles often results in impacts to sensitive meadows, wetlands, wildlife habitat, soils, cultural sites, and stream channels. Therefore unrestricted cross-country travel with motor vehicles is no longer environmentally sustainable.

After extensive consultation with others concerned about this issue, including motorized recreation groups, we instituted a travel management rule in November 2005. The rule provides a nationally consistent framework for local decisionmaking for motor vehicle use in national forests and grasslands. Under the rule we are designating the National Forest System roads, trails, and areas that are open to motor vehicle use. Once complete, motor vehicle use will be restricted to designated routes and areas as identified on a motor vehicle use map.

One of the most challenging aspects of travel management planning is managing the public participation process. Interest in travel management decisions is high, as is the controversy. Conflicts arise because some members of the public are concerned about losing motorized recreational opportunities they have enjoyed for years, while other members of the public are concerned that too many routes and areas will be left open to motor vehicle use, resulting in unacceptable environmental damage or disruption of their nonmotorized recreational activities.

Most national forests and grasslands are involved in the route and area designation process or soon will be. In fiscal year 2007, 36 national forests and grasslands completed their designation de-

cisions and produced a map consistent with the travel management rule. This fiscal year an additional 41 units are scheduled to be completed, with the remaining units scheduled for completion by December 2009.

However, designating routes and areas is only the beginning. To manage OHV use on the ground, we clearly need a combination of appropriate law enforcement combined with good route location and decision and effective user education, supplemented by our partners in the responsible OHV community.

Many organizations assist the Forest Service with disseminating educational messages about responsible recreation use. The National Off-Highway Vehicle Conservation Council is made up of enthusiasts who promote responsible riding in many ways. Let me highlight the off- highway vehicle program of the San Bernadino National Forest Association, a collaboration for conservation, recreation, and education among the association, the San Bernadino National Forest, the State of California, on OHV user groups and industry. On this single forest, volunteers contribute over 25,000 hours each year.

One example of the work they do is engaging other OHV enthusiasts in the field as peers, encouraging them to ride on designated routes, to minimize impacts on native species and habitats.

We believe most OHV users want to do the right thing. With effective public education, route location design and signing, we can focus law enforcement resources on those users who do not heed the law.

Americans cherish the national forests and grasslands for the benefits they provide. The Forest Service must strike an appropriate balance in managing all types of recreational activities within the capacities of the land. The travel management rule enhances and simplifies enforcement with a nationally consistent approach, while emphasizing local decisionmaking. This will make it easier for OHV users who want to do the right thing to be able to do so.

Mr. Chairman, this concludes my statement and I would be happy to answer any questions that you or other members of the committee may have.

[The prepared statement of Mr. Holtrop follows:]

PREPARED STATEMENT OF JOEL HOLTROP, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the Committee, thank you for the opportunity to testify before you today on managing the impacts of off-road vehicles on National Forest System lands.

BACKGROUND

The Forest Service manages 155 national forests and 20 national grasslands, in 42 States and the Commonwealth of Puerto Rico. By law, these lands are managed under multiple use and sustained yield principles. The mission of the Forest Service is to sustain the health, diversity, and productivity of the Nation's forests and grasslands to meet the needs of present and future generations. The Forest Service oversees a vast and complex array of natural resources and opportunities.

One of the key opportunities provided on National Forest System lands is outdoor recreation. The most recent National Visitor Use Monitoring figures show that the national forests and grasslands receive 192 million visits each year. Visitors participate in a wide range of motorized and non-motorized recreation activities, including camping, hunting, fishing, hiking, horseback riding, bicycling, cross-country skiing, snowmobiling, and operating off-highway vehicles (OHVs).

National forest recreation provides healthy opportunities to enjoy the outdoors, connecting people to their federal land and representing a significant contribution to the economy of many rural areas. Motorized recreation has contributed to that boom. Approximately 11.5 million visits occur on National Forest System lands each year by visitors engaged in OHV activities. Snowmobilers and visitors driving forest roads for pleasure add to this total.

In the past, user impacts and conflicts focused on issues such as timber, grazing and mining. Currently, recreation in all of its forms places the largest demand on the national

forests and grasslands, due to the proximity of many national forests and grasslands to urban population centers with affluent, mobile populations who seek the recreational amenities offered by these lands.

Motorized recreation, including operating OHVs (defined as motor vehicles capable of traveling cross-country) are legitimate uses of National Forest System lands—in the right places with proper management, and when operated responsibly. We have a tremendous obligation and a great opportunity to serve these users and, through them, our local communities and economies. We see it as an important part of our mission.

TRAVEL MANAGEMENT

Nationally, the Forest Service manages approximately 280,000 miles of National Forest System roads open to motor vehicle use. In addition, approximately 144,000 miles of trails are managed by the Forest Service, with an estimated 33 percent or 47,000 miles open to motor vehicle use, including over-snow vehicles and motorized watercraft operating on water trails.

This transportation system ranges from paved roads designed for passenger cars to single-track trails used by dirt bikes. Many roads designed for high-clearance vehicles (such as log trucks and sport utility vehicles) also accommodate use by all terrain vehicles (ATVs) and other OHVs not normally found on city streets. Almost all National Forest System trails serve non-motorized users, including hikers, bicyclists, cross-country skiers and equestrians, alone or in combination with motorized users. National Forest System roads accommodate non-motorized use as well.

National forests also include public roads managed by state, county, and local governments. These roads serve the commercial and residential needs of local communities and private lands intermingled with and near the lands we manage. Many county roads are cooperatively constructed and maintained through cooperative forest road agreements executed under the National Forest Roads and Trails Act. State and county roads also provide access to National Forest System lands, and we continue to work in cooperation with states and counties to manage our multi-jurisdictional transportation system.

In the 1960s, motorized recreational traffic on the National Forest System roads was relatively light compared with timber traffic. Today, recreational traffic is 90 percent of all traffic on National Forest System roads. Much of the road system maintenance needs and resource damage concerns are the result of continuous recreation use of roads only designed for controlled intermittent commercial use. We consider capability to maintain roads in decisions to designate roads for motorized use.

INCREASING DEMAND FOR OHV USE

In 1972, President Nixon signed Executive Order 11644 directing federal agencies to manage off-road vehicles. At the time, the Executive Order estimated 5 million Americans participated in OHV recreation. The National Survey on Recreation and the Environment estimated that the number of people aged 16 and over participating in OHV recreation was 37.6 million in 1999 and 2000, rose to a high of 51.6 million in 2002 and 2003, and dropped somewhat to just over 44.4 million for the most recent survey period of 2005 to 2007.

According to the Motorcycle Industry Council, annual sales of new ATVs rose from 278,000 in 1995 to a peak of 813,000 in 2004, and then dropped slightly to 748,000 in 2006, the most recent year for which information is available. Today, vehicles created for specialized off-highway uses are marketed and sold as family cars, and are more powerful and more capable of off-highway travel than those of a decade ago.

NEED FOR MANAGEMENT OF OHV USE

As of January 2008, about 64 million acres of National Forest System lands were completely open to cross-country motor vehicle use. When OHVs were less popular, this scenario may not have been a problem. However, as the sales and technology of ATVs increased, opportunities for Americans to enjoy Federal lands grew. The

magnitude and intensity of motor vehicle use have increased to the point that the intent of E.O. 11644, and the subsequent E.O 11989, cannot be met while still allowing unrestricted cross-country motor vehicle use. The first motor vehicle driving across a particular meadow may not harm the land, but by the time 50 motor vehicles have crossed the same path a user-created trail will likely be left behind that causes lasting environmental impacts on soil, water quality, and wildlife habitat. Additionally, some visitors report that their ability to enjoy quiet recreation experiences is affected by the noise from motor vehicles.

We have many miles of user-created roads and trails on the national forests and grasslands. These user-created routes are not part of the forest transportation system, did not undergo environmental analysis, were not designed and constructed for recreational use, and do not receive routine maintenance by the Forest Service. Some of these routes may merit consideration, with appropriate environmental analysis, as potential additions to our transportation system. Others run through wetlands, riparian areas, and stream channels, and their use by motor vehicles adversely affects water quality, causes erosion, and introduces invasive species. User-created routes causing unacceptable resource damage should not be designated for motor vehicle use.

THE TRAVEL MANAGEMENT RULE

To address the need for more active management of OHV use, the Forest Service promulgated a travel management rule on November 9, 2005. This rule can be found in 36 CFR 212, Subpart B.

The travel management rule provides a nationally consistent framework for local decision-making regarding motor vehicle use in National Forest System roads and trails and in areas on National Forest System lands. Decisions are made by local agency officials, who have greater knowledge of the affected resources. Local decision-making also allows for more effective participation by the public; local, county, state, and other federal agencies; and tribal governments.

The rule requires designation of a national system of National Forest System roads, Nationals Forest System trails, and areas on National Forest System lands that are open to motor vehicle use. Once the system is implemented, motor vehicle use will be restricted to designated routes and areas as identified on a motor vehicle use map (MVUM).

The following elements form the framework for the Forest Service's national travel management system for motor vehicle use:

- Each administrative unit of the National Forest System designates those National Forest System roads, National Forest System trails, and areas on National Forest System lands that are open to motor vehicle use, by class of vehicle and if appropriate, by time of year.
- The public must be given the opportunity to participate in the designation process.
- Limited motor vehicle use solely for big game retrieval and dispersed camping may be allowed within a specified distance of certain designated routes.
- Local managers must coordinate with appropriate federal, state, county and other local government agencies and tribal governments in the designation process.
- The rule exempts emergency vehicles and motor vehicles authorized by permit or contract from designations and preserves longstanding authorities for management of over-snow vehicles, which may be allowed, restricted, or prohibited locally.
- Specific criteria must be considered when making designation decisions including effects on natural and cultural resources, public safety, provision of recreational opportunities, access needs, conflicts among uses of National Forest System lands, the need for maintenance and administration of roads and trails under consideration for designation, and the availability of resources for that maintenance and administration.
- Once designated routes and areas are identified on a motor vehicle use map (MVUM), motor vehicle use inconsistent with the designations is prohibited.
- The Forest Service must monitor the effects of motor vehicle use on designated roads and trails and in designated areas.
- Designations may be revised as needed to meet changing conditions.

IMPLEMENTATION OF THE TRAVEL MANAGEMENT RULE

All national forests and grasslands are either currently involved in the route and area designation process, or will begin soon. In fiscal year 2007, 36 national forests and grasslands completed their designation decisions and produced an MVUM con-

sistent with the travel management rule. This represents about 12.5 percent or 23.9 million acres of National Forest System lands. In fiscal year 2008, 41 units are scheduled to be completed. In fiscal year 2009, 64 units are scheduled to be completed, and in the first quarter of fiscal year 2010, the remaining 35 units are scheduled for completion.

CHALLENGES IN MANAGING OHV USE

One of the most challenging aspects of travel management planning is managing the public participation process. Interest in travel management decisions is high, as is the controversy. Attendance by over 100 people at public meetings is not uncommon. Some meetings are quite contentious. Conflicts arise because some members of the public are concerned about losing motorized recreational opportunities that they have enjoyed for years, while other members of the public are concerned that too many routes and areas will be left open to motor vehicle use, resulting in unacceptable environmental damage or disruption of their non-motorized recreational activities.

Another challenging situation involves areas protected by the 2001 Roadless Area Conservation Rule. Some people feel that these areas will be degraded if motorized travel is increased by allowing user-created routes to be designated for motorized use. Other members of the public are concerned that they will lose motorized access they currently have in these areas. These challenges will be addressed during each unit's route and area designation process.

IMPLEMENTATION OF TRAVEL MANAGEMENT DECISIONS

Although completing the route and area designation process and publishing MVUMs represents a tremendous amount of work for the Forest Service, and the public, they represent only the beginning of the process to actively manage motor vehicle use. Informing the public about where and when they can use various classes of motor vehicles will be critical. In some areas we will need to overcome user's assumptions developed after many years of unmanaged motor vehicle use.

For example, in some forests visitors could ride ATVs virtually anywhere the vehicle's capability allowed outside designated wilderness areas. Once an MVUM is published, motor vehicle use will be allowed only on designated routes and in designated areas. Other visitors are accustomed to being able to drive cross-country to a dispersed campsite

in some forests. Once an MVUM is published, driving a motor vehicle to a dispersed campsite will be allowed only within a specified distance of certain designated routes.

Public outreach will also involve informing people how to minimize their impacts with motor vehicles while they are enjoying the national forests. Messages will include staying on designated routes, being courteous to other users, and being knowledgeable of agency regulations. Education generally will be provided by Forest Service employees, but will be routinely supplemented by the many volunteers and other partners. The Forest Service's capability to inform and educate the public about where and how they may operate motor vehicles is greatly enhanced by the many hours of time provided by volunteers and partners.

Education works both ways. Many members of the public have extensive historical and practical knowledge of various parts of the landscape. Involving them in the process and having them educate us is an essential element of the dialogue.

Several national organizations assist the Forest Service with disseminating educational messages about responsible recreation use. The National Off-Highway Vehicle Conservation Council (NOHVCC) is made up of enthusiasts who promote responsible riding in many ways. Recently, they developed and are now delivering Route Designation Workshops across the country, with a target audience of Forest Service employees and OHV enthusiasts.

The American Motorcyclist Association helps inform their members about the Forest Service route and area designation process, and encourages their members to get involved in travel management planning processes. They recently partnered with the Motorcycle Industry Council to update and produce a brochure on responsible riding. Another example is Tread Lightly! Tread Lightly! is a non-profit organization whose mission is to protect recreation access and opportunities through education and stewardship. Tread Lightly! works with the Forest Service and other land management agencies, as well as manufacturers, industry, and motorized recreation organizations.

A forest-level example of the tremendous support we receive from cooperators for promoting responsible riding concepts is the Off Highway Vehicle Program of the San Bernardino National Forest Association, a collaboration for conservation, recre-

ation and education among the National Forest Association, San Bernardino National Forest, State of California and OHV user groups and industry. The program involves 300 volunteers who contribute over 25,000 hours each year.

The National Forest Association trains the volunteers and organizes patrols and work projects in coordination with the San Bernardino National Forest. These volunteers engage other OHV enthusiasts in the field as peers, encouraging them to ride on designated routes to minimize impacts on native species and habitats. The volunteers also inform other riders about regulations, provide general information about the San Bernardino National Forest and answer questions. Volunteers also adopt and maintain motorized routes, provide responsible riding presentations to the public, and conduct special projects such as elimination of illegal fire rings and trash pick-up.

Although signs are no longer the primary tool for enforcement of motor vehicle restrictions on National Forest System lands, signs remain a critical part of OHV management in the National Forest System. Signs and route markers are installed, as appropriate, to help the public navigate and to identify clearly the routes and areas designated for motor vehicle use. In some places the Forest Service may also install barriers, such as a berm or a gate, that show that a route is closed to motor vehicles.

The Forest Service will monitor designated routes and areas for effects on natural and cultural resources, public safety, and conflicts among uses. Monitoring may also focus on the level of compliance and route conditions. Revisions to designations may be made based on the results of monitoring.

ENFORCEMENT OF TRAVEL MANAGEMENT RESTRICTIONS

As shown by these examples of collaborative efforts, most OHV users want to do the right thing. We believe with effective public education, route design, and signing, we can focus law enforcement resources on those few users who do not heed the law.

Forest Service law enforcement personnel play a critical role in ensuring compliance with laws and regulations, protecting public safety, and protecting National Forest System resources. Enforcement of motor vehicle restrictions has consistently remained one the top five priorities for Forest Service law enforcement officers. The Forest Service also maintains cooperative law enforcement agreements with state and local law enforcement agencies that provide mutual support across jurisdictional boundaries.

Prior to promulgation of the travel management rule, the only way for the Forest Service to enforce motor vehicle restrictions was through issuance of a forest order. The content of these orders varied from unit to unit, and in some cases numerous orders existed on a single forest, which caused confusion for the public regarding where motor vehicles could legally be operated.

Another regulation commonly enforced prior to the travel management rule was the prohibition on using a vehicle off road in a manner which damages the land. Issuance of a violation notice for this offense requires a judgment call on the part of the officer, and has been difficult to prove in court. The new prohibition clarifies requirements and makes it easier for responsible OHV users to comply with the regulation since it provides for a more objective enforcement of motor vehicle use consistent with the route and area designations identified on an MVUM.

The travel management rule enhances and simplifies enforcement by replacing forest orders with issuance of an MVUM, which is posted on the World Wide Web and made available at the Forest Supervisor's or District Ranger's office, and a nationwide regulatory prohibition against motor vehicle use off the designated system. This nationally consistent approach will augment public understanding of where a motor vehicle may be operated on any national forest or grassland across the country, and will enhance the agency's ability to gain compliance. We believe this will make it easier for OHV users who want to do the right thing to be able to do so.

CONCLUSION

Americans cherish the national forests and grasslands for the benefits they provide, which include opportunities for healthy recreation and exercise, natural scenic beauty, natural resources, protection of rare species, wilderness, a connection with history, and opportunities for unparalleled outdoor adventure. The Forest Service must strike an appropriate balance in managing all types of recreational activities within the capacities of the land. A designated system for motor vehicle use, established with public involvement, will enhance public enjoyment of the national forests, while maintaining other important values and uses of National Forest System

lands. Effective implementation of designation decisions, through public education and appropriate law enforcement, will be critical.

Mr. Chairman, this concludes my prepared statement. I would be happy to answer any questions you or other members of the Committee may have.

The CHAIRMAN. Thank you both very much.

Let me just start with a question to you, Mr. Bisson. The Forest Service seems to have a fairly clear direction that they're headed in of trying to, through this travel management rule, have each local forest as I understand it, each management unit, designate the routes and areas that are appropriate for this kind of off-road vehicle use and then put that on maps and educate the public and try to get law enforcement.

Now, there are a lot of questions and I'll try to get to them in a minute with Mr. Holtrop about how you actually get all that done. But does BLM have anything similar that you're doing?

Mr. BISSON. Senator, there's not a whole lot of difference between what the Forest Service process is, what they're doing, and what we're doing. We don't have a rule. But we do have policies in place which direct our field offices to go through a similar process as part of the resource management plans.

The big difference is that—and I cast no aspersions on the Forest Service—our travel management planning involves all uses. It's not just OHVs. We're looking at mountain bikes, we're looking at hiking trails, we're looking at equestrian. So we're trying to develop travel networks for all of the users that need to access and go across our lands at the same time through our planning process.

The CHAIRMAN. If you work on the assumption, and I guess we all have to, that if there are clear rules and people know what they are, they'll try to abide by them. I think if we don't assume that we're in real trouble.

Mr. BISSON. I agree with you, sir.

The CHAIRMAN. OK. The Forest Service, I understand, is trying toset out what those rules are in each national forest unit and then get people a map and do an education program to say, this is what's permitted and this is what's not permitted, and then also have law enforcement back that up. Does the BLM have a similar effort to map and to educate the public and say, if you want to come on this BLM tract of land, here is what's permitted?

Mr. BISSON. That's exactly where we're moving. We have—in the last 10 years the numbers of acres which were undesignated—what we're trying to do is move to a place where the bulk of our lands, better than 90 percent of our lands, 99 percent of our lands, are designated, so that people know what routes they can travel on and that they can't go cross-country.

We will likely always have some small open play areas in historic use areas, like in southern California. But for the bulk of the public lands, we're moving toward designating and limiting access to routes that, working with the public, we've identified as suitable places for this activity to happen.

The CHAIRMAN. Now, I understood Mr. Holtrop to say that they expect by December 2009 to have all of this done, or at least have in place the plans with regard to each national forest unit. What is the timeframe for the BLM doing the same thing?

Mr. BISSON. I am informed that, based on our planning schedule, we will have ours done in about 10 years.

The CHAIRMAN. Ten years.

Mr. BISSON. In about 10 years, sir.

The CHAIRMAN. That's a long time.

Mr. BISSON. It's a very long time. But we're doing the best we can with the resources that we have.

The CHAIRMAN. So in order for you to get this done in a more timely fashion you just need more planning resources or what?

Mr. BISSON. I think that—again, I'm not lobbying for money. But I think that with the funds that we have we have built the schedule to complete this work, given our resource capability. I think that the process that we use involves communities, it involves local citizens. It takes time and it takes going to lots of meetings. It takes producing maps, and we're going as fast as we can. So resources to support those activities obviously would help.

The CHAIRMAN. Let me ask Dr. Belnap. You know, if we're talking about 10 years to get this done, get the plans in place, as I understand it, on all of the BLM land, what is the extent of the damage that we're talking about here? Is there some significant damage to public lands that is occurring as we sit and discuss this issue?

Ms. BELNAP. Certainly there is, especially in the areas that are currently unrestricted. Again, people can be responsible users and still be doing some severe impacts. Probably one of the biggest issues is soil erosion. It's well known that ORVs do increase soil erosion, and this can compromise air and water quality, which is the major issue, especially in the West.

To go further with that, dust is a major, major issue there because of the impact it has on accelerated melt rates and thus delivery of late season water into rivers and streams. Late season are already low water flows and so this is something that we all really need to be concerned about.

Ten years is a long time and I would hope that this schedule could be moved forward.

The CHAIRMAN. Senator Salazar.

Senator SALAZAR. Thank you, Chairman Bingaman.

It seems to me from your response, Mr. Bisson, to Chairman Bingaman's questions that you are working on plans and those plans are 10 years out. I'm sure there are parts of those plans that are already in place in some areas, but to get to the state of completion you're still some years out. I think the Forest Service also has plans at different stages of development and implementation.

I want to ask you a question about enforcement of the rules. It seems to me that the first thing that needs to be done is to have the plans completed and let the public know where it is that they can go, where they can't go, what kinds of vehicles can be used, what kind they can't use. But then the question becomes one of enforcement, and I think in your opening statement, Mr. Bisson, you indicated there were, I think, less than 200 officials within BLM that have responsibility then for enforcing the rules.

My question to you on behalf of BLM and then to Mr. Holtrop on behalf of the Forest Service is how you can work with local law enforcement, with the sheriffs in many of these counties and oth-

ers, in mutually cooperative agreements to make sure that those laws are enforced? What are we doing? What more could we be doing? Henry and then Joel.

Mr. BISSON. Thank you, Senator. First of all, we could not do what we're doing without the support of local law enforcement, whether it's county sheriffs or State highway patrols. We have a number of agreements already in place. Our funds are limited in terms of being able to spread it across several hundred counties that we work with.

But we do have agreements. Where we primarily utilize them is where we have what we call hot spots or areas where we have a lot of OHV use, and particularly on big weekends we supplement our law enforcement work force with local law enforcement and we pay for time and a half. We pay appropriate overtime for them to work with us on those weekends and to work on emergency response and search and rescue and the whole thing.

So we are doing it. We just don't have enough resource to be able to do as much as we probably could or should.

Senator SALAZAR. I know you're resource-limited now in terms of putting those agreements together. But if resources were not an issue here, would you try to put together those kinds of agreements in every one of the counties where you have BLM lands that have some kind of OHV issue, so that you have the local law enforcement involved in overseeing the rules?

Mr. BISSON. I think that if we had resources like that we absolutely would increase the numbers of agreements that we have out there with the counties in places where we have the most significant——

Senator SALAZAR. Is there a prototype of those agreements that you currently use——

Mr. BISSON. Yes.

Senator SALAZAR [continuing]. Or are they customized? So there is a prototype of those agreements?

Mr. BISSON. We could, as a follow-up to this hearing, we could provide copies of some of the agreements that we have in place right now.

Senator SALAZAR. It would be useful for me and perhaps for the committee to have a copy of the prototypes of those agreements.

Let me ask you this. If you were to quantify the resources that you would need to be able to develop these enforcement agreements with local law enforcement, what would that be?

Mr. BISSON. I can't answer that today, but I would be happy to respond in writing.

Senator SALAZAR. I would appreciate getting that response in writing, because it seems to me that many times the sheriff on the ground or the deputy sheriff, local law enforcement, can be a great asset to us. In our State Colorado this last year we actually passed through the General Assembly a State law that empowers sheriffs and local law enforcement to help out on some of these issues on public lands.

Mr. Holtrop, can you respond to the same series of questions concerning the Forest Service?

Mr. HOLTROP. I'd be happy to. First of all, I agree with what Mr. Bisson said and what your statement was, that once we have our

plans in place enforcement is going to be critical to the success of this. I'm absolutely committed to making sure that we're making a difference on the ground, not just making a difference through the planning and the mapping process. So that is something that we are spending time and energy and thinking about how are we going to be as effective as we can possibly be.

So our law enforcement authorities and our law enforcement resources have to be brought to bear on this. Over the past many years, enforcement of OHV activities on National Forest System lands has been one of the highest priority work that our law enforcement officers do. It's in the top five priorities every year.

We also work through cooperative agreements with local, usually sheriffs, sheriff departments, and that's critical to our success and it will continue to be critical to our success. Those are agreements that we use our funds to help pay for——

Senator SALAZAR. So you have formalized agreements and prototypes?

Mr. HOLTROP. Yes, we do.

Senator SALAZAR. Are they similar to what BLM has?

Mr. HOLTROP. I'm not certain, but I suspect that there's a great deal of similarity.

Senator SALAZAR. If you can get copies of those agreements to us, I would appreciate that as well.

Mr. HOLTROP. We'd be happy to.

Senator SALAZAR. Do you have the resources that you need in order to be able to implement all of these agreements that you would want to have across the great swath of Forest Service land?

Mr. HOLTROP. If we had more resources, of course we would be able to have more agreements and we'd be able to spend those resources wisely. Recognizing the large number of people who are using off-highway vehicles on the public lands and recognizing the need that we have to manage that as wisely and as efficiently as possible is one of those things that led us to saying we're going to do this travel management rule, we're going to come up with a common approach to how we're going to manage OHVs across the country. It'll improve our ability to be effective with our law enforcement, improve the off-highway vehicle community's desire to—those that desire to be law-abiding, to do so, because we'll have a consistent approach.

Senator SALAZAR. Just a final request. If you can do the same thing as Mr. Bisson, and that is to provide us with a quantification of the necessary resources to implement the law enforcement agreements with local law enforcement that would be helpful to us as we try to quantify what the need is there.

Mr. HOLTROP. We'll do that.

Senator SALAZAR. Thank you very much, Mr. Chairman.

The CHAIRMAN. Senator Tester.

STATEMENT OF HON. JOHN TESTER, U.S. SENATOR FROM MONTANA

Senator TESTER. Thank you, Mr. Chairman. Thank you for holding the hearing.

I guess one of the biggest concerns I hear when it comes to motorized vehicle access in the case of a road that's being closed is ac-

cess for hunting. I was curious to know if you consider hunting access or alternative modes of access to areas when you're looking at travel management. Both, please.

Mr. BISSON. Yes, sir. Absolutely. When we go through the travel planning process, we look at all types of uses and needs, and we meet with people in the communities to discuss those before we make decisions on which routes to leave open and which routes to close. Sometimes from a hunting standpoint it's favorable to leave routes open and sometimes it's favorable actually to close them to improve hunter quality. So it depends on the situation.

Mr. HOLTROP. I would give the same answer. Absolutely, hunting access, all forms of access needs, are taken into account in the decisionmaking process.

Senator TESTER. On the other side of the equation, wildlife habitat, cultural sites, are they considered when you're talking about designating potential roads or trails?

Mr. HOLTROP. Yes, they are.

Mr. BISSON. Yes.

Senator TESTER. To what degree would better designation and signage of the trails and better enforcement of the rules reduce conflict between motorized and non-motorized users? Would it have an impact at all?

Mr. BISSON. I personally believe that it is having an impact where we're completing the plans and doing the designations, and I think it will have a greater impact as we complete the process across our lands.

Senator TESTER. OK.

Mr. HOLTROP. I would also like to add. The models that we use to put together our national approach to this are models of success where that's happened in places around the you, where we have had designated routes and how that has helped.

Senator TESTER. All right. Does the Forest Service or BLM ever end up designating trails that were illegally created?

Mr. HOLTROP. Our process allows the local line officer to look at those trails and make an assessment as to whether those make sense to put into the trail system or not to. Some of those illegally created trails, of course, are in situations where it does not make sense from a natural resource protection standpoint to continue to allow those, and our expectation is those decisions will be made not to do that.

In other cases, some of those user-created trails may actually have great recreational or access benefit, and we want to give the local land officer the opportunity to take a look at that, make an assessment, make a decision as to whether they should be included or not.

Mr. BISSON. My response is essentially identical, with one exception. If the illegal route were, as an example, in a wilderness study area, not on a route that had preexisted designation, then we would probably close it regardless because it's an illegal route in a WSA.

Senator TESTER. I want to talk a little bit about what Senator Salazar talked about somewhat, and Senator Bingaman, too, law, or law and order, I should say, in the hills and how you're using local sheriffs to do that. How do you reimburse them for that? If

you're utilizing the local sheriff's department, are they doing it free or are you reimbursing them, and how do you do it? Is there a required number of patrols on trails or a certain numbers of hours per week or month or per year, or is it pretty much left open?

Mr. HOLTROP. I may need to get back to you with some more detail on that question. Generally, those are worked out on a local basis, the local Forest Service official working with their sheriff's departments as to what are the priority areas where, as Henry said, where are the hot spots that we need to focus our attention. In some places that's going to be the OHV trails. In other places it might be some other activity.

Senator TESTER. Henry, do you do the same thing?

Mr. BISSON. We do. I think it's situational. I think in some cases there are probably some county agreements where we would pay for a deputy sheriff to patrol. In other times it's used for those officers for a weekend, where we combine forces.

Senator TESTER. Have you seen destruction—and that's maybe a bad word, but it's the only one I can think of right now—destruction of the resource over the last, let's just pick 5 or 10 years, one or the other? 5 years; is it on the uptick? Dr. Belnap talked about dust. You can answer the question if you'd like, Dr. Belnap. It's in your backyard. You talked about dust and erosion and those kind of things. Is that simply due to use on the trail, or are we seeing an uptick of folks getting off the trail? I know it only takes a few bad apples, but there's always a few bad apples.

Ms. BELNAP. There's several factors here. One is that, at least in the areas that I see, there is an uptick. But I don't think there's a greater proportion of people. There's just a lot more people and so that proportion stays about the same.

But one thing that we are seeing is, because of the current climate conditions and other things, the use 10 years ago now is having a much more profound impact than it did 10 years ago. Given future conditions predicted, it's going to be worse.

Senator TESTER. Because of the drought?

Ms. BELNAP. Yes. We've got drought and we're predicted for drought for the next 30 years. So we've got to really think ahead about something that might not have been such a problem 10 years ago could be a much bigger problem.

Senator TESTER. So can you give me an insight on what that—and I'm going to have to give up here after this question—but what that forward thinking may involve? I mean, we've got to think ahead. Does that mean closing more roads? Truthfully, if tough decisions have to be made, is that what we're talking about?

Ms. BELNAP. I think it is, from not just a resource, but the dust issue really is going to become a major, major issue. It changes the albedo on the snowpacks and we're going to have profound impacts on water delivery. Just the presence of the roads and trails produces dust. You don't even have to drive on them. But when they are driven on, we're literally seeing many billions of pounds of dust a year coming off of these trails.

So just the presence of them is an issue. So we've got to be really selective about what we leave open.

Senator TESTER. Just curious, and then I'll kick it over. But do you think the dust is the biggest problem or is erosion, water erosion I should say?

Ms. BELNAP. Water erosion is bad, too, but it's local. One of the big problems with the dust is that we're seeing it's a regional impact on water that's going to be limited anyway.

Senator TESTER. Thank you for your answers.

The CHAIRMAN. Senator Craig.

STATEMENT OF HON. LARRY E. CRAIG, U.S. SENATOR FROM IDAHO

Senator CRAIG. Thank you very much, Mr. Chairman.

I want to thank you for holding these hearings. There is no question that in the West especially and in the large public lands States' off-road vehicle use and off-road recreation is a major opportunity, resource, and enjoyment today. In my State of Idaho, we have more licensed off-road vehicles per capita than any other State in the Nation. It is something we view with pride because it is part of why people come to live in my State, and they enjoy it.

I live in a suburban part of Boise and it is not unusual on a Saturday morning to see a 30-something and a family or a 70-something and his or her wife or husband loading up their four-wheelers and heading out.

So how we balance this is a responsibility of yours, and doing it in a way that not only complies with our environmental needs, but recognizes that we have those lands also for the purpose of recreating on them and enjoying them, not just to view them from afar, as if they were a museum piece to be constantly coddled and protected.

I say that because I found it very interesting when the Forest Service began its road closures a few years ago, and they went in with D–9 Cats and built tank traps and tore up the countryside to close roads. One winter a local snowmobiler, not knowing that the tank traps had been built—and folks, I'm talking about 12-foot berms across roads—flew over the top of one on his snowmobile, broke his back, and today is a semi-invalid in southeastern Idaho. Was it his fault? Could have been. Was it the Forest Service's fault? Probably was. Signage? Nonexistent.

We've changed a little of that. But I'm also fascinated when we do road closures and road obliteration and it appears there is nearly more environmental damage done at the time of closure than if you would simply go in and lightly grass them over, in which you would sod-base them, and at that point some off-road vehicles could continue to use them.

But the other side of it, of course, is working with off-road vehicle organizations and groups to develop what the average user in Idaho wants to do, and that's access in a responsible way, and most want to do it. You're always going to have some young renegades on dirt bikes that want to go to the highest point anywhere they can find it, and that's a matter of signage and discipline and education and law enforcement, and I don't dispute that.

But access is critical to the economy of my State and to the economies of the West and large public land States. Whether you're hiking, backpacking, horsebacking, or whether you're doing it on an

off-road vehicle, it really is a matter of organization. I have been extremely frustrated over the years that there appears to be a growing attitude in our land management agencies that the best way to handle a problem is simply to keep people off, instead of to try to organize them, to try to build trail systems, and to try to sustain trail systems in a way that is a responsible take.

We're in the midst now in three of my major forests in Idaho in looking at travel plans, and I have not seen more communities more upset at the local forest supervisor because he or she is proposing limiting access that has been there for 50 years or 60 years or 70 years or 100 years, access that has been viewed not only as a traditional point of access, but almost a right. I don't argue that with them, but strongly they believe it, and I can understand why.

I don't own an off-road vehicle today. I have owned and worn out a few of them in my lifetime, in my other life.

So we watch very closely what is done. But please, in the process of protecting the environment, strike the balance that says access for recreational purposes on these marvelous lands is a part of what we do. There are lands that by designation are more fragile than others and therefore gain a greater level of protection and a greater level of responsibility. There are others, and they are by far the vast majority in sheer acreage numbers, in which organized recreational activities remains critical to the wellbeing.

I once had a forest industry in my State. It's gone. Why? We changed the policy in Washington. I once had a mining industry in my State. It's gone. Why? Because we changed the policy in this city.

I now have a thriving recreational industry in my State—skiing, hiking, off-road vehicling. Don't destroy it by regulation and policy.

Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Murkowski.

STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR FROM ALASKA

Senator MURKOWSKI. Thank you, Mr. Chairman. I came in in the middle of my colleague's comments, but you talk about so many of the issues that resonate in my State back home—access, just the limitation of those things that we thought we had a privilege, had a right to, and through government policies all of a sudden you wake up and things have changed and things have changed in a manner that isn't very settling for many of our constituents.

I apologize that I was not here for the testimony of the panel. If these questions have been already asked and answered, I apologize. But I want to make sure that I understand kind of where we are on this discussion as it relates to off-highway use on public lands by vehicles. It's been about 36 years, exactly 36 years, since President Nixon issued the executive order that required the Federal land managers to regulate the use on public lands. I guess the question to you, Mr. Bisson, and maybe to you, Mr. Holtrop, is whether or not you believe that the authorities that you presently have are adequate to balance the interests in public use, of public lands, with resource protection.

Do we need legislation in this area or do we have what we need in order for you to provide for sufficient regulation? Henry?

Mr. BISSON. Senator, I believe we have what we need. I believe the legislation that currently exists, the executive orders that are in place, the policies that we have in place, give us all the tools that we need. It's a matter of I think identifying the appropriate transportation network that, working with the people on the ground, that they need to access those public lands, reaching agreement on it, and then having the resources to enforce it.

So I believe we have all the tools that we need.

Senator MURKOWSKI. Mr. Holtrop.

Mr. HOLTROP. I would say the same thing. We have the authorities that we need to manage this. I also want to add that I appreciate the concerns that Senator Craig and you, Senator Murkowski, have raised about the implications of the decisions we're making. Our goal with our travel management rule was to have a system that allows us to sustain off-road vehicle use on the public lands. That's what our goal is.

Senator MURKOWSKI. You feel that it should be permitted and encouraged on public lands?

Mr. HOLTROP. Absolutely. But we believe it has to be managed and a system of designated routes is a way to manage that, which is—and it's not all that surprising to me that as we go about making the actual decisions at the local level there are disagreements as to what those decisions are, because these are highly valued, highly contentious issues for the local folks.

But the decisions ought to be made locally with public involvement.

Senator MURKOWSKI. Let me ask you, because we have the great debate that goes on between the motorized users of the public lands versus the non-motorized. You've got the quiet ones and you've got the ones that have the engines. We're going to have a witness on the next panel that's going to suggest that the non-motorized recreational users are concerned that the current planning efforts don't provide enough opportunities for those who want to recreate more quietly on the public lands.

Do you think that this is a correct statement? Should the recreational—should the motorized recreational users be concerned that perhaps the tide is turning against them on this issue and that they're going to lose their opportunities to enjoy the public lands? Where do you see this going?

Mr. BISSON. That's a difficult question, because I personally believe that we have had a huge sea change on the public lands in terms of the numbers of people that are out there using it for all the different uses. I think that it's a challenge for us to maintain all of those uses at the same time in the same place.

So there are some who would argue that we ought to have places where certain uses happen and certain uses don't happen. That's what wilderness is about. We have a lot of wilderness study areas. We have designated wilderness, which are quiet places where people can go. We are in fact significantly reducing the numbers of routes that people can use on public lands, working with local folks to develop a transportation network.

I think we're trying to get there on both fronts. We're trying to preserve the opportunity for people to use motorized recreation and find those places where they can get quiet. It's a challenge for us, but I think it's exactly where we're trying to go. We're trying to balance those decisions.

Mr. HOLTROP. I think that's an excellent answer. We have between the two agencies, we have hundreds of millions of acres of public lands that I think it's our responsibility to look for those opportunities to provide opportunities for both the off-road vehicle users and the quiet recreationists and do that in a way that's sensitive to both their needs, and that's what we are engaged in doing.

I do again believe that the most effective decisions are made at the local level, with the affected public involvement from all sides of the issue, and that's what both agencies are engaged in trying to accomplish, just that.

Senator MURKOWSKI. Thank you.

Mr. Chairman, my time is over.

The CHAIRMAN. Let me just ask one or two more questions. I think you referred to what is happening on the public lands, as a sea change in the extent of the use of public lands, both with motorized or off-road vehicles, but other types of uses as well. I think both of you said you have the authority you need to deal with this, to properly manage this change.

But it's my strong belief that you don't have the resources. I would say the BLM needs more resources in order to get the mapping done a lot quicker than 10 years. But even once the mapping's done, that's when the resource need even grows dramatically. The more off-road or off- highway vehicle use we're going to have on the public lands and permit on the public lands, the more resources are going to be required to properly monitor that and manage that and control that. Is that a fair statement?

Mr. HOLTROP. I would agree with that statement. I will tell you, Senator, that we are looking very hard at BLM's law enforcement program. The program has been managed using a tin cup, where there was very little law enforcement money actually allocated and the money came from recreation and other programs. We're trying to now build a solid program with a base of funding for it.

At the same time, we're doing what we call a capability analysis, and we're going through and looking at where violations are occurring, what kinds of violations those are, how many officers we have, in which counties and which States, and we're going to try to develop an assessment of what our needs are, and then at some point request appropriate money to meet those needs.

Mr. HOLTROP. If I could——

The CHAIRMAN. Yes, go right ahead, please.

Mr. HOLTROP. Because I also think your statement is a fair statement. I would like to add a couple of elements to what it's going to take to be successful in the long term once routes are designated, once maps are produced. We do need to have the resources for enforcement. Some of that's going to be our own employees that do that law enforcement activity. Some of it's going to be through cooperative agreements with local authorities, sheriff's departments, etcetera.

But we also need to continue to rely on our partnerships with the responsible OHV community that's going to educate their own about what it means to have the right and the privilege to operate motor vehicles on the National Forest System and on the public lands. I think that's going to continue to be even more important over the long run if we're going to be successful.

Again, I think a system of designated routes improves our ability to work with those communities effectively.

Mr. BISSON. Could I add something, Senator?

The CHAIRMAN. Sure.

Mr. BISSON. A number of States which have been at the forefront of addressing how we go about managing appropriate use of OHVs have in fact enacted State laws which allow licensing of vehicles or some sort of permit fee which the State uses to supplement local law enforcement. Some States are looking at that possibility as well. So I think some combination of State and Federal effort to address the problem is what—it can't all just be Federal money. I think that we've got to work with the States as well in terms of finding sources of revenue to address the problems.

The CHAIRMAN. So you think that State licensing and State generation of revenue to help with this issue are good steps as well?

Mr. BISSON. I think where that has occurred it's been very helpful.

The CHAIRMAN. OK.

Yes, Dr. Belnap?

Ms. BELNAP. I just want to add that I think education is vitally critical here and probably more than the enforcement, because I really do think people want to do good. A lot of people just don't understand the impact of their actions. We've done tremendous amounts in different areas, different districts and field offices, in educating people and watching it really work. So I would like to see resources too dedicated toward that.

The CHAIRMAN. So the priorities are: get the mapping done, designate the areas that off-road vehicle use is permitted so that people know what those are, then educate people about that so that we have as much of the problem solved through voluntary efforts by the public as possible, and then beef up law enforcement to deal with those few who are not going to voluntarily cooperate? Is that the right set of priorities?

Mr. HOLTROP. That's a very good summary, Senator.

Mr. BISSON. I would add, and continue to evaluate how effective our work has been over time as well and adjust as adjustments are called for.

The CHAIRMAN. OK. Let me see if any Senators have any additional questions of this panel. We have another panel coming. Senator Tester?

Senator TESTER. I just have one. First of all, we've been asking a lot about what you need for resources, and I think, the resources you need for education. I agree with you, Dr. Belnap, it's critically important, and we need to know what kind of resources are needed in both of these agencies for education, because I agree with you, I think people want to do right. They just need to know what the impacts are, because sometimes they don't understand them.

I guess my question revolves around what are the penalties for those who don't use their off-road vehicles in an appropriate way?

Mr. BISSON. I can't tell you what that penalty is. There are bail schedules that our officers use working with local judges that determine how much, and it varies by location, it varies by jurisdiction.

Senator TESTER. It's typically a fine, though?

Mr. BISSON. It's a fine of some sort.

Senator TESTER. Is it ever losing the privilege to be in the forest or on public lands, I should say?

Mr. BISSON. Not that I'm aware of.

Mr. HOLTROP. Not that I'm aware of that would be associated specifically with OHV use. It might be what they were using the OHV to access the forest to do. There might be something that would include the loss of those privileges, or the loss of the vehicle.

Senator TESTER. I understand.

OK, thank you very much, Mr. Chairman.

The CHAIRMAN. Senator Wyden, you have not had any questions for this panel. Do you have questions?

STATEMENT OF HON. RON WYDEN, U.S. SENATOR FROM OREGON

Senator WYDEN. I did, Mr. Chairman, and I thank you for your courtesy, and I apologize to the witnesses. A hectic morning.

In my State, thousands of Oregonians responsibly use off-road vehicles for work and recreation. But there has been an astronomic increase in the popularity of the vehicles that has caught a lot of public lands managers unprepared. For example, ORV sales in our State has increased 400 percent between 1990 and 2004. We've got roughly 138,000 active operating permits today, and currently travel management plans are pending for 11 national forests and 9 BLM districts, representing more than 19 million acres of our public lands in total.

Given the variety and vastness of the public lands, it seems to me that there is room for both motorized and non-motorized recreation if the agencies, particularly the two agencies we have here, Mr. Holtrop and Mr. Bisson, can put in place in a comprehensive and responsible way a plan that will enhance opportunities for ORV users while keeping the public lands safe and accessible for all recreation. This is very much on my mind today because I'm introducing legislation that would increase recreational opportunities in central Oregon by establishing an Oregon Badlands Wilderness program involving 30,000 acres for wilderness recreation and solitude.

So my question to you, Mr. Holtrop and Mr. Bisson, is essentially this. According to your agency, between 2005 and 2007 there were more than 5,000 ORV-related law enforcement incidents in Oregon and Washington States alone. Now, the National Parks have partnered with not-for-profit groups so as to supplement Federal funding for park maintenance. Don't you think that one possible way to responsibly manage these issues I'm discussing and perhaps confront the shortage of agency resources is to build more public-private partnerships, the kind that we have in Oregon with the

hunting community, the ORV volunteers, the National Off-Highway Vehicle Conservation Council?

Those kinds of partnerships it seems to me, with a boost by your two agencies, could help us get a lot done in terms of trail maintenance or a variety of things like that. I'd like to hear your thoughts on doing more in that area.

Mr. HOLTROP. I absolutely think that that's an element of success in the long run as to how we're going to manage these. There are examples in your State and in Washington State and throughout the country where we are doing just that. I think we need to build on those successes as we look into the future in order to have the opportunity to be as effective as we need to be in enforcement and in the educational arena.

The CHAIRMAN. Can you be more specific in terms of telling me what your agency would like to do?

Mr. HOLTROP. One of the examples that I had in my testimony is an example on the San Bernadino National Forest, where we have a partnership with OHV user groups and industry and the State of California and a private association, nonprofit association associated with the San Bernadino National Forest. Around 300 volunteers spend a total of 25,000 hours a year doing all the same things that you were talking about—education of other off-highway vehicle users, trail maintenance, patrolling to talk to people about the importance of managing their vehicles responsibly.

Senator WYDEN. Why don't we do it this way, and I appreciate that. You send me a written response to that question outlining the future prospects for increasing the number of public-private partnerships.

Mr. HOLTROP. Be happy to do so.

Senator WYDEN. Mr. Bisson.

Mr. BISSON. Senator, we agree also that seeing more public-private partnerships in terms of education and building trails, maintaining trails, is exactly where we need to be going. We have a program called Challenge Cost Share. It's tied to our recreation program and we're already doing projects which are jointly funded between Federal dollars and State and other partner dollars to build trails and maintain them. So I don't have specific examples in Oregon, but I'd be happy to follow up with something in writing to you.

Senator WYDEN. We'll keep the record open for that. I understand that it's not possible to list all of the public-private partnerships that would be under consideration today. But I'd like to see us aggressively expand this, and we'll keep the record open.

I think I have time for one additional question. The other concern we've heard in Oregon, particularly from the ORV community, is that the laws and rules vary as they apply to the use of private, county, State, and federally owned lands, and so you've got trail riders and others just baffled by what laws control.

What can your two agencies do to better coordinate and standardize these rules? I know my time is up and the chairman's been very gracious. Just an answer from you, Mr. Holtrop and Mr. Bisson: What can we do to kind of get through this bureaucratic lingo that's got people so confused?

Mr. HOLTROP. I think a couple of things. One is we can at least within our own agency reduce the irregularities of what the rules are from one forest to another forest, from one ranger district to another. That's one of the things our rules apply.

Then once that has been done, I think that also sets the stage for us to be able to continue to work more effectively with other entities that also provide those off-highway vehicle opportunities, and we then, we should do that and are dedicated to doing just that.

Senator WYDEN. Very good.

Mr. Bisson.

Mr. BISSON. Senator, in Oregon we are about to begin a process to do travel planning for all of the east side districts at the same time. What we hope is to avoid that very problem, so that by working with local individuals, working with the groups that operate statewide we can come up with one system of signage and rules and regulations that apply to everybody.

We're doing the same thing in the western Oregon plans as well.

Senator WYDEN. It sounds like it could be a good model.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Craig, did you have additional questions for this panel?

Senator CRAIG. A couple of additional ones.

First of all, I think the response and dialog of the last few moments has been obviously very, very constructive, and I agree with you, doctor: Education is key to a lot of this. Most who enter our public lands want to treat them well. Oftentimes they don't understand the impact of what they do, especially in high desert environments that are oftentimes a good deal more fragile because of lack of moisture, those types of things.

Let me talk a minute about law enforcement, because I think one of the things that is important in local areas, where it isn't a recreationalist coming in from out of State, but it's a local community recreating on their public lands, is the important area of law enforcement. First of all, respecting the law enforcement process is important. I respect a law enforcement process that is answerable to someone. That's where cooperative law enforcement agreements with local sheriffs and deputizing or deputizing in the local area is oftentimes in my opinion more effective than the feds coming in.

They don't see the Forest Service personnel or BLM personnel as law enforcement people. They see them as conservationists. They see them as land managers. They see them as resource contacts for informational purposes. There is oftentimes substantial resentment when the feds roll in with lights flashing. That's not a role that has been well played out in the West in many locations.

What has worked well is when you have those cooperative law enforcement agreements with an accountable elected local law enforcement entity and then the educational process, where oftentimes it is extended with and through law enforcement, becomes increasingly more valuable and, if you will, more attended to or attentive of the local community.

Simply a suggestion, and about 28 years of experience on that issue as I have watched the feds gun up, if you will, and I have watched local communities resent it, and I've watched a decline in cooperative law enforcement agreements, because we want our law

enforcement community to be not only there present, instructional, effective, but we also want them to be accountable. When the Forest Service law enforcement person in Idaho is accountable to somebody in Ogden, Utah, and not in the community adjacent to where the situation happened, there is a lack and it's understood and frustrating, and our locals are very frustrated by it.

Joel, how much did you spend, how much did the Forest Service spend, developing the Forest Service travel management rules and plans? Did you push the total button?

Mr. HOLTROP. We haven't pushed the total button because we aren't completed yet. We're in the process. Our estimation is that for every national forest unit it's going to take anywhere from say $750,00 to $1.5 million to complete the travel management rule on each national forest.

Now, that's the additional work that needs to be done to accomplish what we've asked for in the rule. That needs to be understood in context of we have an ongoing travel management process that we do on a regular basis and have been doing, and so that's the additional expense of going through the NEPA process, the public involvement process, the preparation of the map.

Senator CRAIG. Is that why you don't have adequate money to implement? You spent more money planning than you have? Or if it is such a priority, then why don't you budget for it?

Mr. HOLTROP. I think what we have done with the travel management rule is to recognize that as we have the increased use that's going on and the increased pressures that's coming from that, that we need to come up with an approach that allows us to be as cost effective and efficient with the funds that we do get, an approach that allows us to work more effectively with our partner agencies and partner entities, such as the sheriff's departments, and an approach that gives us the opportunity to work effectively with our OHV community through educational opportunities. That's the approach that we've taken.

We think that the amount of time, effort, energy, money that we're putting into this process is going to pay big dividends for us in the long run.

Senator CRAIG. May I suggest the BLM observe what the Forest Service has done. Maybe you can learn to save money if you're just beginning that process.

Mr. BISSON. We've actually been engaged in it for a while, Senator. But we're not doing it by rule. We're doing it by policy.

Senator CRAIG. Yes, there is a difference there.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Murkowski, do you have additional questions?

Senator MURKOWSKI. No, I'm fine; thank you.

The CHAIRMAN. Thank you all very much and we'll go ahead withthe second panel. Our second panel is made up of: Ed Moreland, who is the Vice President for Government Relations with the American Motorcyclist Association here in Washington; Greg Mumm, who's the Executive Director of the BlueRibbon Coalition in Rapid City, South Dakota; Nada Culver—is "NAE-duh" the right pronunciation?

Ms. CULVER. Yes.

The CHAIRMAN. OK. Nada Culver, who is Senior Counsel with the Wilderness Society in Denver; Mr. Brad Powell, who's the Arizona Public Lands Coordinator with Trout Unlimited in Payson, Arizona; and Frank Adams, who is the Executive Director of the Nevada Sheriffs' and Chiefs' Association, from Mesquite, Nevada.

Thank you all for being here. Why don't each of you take 5 minutes and summarize the main points that you'd like us to understand from your testimony, and we will include your full testimony in the hearing record. We very much appreciate your being here.

Ed, go right ahead.

STATEMENT OF EDWARD MORELAND, VICE PRESIDENT FOR GOVERNMENT RELATIONS, AMERICAN MOTORCYCLIST ASSOCIATION

Mr. MORELAND. Thank you, sir. Mr. Chairman, members of the committee: My name is Ed Moreland. I have the pleasure of serving as Vice President of Government Relations for the American Motorcyclist Association. AMA is an organization representing nearly 300,000 dues-paying enthusiast motorcyclists and ATVists. The AMA appreciates the opportunity to provide testimony today regarding off- road vehicle management on public lands.

Former U.S. Forest Service Chief Dale Bosworth correctly observed that the threat to the health of our public lands was not from recreation, as many have asserted, but from unmanaged recreation. Recreation, like any other resource, must be actively managed. Active management of our public lands includes those designated appropriate for motorized—including those designated appropriate for motorized recreation, must include collaboration from the users of that area, honor the mission of multiple use, and provide proper staffing, adequate enforcement, and a set of deliverables that includes a recreation environment with facilities to meet the unique demands of OHV recreation. All these requirements are tied directly to the issue of funding.

OHV recreation is pursued by millions of people each year and has steadily been on the rise as a family activity for the better part of the past 2 decades. As noted in many of the statements today, the national survey on recreation and environment reports that nearly 20 percent of the United States population will participate in an off-highway vehicle experience this year.

Unfortunately, while interest and participation in off-highway recreation has rapidly increased in recent years, the funding, management, and recreation opportunities themselves have just as rapidly decreased. This has led to more concentrated impacts on the remaining lands available to OHVs. It has increased the burden on land management staff and has contributed to user conflicts.

We recognize that this type of growth represents many unique challenges for our public land managers. Additionally, as primary stakeholders, the recreation community enjoys an impressive track record of collaborating with other users as well as land managers to create workable solutions. Indeed, the motorized recreation community has authored some of the most often used recreation resources. I've brought three of them with me today. One is the "Off-Highway Motorcycle and ATV Trails Guidelines for Design, Construction, Maintenance, and User Satisfaction," commonly referred

to as "the Wernex Report." This allows land managers to have a guideline for construction and maintenance of trail systems.

Another is "Park Guidelines for OHVs," shared with us today from the National Off-Highway Vehicle Conservation Council.

A third document is "Management Guidelines for OHV Recreation," This is the bible for managing off-highway vehicle recreation areas once they're established.

Additionally, AMA has supported a recent series of workshops sponsored by NOHVC to help people understand the travel management rule itself, what it means to them, the possible and potential impacts going forward. They plan to host a series of follow-up meetings to help people implement the plan and what it means for them downstream.

We've also supported in the past a recreation fee program in an effort to create more local revenue for agencies to properly manage OHV recreation.

Additionally, we've been a long-time supporter of the recreational trails program. RTP, as most of you know, funded exclusively by motorized recreation, also paves the way for hikers, bikers, equestrians, and all other users of our public lands through a program that allocates funds based on a formula of 30 percent motorized, 30 percent non- motorized, and the remaining balance of 40 percent from mixed use.

The off-highway community also continues to actively support legislation that will impose stiffer fines and penalties for those who knowingly damage our public lands.

H.R. 1484, sponsored in the House by Representatives Tancredo and Udall, is a bipartisan bill that also establishes a consistent law enforcement authority for all Federal land agencies, including BLM, the Forest Service, and the Park Service.

In recognition of the need for increased active management of many of our national forests, the AMA and other motorized recreation groups supported the new travel management rule, with a number of caveats, not the least of which was our opposition to unfunded mandates for the agencies and the artificial deadlines that would sacrifice accuracy for expediency. That seems to be a popular theme today, that without the revenue and artificial deadlines they're unable to accomplish the goals and guidelines that are both satisfactory to the user groups as well as the agencies themselves.

It's ironic now, 2 years later, that those very issues threaten to undermine the genuine efforts by the Forest Service to fully inventory their trail systems. Nowhere is this more clearly demonstrated than in the State of Colorado. There, off-highway enthusiasts from the Colorado Off-Highway Vehicle Coalition, COHVCo, have formed trail inventory gap resolution teams to systematically collect additional route information using state-of-the-art GPS systems to share with the Forest Service in the White River, Gunnison, Pike, San Juan National Forests and others. Unfortunately, the personnel on those forests have cited timing as their No. 1 reason for not being able to accept some of that data. They don't have the time to process or evaluate the data.

Our concern is if those trails don't go in the early maps, they're not going to ever make the maps and we can lose hundreds of miles of trails in that State alone to a travel management plan that

doesn't allow adequate acceptance of a user-based collaborative approach and collection of trail systems.

I share this information with you today as a cautionary tale for what we're seeing on many of our forests around the country. An inventory system that fails to provide adequate time and funding is destined to file. We urge the committee to be cautious as you consider similar planning for other land management agencies and, while it remains incumbent on the agencies to provide a managed setting for recreation, the users to engage in the debate and help provide resources, education, and expertise, it is the responsibility of Congress to ensure that the agencies have sufficient resources to accomplish their mission.

Active management cannot simply be defined as reducing the costs of management. We've seen what simply cutting the budget can do. Now we've seen what wholesale elimination of trail systems can do. In both cases, everybody loses. What we have yet to see is the adoption of full-scale active management, a truly collaborative approach and the budgets and people to accomplish a truly multiple use mission.

The motorized recreation community has a long history of volunteerism and stands ready to help public managers, as we have in many of the areas that we've talked about today. San Bernadino is a perfect example of the system working correctly. Colorado, on the other hand, is an area where it is working as poorly as it can.

The AMA is confident with the continued commitment of the recreation community, a renewed commitment from the agencies to actively manage, and adequate funding from Congress, the challenges facing our public lands can be overcome.

Thank you for your consideration. We look forward to working with members of the committee and I am pleased to answer any questions you may have. Thank you.

[The prepared statement of Mr. Moreland follows:]

PREPARED STATEMENT OF EDWARD MORELAND, VICE PRESIDENT FOR GOVERNMENT RELATIONS, AMERICAN MOTORCYCLIST ASSOCIATION

Mr. Chairman and members of the committee, my name is Edward Moreland. I have the pleasure of serving as the Vice President of Government Relations for the American Motorcyclist Association (AMA). AMA is an organization representing nearly 300,000 dues paying enthusiasts.

Established in 1924, the AMA was formed to pursue, promote and protect the rights of both on-highway and off-highway motorcyclists while addressing the specific needs of its members. The AMA appreciates this opportunity to provide testimony regarding off-highway vehicle management on public lands.

Former US Forest Service Chief Dale Bosworth correctly observed that the threat to the health of our public lands was not from recreation as many have asserted, but from "unmanaged recreation". Recreation, like any other resource, must be actively managed.

Active management of all public lands, including those designated appropriate for motorized recreation, must include collaboration with the users of that area, honor the mission of multiple use, and provide proper staffing, adequate enforcement, and a set of deliverables that includes a recreation environment with facilities to meet the unique demands of OHV recreation. All of these requirements are tied directly to the issue of funding.

OHV recreation is pursued by millions of people each year and has steadily been on the rise as a family activity for the better part of the past two decades. The National Survey on Recreation and the Environment (NSRE) reports that nearly 20% of the US population will participate in an off highway vehicle experience this year. Unfortunately, while interest and participation in off-highway recreation has rapidly increased in recent years, the funding, management and recreation opportunities

have just as rapidly decreased. This has led to more concentrated impacts on those areas where OHV recreation is still allowed, an increased burden on land management staff and has contributed to user conflicts.

We recognize that this type of growth presents many unique challenges for public land managers. Additionally, as a primary stakeholder, the recreation community enjoys an impressive track record of collaborating with other users as well as land mangers to create workable solutions.

Indeed, the motorized recreation community has long been a leader in developing some of the most widely accepted sustainable guideline tools available to land managers. Three documents in particular have become the standard for proper trail planning, construction, maintenance and ongoing management. In addition to their wide use by public land agencies they are quite literally the textbooks that are used to teach these specific skills at Marshall University where OHV recreation management is a degreed program.

The Wernex Report, by Mr. Joe Wernex, in conjunction with the American Motorcyclist Association, outlines the proper design, construction and maintenance of sustainable Off Highway Vehicle (OHV) trails. Contributions from national trails experts describe the methods and implementations of developing trail systems that minimize habitat encroachment and maximize user satisfaction. The goal of the Wernex Report is to provide the necessary information to help managers and enthusiasts develop responsible trail riding opportunities and to maintain and protect those that currently exist.

Park Guidelines for Off-Highway Vehicles, by Mr. George E. Fogg, is a publication offered by the National Off-Highway Vehicle Conservation Council (NOHVCC) that serves as a manual to the step-by-step process of creating a new OHV park. Recently in its second printing, the manual provides information, answers common questions, and offers suggestions on creating a successful OHV park that will employ the resources available through private interests and government organizations. Park Guidelines for OHV is so comprehensive that it is required reading for Marshall University students in their OHV recreation management program.

Management Guidelines for OHV Recreation, by Mr. Tom Crimmins, in association with NOHVCC, is a crucial tool for land managers and OHV club leaders to guide them through proper management of sustainable trail systems. The publication helps codify the future of a successful trail system by discussing user needs, the four elements of OHV management (Education, Engineering, Enforcement, and Evaluation), the vision for the trail system and how to maintain active trail management.

Additionally the AMA supported a recent series of workshops held around the country led by the National Off Highway Vehicle Conservation Coalition (NOHVCC), Americans for Responsible Recreational Access (ARRA) and the Specialty Vehicle Institute of America (SVIA). NOHVCC conducted over 20 of these workshops to educate the public about the Travel Management Rule in an effort to prepare the public for the process as well as the anticipated outcomes.

The OHV community continues to support the Recreational Trails Program (RTP). RTP provides critical funding for all trail enthusiasts through the collection of a small portion of fuel tax revenues generated by the purchase of fuel for use in vehicles that are not operated on the road. These funds go directly to support trail construction and maintenance. Again, while this program is funded exclusively by motorized recreation, all users including hikers, bikers, and equestrians benefit through this program that allocates funds based on a formula of 30% motorized, 30% non-motorized and 40% mixed use.

We also supported the Recreation Fee Program in an effort to create more local revenue for the agencies to properly manage OHV recreation facilities.

The OHV community has worked diligently has sacrificed considerably to assist the agencies' requirements for additional revenue. Sadly, while many have made good faith efforts to discover new opportunities to augment existing program dollars, the base budgets continue to erode yearly. The money that was intended to augment federal budget dollars, has simply supplanted it.

The off-highway community also continues to actively support legislation that will impose stiffer fines and penalties for those who knowingly damage our public lands. H.R. 1484, sponsored by Representatives Tancredo and Udall of Colorado is a bipartisan bill that also establishes consistent law enforcement authority for all federal land agencies including BLM, the Forest Service and the Park Service.

And, in recognition of the need for increased active management on many of our national forests, the AMA and other motorized recreation groups supported the Forest Service's new Travel Management Rule. We did so however with a number of caveats, not the least of which was our opposition to unfunded mandates and artificial deadlines that would sacrifice accuracy for expediency. Now those very issues

threaten to undermine any genuine efforts by the Forest Service to fully inventory their trail systems.

Nowhere is this more clearly demonstrated than in the state of Colorado. There off highway enthusiasts from the Colorado Off-Highway Vehicle Coalition (COHVCO) have formed Trail Inventory Gap Resolution (TIGeR) teams to systematically collect route information using state of the art Global Positioning Satellite (GPS) information to share with the Forest Service in the White River, Gunnison, Pike and San Juan National Forests. Unfortunately, the personnel in those forests have refused to accept much of the information provided by COHVCO and the Trails Preservation Alliance (TPA) citing the agency's inability to stay on schedule.

This is an example of hard deadlines and unfunded mandates preventing a truly comprehensive list of trails for consideration in the final plans for those forests. While the Forest Service asserts that this is simply the start of the process and that all of the trail information could still be considered prior to the final rule, many remain concerned that if these trails are not documented now, they may be lost forever to a process that refused to even review user provided input.

I share this information with you today as a cautionary tale for what we are seeing in many Forests around the county. An inventory system that fails to provide adequate time and funding to do the job right is destined to fail. We urge the Committee to be cautious as you consider similar planning for other land management agencies.

While it remains incumbent upon the agencies to provide a managed setting for recreation, the users to engage in the debate and help provide resources, education and expertise, it is the responsibility of Congress to ensure that the agencies have sufficient resources to accomplish their mission.

Active management can not simply be defined as reducing the costs of management. We've seen what simply cutting the budget can do. We've now seen what whole sale elimination of trail systems can do. In both cases everybody loses. What we have yet to see is the adoption of full scale active management, a truly collaborative approach and the budgets and people to accomplish a truly multiple use mission.

The motorized recreation community has a long history of volunteerism and stands ready to help public land managers by maintaining trails, promoting ethical use and advocating for appropriate funding levels.

The AMA is confident that with the continued commitment of the recreation community, a renewed commitment from the agencies to active management and adequate funding from Congress the challenges facing our public lands can be overcome.

Thank you for your consideration.

The CHAIRMAN. Thank you.

Mr. Mumm.

STATEMENT OF GREG MUMM, EXECUTIVE DIRECTOR, BLUERIBBON COALITION, RAPID CITY, SD

Mr. MUMM. Good morning. My name is Greg Mumm. I'm the Executive Director of the BlueRibbon Coalition and I'd like to thank you for this opportunity to be here today and to provide testimony. The BlueRibbon Coalition serves as a leading national advocate for responsible OHV recreation and management. We have 10,000 individual, business, and organizational members collectively representing approximately 600,000 enthusiasts nationwide. We are grassroots, we are user-supported, and we promote a strong trail ethic.

BlueRibbon Coalition recognizes the marked growth in the popularity of OHV recreation over the last several decades. Most recent information shows that there's 43 million Americans who enjoy this type of recreation. Additionally, motorized off-highway vehicles are also used to reach those remote areas when taking part in other forms of recreation on our public lands, such as hunting, fishing, dispersed camping, mountain biking, and even hiking. The point is that virtually everyone is motorized at some point in their visits to

our public lands. It's simply a question of where they depart from their vehicle.

The economic benefits of OHV use are substantial. A recent California study demonstrated $9 billion for that State's economy. A similar study in Arizona, $3 billion. Colorado, $500 million. The list goes on. You have Iowa, Minnesota, Wisconsin, Maine, and many others.

Through State registration programs, the OHV community uniquely contributes substantial funds to implement OHV management programs and we volunteer literally hundreds of thousands of man-hours a year to accomplish those volunteer work projects.

We understand the popularity of OHV recreation presents challenges to land managers and we point to active management for OHV recreation as the key to solving those challenges. Simply put, if you tell those 43 million Americans who enjoy off-road vehicle recreation what they can do instead of what they can't, if you provide them with a quality opportunity and give them ownership through cooperative involvement and management, you can produce sustainable, successful, compliant trail systems.

From the Hatfield-McCoy Trail System in West Virginia to the Payute Trail System in Utah to the San Bernadino National Forest in California, all across this country there are shining examples of how well active management can and does work.

The current regulation and policies that identify OHV recreation as a legitimate use of public lands and national forests are important benchmarks that have been a long time in coming. Requiring that motorized vehicles be limited to designated roads, trails and areas has been a significant step toward making managed recreation a top priority of both agencies.

The BlueRibbon Coalition is supportive. The OHV community is currently participating in travel management planning across this Nation. We do so knowing that such a policy means inevitably some areas will no longer be available for OHV use because it is our hope that the agencies will formulate management plans that provide for recreational opportunity while minimizing environmental impact and user conflict.

Still, we have some concerns. Just as the agencies are finally putting years of awareness and study into action through their directives, it appears that there's an underlying drive from certain anti-access groups to eliminate OHV recreation on most public lands, and you cannot continue to try and stuff increasing numbers of people into smaller and smaller amounts of real estate without further complicating the issues.

We're only halfway. Folks, we're only halfway into implementing these active management solutions that are proven to work. We need the time and we need the cooperation to finish the job.

We are also justifably concerned with the agencies' commitments to implement their own policies. Good management will not flow strictly from the whisk of a pen in Washington, DC, alone. Successful policy implementation must be accompanied by adequate budget and staffing and, above all, it must be accompanied by management's priority to achieve critical on-the-ground goals like fostering compliant systems, adequate law enforcement, collaboration with

recreationists and local communities, and obviously long-term sustainability.

So the BlueRibbon Coalition urges this committee to support agency efforts to actively manage for OHV recreation, and we also urge you to support fiscal appropriations and other funding mechanisms to help the Federal agencies meet their recreation management objectives.

Again, I'd like to thank you for this opportunity to be here this morning and I'm also happy to answer any questions you might have.

[The prepared statement of Mr. Mumm follows:]

PREPARED STATEMENT OF GREG MUMM, EXECUTIVE DIRECTOR, BLUERIBBON COALITION, RAPID CITY, SD

Thank you for the invitation to present personal testimony and for the opportunity to submit written comments regarding off-highway vehicle management on public lands.

The BlueRibbon Coalition (BRC) is a national recreational access advocacy organization with over 10,000 individual, business and organizational members representing approximately 600,000 individuals nationwide. BlueRibbon Coalition members use motorized and non-motorized means, including Off-Highway Vehicles (OHV), snowmobiles, equestrian, mountain bikes, and hiking to access and enjoy recreating upon state and federally-managed lands throughout the United States, including those of the National Forest System and Bureau of Land Management (BLM).

BlueRibbon Coalition serves as a leading advocate for responsible management of recreation on public lands. This role has included partnering with academia, conservations groups, and the agencies in scientific research and supporting educational projects to address excessively loud OHV exhaust noise, wildlife research, and other issues. We promote a strong trail ethic and work with groups such as Treadlightly! and the National Off-Highway Vehicle Conservation Council (NOHVCC). BlueRibbon is a grassroots, user-supported nonprofit organization and has achieved a surprising prominence in the public land management arena.

BRC recognizes that over the past several decades there has been a marked growth in the popularity of motorized wheeled-vehicle based recreational pursuits with many contributing factors to that increase in popularity.

According to the most recent information in an ongoing OHV recreation study by the Southern Research Station of the Forest Service, there are 43 million Americans who enjoy off-highway vehicle recreation. Based on the most recent data from the study, 19.2 percent of the population 16 years of age and older participated in OHV recreation in the past year. Restated, that is nearly one in five Americans. Notably, the study also demonstrates that enthusiasts enjoy this type of recreational activity on the average of 27.9 days a year; or approximately 2 to 3 days per month.[1]

Additionally, motorized off-highway vehicles are also used to reach remote areas when taking part in other forms of recreational activity such as hunting, fishing, mountain-biking, and hiking. These enthusiasts benefit from using the very same roads, trails, and areas as those who enjoy OHV recreation by itself. This "shared use" activity takes place regularly. Virtually every public land user is motorized at some point in their visits to federal lands and it is simply a question of where they depart from their vehicle.

The economic benefits of OHV use deserve equal consideration. A compilation of several documented state studies indicates the economic benefits are substantial and a source of meaningful support to both rural and urban counties. For example, in 2007 the California State Parks' Off-Highway Motor Vehicle Recreation Division published a report describing the economic impact of OHV recreation in California as "an important element to the state's economy" which contributes an estimated $9 billion annually.[2] A similar report in Arizona estimated that OHV use generated

[1] Off-Highway Vehicle Recreation in the United States and its Regions and States: An Update National Report from Nation Survey on Recreation and the environment (NSRE) February, 2008.

[2] California State Parks Quick Facts 1/23/2007 California State Parks' Off-Highway Motor Vehicle Recreation Division

nearly $3 billion in retail sales during 2002.[3] A 2001 Colorado study estimated OHV use yielded a $500 million in revenue within the state.[4]

In Iowa, a state one wouldn't normally think of in terms of OHV use, the estimated value of OHVs and related assets exceeds $266 million. In 2007, the expenditures on new assets were over $41.2 million and Iowa OHV users spent an estimated $86.4 million per year on OHV equipment and activities; $80.1 million is spent in Iowa, $6.3 million is spent on trips out of state.[5]

An economic impact study in Minnesota focused only on All Terrain Vehicles (ATV) in 2006. The study found that resident direct expenditures for the average enthusiast household were $172 per riding experience. This spending is equivalent to $43 per person per day. The combination of these dollars with the number of riding experiences and other household factors results in $641.9 million in consumer expenditures related strictly to ATV riding. Indeed, the Minnesota study indicates the total average impact of ATV related activity translates into an average of 14,449 jobs generating $429 million in salaries and a total gross state product, or value-added from the ATV recreation industry, of $920 million dollars and $86 million in local and state tax revenues.[6]

Moreover, the OHV community uniquely contributes substantial funds to implement OHV management and volunteers hundreds of thousands of man hours in volunteer work projects. Much of these funds are made available to federal, state, and local land managers via state OHV programs. These programs exist today because years ago, motorized recreationists voluntarily "taxed themselves" via state OHV registration programs. Some of these funds are used to supplement OHV law enforcement, conservation, restoration, and safety programs.

BRC understands this marked growth in OHV activity presents significant challenges for land managers across this nation. BRC fully encourages and supports reasonable and responsible management prescriptions for this type of recreational activity. The OHV community also generally supports the various route designation processes, as well as, ongoing monitoring and maintenance of the OHV infrastructure.

The amount of state and locally provided opportunities for OHV recreation may range from none to ample, depending on the region of the country. In western states especially, federal agencies such as the Bureau of Land Management (BLM) and the US Forest Service (USFS) provide the majority of opportunities for OHV use. Demand for such use is growing rapidly in those areas faced with limited opportunities.

There are solutions to these challenges through appropriate planning, maintenance, and monitoring. Active management for OHV recreation activities is the key and there are many working examples.

The Paiute Trail System in Utah is one such example. Established in 1990, this system consists of 871 miles of trails that interconnect with the Great Western Trail System, the Fremont Trail System and various other trails and networks for a total of over 1500 miles of successful application of active management for OHV recreation. With nearly 80,000 riders on the system in 2006 alone, the impact to the local economy was $8.5 million. Small communities that were once dying economically are realizing growth and prosperity. As just one example, the little town of Marysvale in Paiute County, Utah, had once dwindled to only 7 businesses with more on the way out. Today, this rural community is thriving with over 27 businesses, most of which are directly or indirectly related to the Paiute Trail. According to a report by Max Reid of the Fishlake National Forest, "One campground along the Paiute Trail in Marysvale is an 80 unit campground established by Ron Bushman as a small side business. Today if you want to reserve a campsite space in Ron's campground during the summer, you will have to hope for a cancellation because he is booked solid with over 90% of that booking from trail riders."[7]

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[3] The Economic Importance of Off-Highway Vehicle Recreation Study Prepared by Jonathan Silberman, PhD School of Management Arizona State University West

[4] Hazen, S. (2001) Economic Contribution of Off-Highway Vehicle Use in Colorado, Colorado Off-Highway Coalition

[5] 5 The Economic Impact of Off-Highway Vehicles in Iowa Prepared for the Iowa Off-Highway Vehicle Association, Strategic Economics Group, Des Moines, Iowa, Daniel Otto and Harvey Siegelman, January, 2008

[6] 6 All-terrain Vehicles in Minnesota: Economic impact and consumer profile, Prepared by Ingrid E. Schneider, Ph.D., Tony Schoenecker, Graduate Research Assistant, With the analytical assistance of: Analysis & Evaluation at the Department of Employment & Economic Development, March 2006

[7] PAIUTE ATV TRAIL ECONOMIC OUTCOMES, prepared by: Max Reid, Public Service Staff, Fishlake National Forest (Updated Feb. 2007 to reflect the 2006 trail use figures)

Another working example of active management for OHV is the Hatfield-McCoy Trail System in West Virginia. This system was first established in 1996 in what was considered an economically challenged area. Since the first trails were opened in 2000, it has proven to be a mutually beneficial public-private partnership. Today it is comprised of 5 trail systems, spanning 4 counties, and provides over 500 miles of trails, with plans to eventually exceed 2000 miles of trail. Since opening, the Hatfield-McCoy Trail System has received a great deal of national recognition for its standard of excellence and has been a major factor in improving the economic conditions of the area. The 2006 Economic Impact Study of the Hatfield-McCoy Trail System in West Virginia cites that, "For the state of West Virginia the total economic impact of the Hatfield-McCoy Trail System was an increase in output of $7,776,116, an increase in income of $2,789,036 and the generation of 146 new jobs." The tax return of $622,752 alone represents a 125% return on the state government's annual investment of $500,000 to the Hatfield-McCoy Trail System. The report further cites that, "When the returns to the state for additional output and income are considered the pay-off to public investment is 1,037 and 373.1 percent respectively."[8]

The Hatfield-McCoy Trail System and the Paiute Trail System have proven their socioeconomic value and they have also demonstrated environmental sustainability throughout their respective 12 and 18 year histories. They are shining examples of how well active management works. Similar examples of successful active management for OHV recreation are demonstrated in the San Bernardino National Forest in California, the East Fort Rock Trail System in Oregon, the Land Between the Lakes National Recreation Area in Kentucky, and many other trail systems in Idaho, Montana, Michigan, Minnesota, Wisconsin, Maine, and other states.

Properly managed motorized recreation presents both a service to citizens and a source of revenue. Such revenue is vital to rural counties who welcome recreation in lieu of other activities that no longer provide predictable or meaningful revenue, particularly for counties with significant federal public lands. A managed system of roads, trails and areas designated for motor vehicle use will better protect natural and cultural resources, address use conflicts, and secure sustainable opportunities for public enjoyment of public lands and National Forests. Properly-managed OHV systems provide an appropriate volume and diversity of road and trail opportunities for experiencing a variety of environments and modes of travel consistent with the policy of land management agencies.

BlueRibbon Coalition urges that the agencies' allocation of budget, staff, and management effort reflect the growth of outdoor recreation. BRC believes the time has come to make managed recreation the BLM and Forest Service's top priority as they comply with their multiple-use mandate.

In the early 1980s, the Forest Service and BLM recognized that the increase in popularity of OHV use required updated management. In 1986, the Forest Service conducted a service-wide review and outlined strategies that would update management plans to address the increase in OHV use.[9] For whatever reason, the agency largely failed to complete their action plan. Ten years later, in 1996, a second agency-wide review was performed.[10] Similar issues were identified and a similar action plan was outlined.

These two Forest Service OHV reviews are instructive. The reports acknowledged that many successful and environmentally sustainable OHV trail systems existed across the agency, and that "unmanaged" OHV use was becoming a concern. But the agency had difficulty implementing its own recommendations. Prior to the promulgation of the Travel Management Rule in 2005, roughly one half of Forest Service units still had not updated their management plans. Indeed, the agency then estimated it had approximately 64 million acres of lands without any restrictions on motor vehicle use.

Even when considering the glacial nature of federal agency planning and implementation, it is worthwhile to ask why the agency failed to act upon its own recommendations. The reality is that environmental laws and agency regulations have become one-way gates that largely constrain active management of the forests. They often provide fodder for preservationist agendas designed to stop such active management through embroiling the agency in a war of procedural attrition.

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[8] The Economic Impact of the Hatfield-McCoy Trail System in West Virginia, October 31, 2006, Prepared for: The Hatfield-McCoy Regional Recreation Authority, Prepared by: Center for Business and Economic Research, Marshall University, One John Marshall Drive

[9] OFF-ROAD VEHICLE AND TRAVEL MANAGEMENT ACTIVITY REVIEW OCT. 15-18 AND NOV. 2-7, 1986, Recommended by: Thomas P. Lennon, Team Leader, Aug. 10, 1987, Robert Spivey Act. Director, Recreation, Aug. 13, 1987, Recommended by Sterling J. Wilcox, Aug. 13, 1987, Director, Engineering, Approved by Larry Henson, Oct. 16, 1987, for J. LAMAR BEASLEY, Deputy Chief, NFS

[10] FINAL REPORT, NATIONAL OFF-HIGHWAY VEHICLE (OHV) ACTIVITY REVIEW, 1996

By the late 1990s, the pace of litigation and pressure from both preservationist groups and the motorized community reached a critical stage. An anti-OHV lawsuit making its way to the Supreme Court apparently spurred both agencies into taking concrete action. The BLM updated its Land Use Planning directives to require all recreational trail use—including OHV use—to be limited to designated roads, trails and areas. In 2005, the Forest Service revised its travel management regulations, finally implementing some of the recommendations made twenty years earlier.

The development of regulations and policies that identify OHV recreation as a legitimate use of public lands and National Forests are important benchmarks. Requiring that motorized vehicles to be limited to designated roads, trails and "off-road areas" has been a significant step toward making managed recreation a top priority of both BLM and USFS. These are active management solutions that work socially and economically (as previously demonstrated), while simultaneously minimizing impacts to natural resources and enhancing the quality of other recreational pursuits.

For these reasons, the BlueRibbon Coalition, and the wider organized OHV community, generally support the "travel limited to designated roads, trails, and areas" paradigm as outlined in the Forest Service travel management regulations and BLM's planning directives.[11]

The OHV community is currently participating in travel management planning and implementation efforts across the country. We do so knowing that such a policy means that some areas will no longer be available for OHV use. We have already taxed ourselves to provide supplemental funds for management, and we are willing to accept reasonable restrictions. As we actively participate in this planning, it is our hope that the agencies will formulate management plans that provide recreational opportunity while minimizing environmental impacts and user conflict.

However, the BlueRibbon Coalition is very concerned that as agencies are finally putting years of awareness and study into action through these directives, it appears there is an underlying drive from certain anti-access groups to eliminate OHV recreation on most public lands. We are only half-way into implementing these solutions. We need the time and cooperation to finish the job. As managing agencies and enthusiasts work together to find solutions on the ground, we ask said groups for their support. We believe our collective energies would be better spent providing information to the agencies and working toward real management solutions that can allow more Americans to visit our public lands while preserving the natural beauty that makes these lands special.

The OHV community is also justifiably concerned about the agencies' commitment to effective implementation of the "restricted or limited to designated roads, trails, and areas" policy. The policy is supposedly motivated by a need to address "unmanaged recreation," but good management will not flow from the whisk of a pen in Washington, D.C. Successful policy implementation must be accompanied by adequate budget and staffing. Above all, implementation must be accompanied by management's priority to achieve critical on-the-ground goals.

Certainly, these on-the-ground goals need to include the concepts of fostering compliance; adequate law enforcement; collaboration with recreationists and local communities; and long-term sustainability.

Compliance and enforcement go hand in hand. A well designed, successful system meets the needs and desires of the user. This, in turn, results in compliance and requires a reduced level of enforcement. Conversely, in the absence of these active management elements, enforcement becomes a bigger issue.

Successful trail systems can and should be designed by applying the elements of Education, Engineering, Enforcement, and Evaluation, or the four "Es", as promoted by the NOHVCC. NOHVCC states, "Proper implementation of the four "Es" produces trails that riders want to stay on, not just trails they have to stay on. Well-managed systems are not only environmentally sustainable, they also provide more fun for the riders and increased economic and social benefits to the surrounding communities." (Note: emphasis added)[12] Simply put, if you tell those 43 million Americans who enjoy OHV recreation what they CAN do and provide them with

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[11] USFS: 36 CFR Parts 212, 251, 261, and 295. Similar to the Forest Service, the BLM now restricts all OHV use to roads, trails and areas via their Land Use Planning directives: Land Use Planning Handbook H-1601-1 appendix C. Specific route designation criteria are specified in 43 CFR Part 8342.1

[12] Remarks to House Natural Resources Committee, Subcommittee on National Parks, Forests and Public lands, Hearing on "Impacts of Unmanaged Off-Road Vehicles on Federal Lands", Russ Ehnes, Executive Director, National Off-Highway Vehicle Conservation Council, March 12, 2008

quality opportunities and ownership through cooperative involvement and management, it will produce compliance.

To that end, through the similar strategies of active management and designated route systems federal land managers are making significant progress. BRC urges this committee to support agency efforts to actively manage for OHV recreation. BRC also urges this committee to support fiscal appropriations to help the federal agencies meet their recreation management objectives.

Again, I would like to thank you for this opportunity to provide testimony and written comments.

The CHAIRMAN. Thank you very much.

Ms. Culver, thank you for being here.

STATEMENT OF NADA CULVER, SENIOR COUNSEL, THE WILDERNESS SOCIETY, DENVER CO

Ms. CULVER. Good morning and thank you for holding the hearing and for allowing me to testify, and of course for guessing the pronunciation of my name on the first try. I am a Senior Counsel in the Public Lands Campaign of the Wilderness Society. I work in the BLM Action Center, where we track land use planning across the West. Basically, we read a lot of plans, including travel management plans, and we look closely at the ecological, economic, scientific, and even legal issues raised in these documents, as well as those raised by other commenters. We make these analyses available to the public and engage in the processes in order to try to help the agencies arrive at management plans that are legally compliant, scientifically justified, and publicly supported in the best case scenario.

Now, we've already heard two things from the Federal agencies today that are generally accepted. The first is that the current volume and intensity of off-road vehicle use were both not anticipated by these agencies; and the second is that off-road vehicles do cause ecological damage and conflicts with other users.

There was a question early on by the chairman if agencies can keep up, and I think we've heard right now that they can't. We've seen these concerns emphasized in statements from chiefs of the Forest Service and Secretary of Interior Kempthorne and we do see these concerns reflected in the executive orders issued more than 30 years ago.

Right now the agencies are engaging in travel planning as a way to fulfill the executive order directives to protect natural resources and avoid conflict with other users. Unfortunately, right now the plans we're seeing—and we are seeing a lot of plans—are essentially unsustainable based on three major areas of failures: ecological, where we are seeing extremely large route systems that don't consider protection of wildlife habitat, wilderness character, watersheds, and don't even protect places that are specifically designated for their conservation values, like national monuments. In the Utah planning effort going on right now, we have miles of routes that would equal driving from Los Angeles to New York City five times. Yet, despite information on the impacts of habitat fragmentation to wildlife and the benefits from reducing routes, those decisions are not being made.

In the Steens Cooperative Management Area in Oregon, we are seeing the BLM designating so-called "obscure routes" in wilderness study areas that no one can even find on the ground, and the Interior Board of Land Appeals has stayed that travel plan in order

to try to prevent damage to wilderness. In fact, most BLM land use plans are actually not making route decisions right now. They're just deferring indefinitely and allowing ongoing use of whatever might be on the ground or might be added.

A second major area of concern is fiscal. We're seeing large route systems designated without the resources to manage them. The Forest Service has been actually doing the math and, for instance, in the Lincoln National Forest in New Mexico, the Forest Service concluded it had enough resources to manage 9 percent of the route system. Nonetheless, they're proposing to maintain that system.

The BLM doesn't consistently make this kind of analysis, but the agencies should be doing this and they should be considering what they can manage, and not just in the context of enforcement, but also in the context of education and monitoring and possible restoration. We have heard about some of these cooperative agreements and self-policing, but I think that's not the best way for the agencies to be asked to manage their lands, is to depend on the kindness of others.

The third area where we're seeing a lot of concern is in the recreation area. In the planning process everyone gets to comment if they want to read the plan or comment. But unfortunately, right now not all commenters are created equal. We've heard a lot about quiet recreationists and right now they're being a little too quiet. That's happening because both the BLM and the Forest Service are creating extra special steps in these processes, for instance where the motorized community can come in and propose additional routes, additional motorized routes. That process doesn't address the interests of other parties and the rest of the public. In fact, they have no place in it, and they've been told this by the agencies.

We've also seen this comment from the Idaho Fish and Game Department in commenting on the Sawtooth National Forest Plan, stating how regrettable it was that the district chose to develop their plan based on exclusive input from motorized user groups. This does exclude a substantial portion of people from the process. The BLM's Moab field office participated in a survey, a national visitor use survey, which showed that the top activities in this area were hiking and biking. But the special recreation emphasis in this plan is almost exclusively motorized. This percentage of users that we're seeing in the Moab survey is consistent with surveys across the country and with the surveys conducted by the Fish and Wildlife Service and the Outdoor Industry Association, which show that hundreds of billions of dollars that are contributed to the national economy by non-motorized users.

I do want to point out that we are seeing responsible planning in some places. In the travel management plan for the Wilson Creek subregion in the Owyhee field office of the BLM in Idaho, we have seen priority to manage the area for wildlife. There has been prioritization of implementation in areas where routes might be affecting sage grouse.

In the BLM's plan for the Arizona Strip and in the Arizona State office in general, we have guidance on how to manage areas to protect wilderness characteristics, to provide the outstanding opportunities for primitive and unconfined recreation that define them. In the Little Snake field office in Colorado and the Jarbridge field of-

fice in Idaho, we're seeing consideration of special recreation management to protect back country hunting experiences.

But for the most part right now, the agencies are essentially making decisions with about half the information they need and about half the people involved. Now, of course, given what I do for a living, reading plans, I'm a believer. I believe that travel planning can and will allow us all to keep using and enjoying our public lands. But it has to be done right or we will end up with unacceptable ecological damage while we drain the agency budget for restoration and enforcement and alienate a large part of the population that should also have their voices heard.

Thank you.

[The prepared statement of Ms. Culver follows:]

PREPARED STATEMENT OF NADA CULVER, SENIOR COUNSEL, THE WILDERNESS SOCIETY, DENVER CO

Chairman Bingaman, members of the Committee and members of the Senate, my name is Nada Culver. I am Senior Counsel in the Public Lands Campaign of The Wilderness Society. The Wilderness Society's mission is to protect wilderness and inspire Americans to care for our wild places. I work in the BLM Action Center, which tracks land use planning around the West and is dedicated to helping the public effectively engage and participate in the processes that determine how our public lands are managed. I appreciate the opportunity to speak with you today about the management of off-road vehicles on the public lands. This written statement is submitted on behalf of The Wilderness Society and our partners, who care deeply about the natural wonders and recreation opportunities on our public lands.

Travel planning is the cornerstone for achieving workable management of dirt bike, all-terrain vehicles and other off-road vehicles (ORVs) on our public lands. Planning provides a framework for agencies like the Bureau of Land Management and Forest Service to take a hard look at the lands they manage, plan to manage uses of those lands, including by ORVs, enforce uses based on plan, and then monitor the effects of plans to determine if changes are needed to protect the resources, uses and values of these lands.

Recognizing the damage that ORVs can inflict on both natural resources, such as water, wildlife and wilderness, and other users of the public land, Presidents Nixon and Carter issued Executive Orders to guide their management by federal agencies, including the Bureau of Land Management (BLM) and Forest Service (FS). These Executive Orders (EO No. 11644 (1972)) as amended by Executive Order No. 11989 (1977)), which are also incorporated into the BLM's regulations (43 C.F.R. § 8342.1), require the agencies to ensure that areas and trails for off-road vehicle use are located:

- to minimize damage to soil, watershed, vegetation, air, or other resources of the public lands, and to prevent impairment of wilderness suitability;
- to minimize harassment of wildlife or significant disruption of wildlife habitats, and especially for protection of endangered or threatened species and their habitats;
- to minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands; and
- outside officially designated wilderness areas or primitive areas and in natural areas only if the agency determines that off-road vehicle use will not adversely affect their natural, aesthetic, scenic, or other values for which such areas are established.

These Executive Orders essentially put the burden of proof on the agencies to make sure that natural resources, including sensitive and lands specifically identified for their conservation values are not harmed by ORV use, while other users can enjoy the scenery and non-motorized recreation opportunities on public lands, and ORV use is only permitted in areas or on routes where these criteria are met.

Although there are some BLM or FS planning efforts that are based on these fundamental principles, the majority are not. My testimony today will address our grave concerns with the ongoing damage to the public lands and the need for action to correct these trends while there is still time.

The key elements of sustainable plans to manage ORVs, as well as the key failures in the travel planning that the BLM and FS are conducting (or not conducting), can be described in three categories:

1. Ecological—The Executive Orders, as well as established management priorities for specific conservation areas or resources, such as wilderness study areas or wildlife habitat, dictate protection from ORVs.
2. Fiscal—The agencies must have sufficient resources to inventory resources and conditions on the public lands, create management plans, enforce decisions, and monitor plans to ensure they are adequately protecting other resources and users.
3. Recreational—Motorized vehicles prevent other users from experiencing the naturalness, solitude and scenery of the public lands. Sustainable plans provide for a variety of users to fully enjoy recreational opportunities on the public lands.

A review of the ways in which the current travel planning initiatives do not address these important considerations highlights the actions needed to fix them.

1. Ecological Sustainability

As set out above, the Executive Orders direct the BLM and FS to manage ORV use by prioritizing protection of natural resources, such as wilderness suitability, soil, water, and wildlife habitat, as well as avoiding conflicts with other recreationists. These priorities are also consistent with the statutes governing the agencies. The Federal Land Policy and Management Act (FLPMA) directs the BLM to manage the public lands "in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values." 43 U.S.C. § 1701(a)(8). FLPMA requires the BLM to accomplish this through management plans, which are based on an inventory of the public lands and their resource and values, "including outdoor recreation and scenic values.". 43 U.S.C. § 1711(a). Similarly, the National Forest Management Act (NFMA) requires that the Forest Service manage the Forests in an ecologically sustainable manner that "protects soil and water resources, streams, streambanks, shorelines, wetlands, fish, wildlife, and the diversity of plant and animal communities." 36 CFR 219.27(a)(4) (implementing 16 U.S.C. § 1604).

Travel planning is an important aspect of achieving these management goals. The regulations of both the BLM and FS that address management of ORVs also incorporate the priorities established by the Executive Orders. See, 43 C.F.R. § 8342.1; 36 C.F.R.§ 212.55(a). Unfortunately, the agencies are proceeding with travel planning in a manner that will not fulfill these mandates.

(a) Maintaining oversized road and motorized trail systems—Both agencies have stated their intent to move away from permitting unmanaged cross-country use. However, the networks that they are designating or simply leaving in place indefinitely are too large and, as a result, will continue to damage natural resources.

BLM's Land Use Planning Handbook. H-1601, Appendix C, Section II.D (Comprehensive Trails and Travel Management) states that the BLM should "[c]omplete a defined travel management network (system of areas, roads and/or trails) during the development of the land use plan, to the extent practical." If designation is not possible, then the BLM is to designate the network within five years. See, Instruction Memorandum (IM) 2004-005. Individual state offices, such as Utah and Colorado, have issued their own guidance to more strongly require designation of a travel management network in resource management plans. See, IM CO-2007-020. However, in many plans, the BLM is continuing to delay designation and, instead, simply labeling multi-million acre planning areas as "limited to existing" roads and trails. Instead of selecting routes and avoiding ecological damage, the resulting travel networks do not actively manage ORVs and do not prevent damage to natural resources or the recreational experiences of other users of the public lands.

Although the FS is proceeding under a mandate to designate routes, the process to date has not included consideration of how to minimize impacts on other natural resources. Instead, the FS has provided opportunities for interested parties to identify additional motorized routes to be added to the travel network without similar opportunities or consideration of the need to protect natural resources.

BLM EXAMPLES

- Yuma, Arizona, Proposed Resource Management Plan (RMP): The proposed plan limits ORV travel to existing routes in "limited" areas based on the existing inventory of routes, deferring designation to a later process even though

these initial routes have not been subjected to analysis of their compliance with applicable legal standards. The Proposed RMP also commits to an interim step of permitting interested parties to designate additional routes, without requiring rigorous assessment and evidence that these routes were in existence legally and proof of why they are needed. Proposed RMP, p. 2-98. The travel planning process set out in the Proposed RMP does not provide for an assessment of whether inventoried routes, as well as any additional routes proposed, were created legally or for interested parties to recommend routes for closure based on a full disclosure of the manner in which these routes impact other values in the planning area, which is likely more important in light of the substantial mileage and acreage already identified for use by ORVs.

- Tri-County RMP revision and amendment in New Mexico: The process began in 2005 to update RMPs that were finalized in 1986 and 1994, governing close to 3 million acres of public land in three counties. Although the draft plan is still in progress, the BLM has confirmed that it will not be designating route systems for the vast majority of the planning area. Similarly, in Colorado, both the Little Snake and Uncompahgre RMP revisions currently in preparation have stated that designation of a travel network will not be included in either of these plans.
- Moab, Monticello, Kanab, Price, Vernal, and Richfield RMPs: The BLM is preparing six plans covering 11 million acres of land including areas with wilderness character and potential wild and scenic rivers. Rather than protecting wild areas and cultural sites, the BLM is proposing to designate more than 15,000 miles of off-road vehicle routes—essentially blanketing southern Utah's canyon country with roads and motorized routes, while declining to acknowledge the potentially irreparable harm to other resources.
- California Desert Conservation Area (CDCA), travel plan for the Western Mojave (WEMO): This bioregion of the CDCA is the most heavily impacted by ORV use. The WEMO includes 4 units of designated critical habitat—Superior-Cronese (766,900 acres), Ord-Rodman (253,200 acres), Fremont-Kramer (518,000 acres), and Pinto Mountains (171,700 acres). WBO AR 14834. Although the WEMO plan also included designation of Desert Wildlife Management Areas ("DWMAs") to manage critical habitat, the DWMAs excluded thousands of acres of designated critical habitat. The BLM's 2003 WEMO Route Designation and the 2006 WEMO Plan amendment authorized an ORV route network including over 5,444 miles of open routes and over 30 miles of "limited" routes within desert tortoise habitat, of these, over 2,230 miles of routes are in designated critical habitat.

FS EXAMPLES

- Plumas National Forest travel plan (California): Currently, the agency manages approximately 4,150 miles of roads and 102 miles of motorized trails.µIts latest proposal adds 375 miles of existing unauthorized routes to the current system of motorized trails.
- Cassia Division on the Minidoka District of Sawtooth National Forest travel plan (Idaho): The district finalized an unmanageable 802-mile route system where the large amount of short "in and out" routes will be impossible to enforce. Additionally, the Idaho Department of Fish and Game and Environmental Protection Agency commented to the agency regarding potential problems managing wildlife habitat and water quality, respectively, with the high density of routes.

(b) Not fulfilling special management requirements—There are certain areas where natural resources and values must be given special consideration in travel planning, including heightened protection from the impacts of off-road vehicles. Agencies have a duty to protect cultural sites, rivers and streams, wildlife migration corridors, and other sensitive lands and should consider designating these areas for walking trails and other lower-impact uses only. Management of wilderness study areas (WSAs), national monuments, wild and scenic rivers, and cultural resources is governed by specific priorities to protect their conservation values. See, e.g., Interim Management Policy (IMP) for Lands Under Wilderness Review (BLM Manual H-8550-1) (requiring that WSAs are managed to protect their suitability for wilderness designation); Antiquities Act of 1906, 16 U.S.C. §§ 431—433 (requiring management to protect objects of interest); Wild and Scenic Rivers Act, 16 U.S.C. δ 1271—1287 (requiring management to protect outstanding river values); National Historic Preservation Act, 16 U.S.C. §§ 470f, 470h (requiring federal agencies to consider effects on historic properties and seek to avoid damage).

Inventoried roadless areas on FS lands are governed by the 2001 Roadless Rule. The Rule acknowledges defines the characteristics of roadless areas as:

(1) High quality or undisturbed soil, water, and air;
(2) Sources of public drinking water;
(3) Diversity of plant and animal communities;
(4) Habitat for threatened, endangered, proposed, candidate, and sensitive species and for those species dependent on large, undisturbed areas of land;
(5) Primitive, semi-primitive non-motorized and semi-primitive motorized classes of dispersed recreation;
(6) Reference landscapes;
(7) Natural appearing landscapes with high scenic quality;
(8) Traditional cultural properties and sacred sites; and
(9) Other locally identified unique characteristics.

36 C.F.R. § 294.11. The recognized ecological values of inventoried roadless areas are the reason that new road construction and road re-construction are prohibited by the Roadless Rule. These values also merit special consideration for protection when planning for management of ORVs. Instead, Forests in the Southwest are proposing travel management plans that will actively open and degrade inventoried roadless areas.

The BLM manages the National Landscape Conservation System (Conservation System), which is comprised of lands created by both presidential and congressional directive, is managed based on a mission of stewardship to: "conserve, protect, and restore these nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations." Wilderness, wilderness study areas, national monuments, national conservation areas, and wild and scenic rivers are all included in the Conservation System. Failure to manage ORVs in these areas, where not only the Executive Orders but also additional authorities direct the BLM and FS to prioritize conservation and/or highlight their ecological values, is especially indicative of the problems in the agencies' travel planning processes.

EXAMPLES

- Utah RMPs.—These six plans govern more than 5 million acres of proposed Wilderness, including 1.8 million acres of WSAs. The plans propose to designate motorized vehicle routes throughout the WSAs and 92% of lands outside WSAs that the BLM has recognized as having wilderness characteristics.
- Grand Canyon-Parashant National Monument and Vermillion Cliffs National Monument RMPs, Arizona.—The proposed plan for each of these monuments designates two-tracks and barely noticeable routes for vehicle use even though the Monument Proclamations prohibit "all motorized and mechanized vehicle use off-road." In this case, the BLM is expanding the definition of a road to accommodate more off-road vehicle use in the monuments rather than protecting the natural and cultural resources for which these national monuments were created.
- Steens Mountain Cooperative Management Area Comprehensive Travel Plan, Oregon.—The BLM's travel plan designates so-called "obscure routes" in Wilderness Study Areas as available for motorized vehicles, even though nobody, not even the BLM, can find these routes on the ground. Off-roaders will be sent out to search for them, inevitably damaging wilderness qualities. In addition, the Steens Act prohibits use of motorized vehicles "off road," which is also bound to occur in light of this designation. The Interior Board of Land Appeals has recently stayed the implementation of this plan because of the blatant disregard for protection of wilderness qualities in sending motorized vehicles out to search for obscure routes in areas that the BLM is supposed to be protecting for their wilderness suitability.
- Upper Missouri River Breaks National Monument RMP, Montana.—espite a detailed analysis and substantial scientific literature documenting the risks to sensitive wildlife highlighted in the Monument Proclamation from the high road density in the Monument, and numerous recommendations to reduce the road network from biologists and the State of Montana, the BLM has chosen to increase the miles of road for motorized use between the draft and proposed plans. The designated road network is likely to damage wildlife habitat, as well as the remote character and cultural resources that led to the designation of the Monument.
- Western Oregon RMP Revisions—This revision addresses more than 2.5 million acres of public lands in six RMPs for the Eugene, Roseburg, Medford, and Coos

Bay Districts and the Klamath Falls Resource Area of the Lakeview District. In addressing travel management for designated conservation areas, including areas of critical environmental concern (ACECs), WSAs and wild and scenic rivers, the Draft RMPs propose less protection in all management alternatives—reducing or even eliminating closures to ORVs for these areas, which include the Elk Creek ACEC in the Salem District, the Camas Swale ACEC/Research Natural Area A in the Roseburg District, and the Rogue Wild and Scenic River Corridor and the Soda Mountain WSA in the Medford District.

- Apache-Sitgreaves National Forest, Arizona.—This Forest is proposing to open roads in inventoried roadless areas that are currently identified as closed (maintenance level 1) in the transportation inventory. Instead of protecting the ecological values of these roadless areas, the Forest is actively increasing their use—arguably violating the Roadless Rule's prohibition on road reconstruction and certainly promoting damage of acknowledged natural resources.

2. Fiscal Sustainability

The BLM and Forest Service are designating road and trail systems that are fiscally unrealistic based on available and projected funding for construction, maintenance, monitoring, and enforcement. Roads and trails are expensive to construct and maintain whether they are asphalt, gravel, or dirt. There are substantial costs to construct and maintain culverts, bridges and other structures to prevent erosion and ensure visitor safety. The Taxpayers for Common Sense estimates the Forest Service, in particular, currently has a $10 billion road maintenance backlog (http://www.taxpayer.net/forest/roadless/index.htm).

Even where minimal construction or maintenance is required (as is the case for some routes on BLM lands), more routes require more enforcement to ensure compliance with travel plans and also require more monitoring to ensure that they are not causing unacceptable damage to natural resources.

The FS regulations specifically require that, as part of designating routes and areas for motor vehicle use, the agency consider "the availability of resources for that maintenance and administration." 36 C.F.R. § 212.55(a). Unfortunately, the agencies rarely, if ever, include an assessment of funding and resources required to implement proposed travel plans. As a result, travel planning decisions are not based on the practical realities associated with the designations. In many of the following examples, the agencies acknowledge that a lack of funding is foreseeable, yet do not adjust their travel plans, effectively abandoning their obligation to protect the public lands.

EXAMPLES

- The Cibola National Forest, New Mexico, includes the Sandia Mountains, a popular place to visit just east of Albuquerque. The travel analysis prepared included the following statement: "But based on road maintenance funding received over the previous five years the Cibola N.F. can afford to fully maintain only about 31% of the existing system."
- The Apache-Sitgreaves National Forest, Arizona reached a similar conclusion. Their assessment concluded that the Forest can only afford 33% of its road system.
- The Lincoln National Forest, New Mexico, presented a more distressing picture of road maintenance funding, stating that the forest receives about $500,000 for road maintenance and construction, but needs about $5.7 million to maintain its 2337-mile road system. The Forest reported that, "The Forest budget can only support 9% of the road system."
- The Black Hills National Forest, South Dakota, actually references its obligation to designate a minimum road system that is:

> needed for safe and efficient travel and for administration, utilization, and protection of NFS land . . . strikes a balance between the benefits of public access to NFS lands and the costs of road-associated effects on ecosystem values, taking into account public safety, affordability, and management efficiency.

The Forest's analysis concluded that "annual road maintenance funding is approximately 25 percent of what is needed based on [its known road system according to its database]." Nonetheless, the report recommends maintaining all roads, such that, despite only having ¼ of the necessary funding to maintain the existing road network, most routes will remain open for public and private use. Not surprisingly, the Forest also concludes that, "without new resources, the long term condition of NFS roads is expected to deteriorate."

- The Upper Missouri River Breaks National Monument RMP, Montana, received repeated comments, including those of the federal district court in the Montana Wilderness Association v. Fry case, that emphasized the need for the BLM to assess the costs of its management approach. However, the plan does not analyze and compare the costs of mitigating the potential damage to the Monument objects from management decisions, such as keeping a high density of roads open in the vast acreage of the Monument, or take into account whether sufficient funding will be available to cover those costs. It seems unlikely that the BLM will be able to meet its obligations to protect the Monument from the foreseeable damage from ORVs.

3. Recreation sustainability

The Executive Orders require the BLM and FS to ensure that conflicts with other recreationists, not using ORVs, are avoided. The BLM's Land Use Planning Handbook also specifically directs the agency to consider designation of special recreation management areas to provide a primitive recreation experience. H-1601-1, Appendix C, Section II.C. The majority of Americans who visit National Forests and BLM lands do so to experience wild lands and natural scenery, view wildlife, hike, hunt, or fish. The Outdoor Industry Association studied "active outdoor recreation," which was defined as only non-motorized activities: bicycling, camping, fishing, hunting, paddling, snow sports, wildlife viewing, trail-running, hiking, and climbing. The report found that active outdoor recreation contributes an estimated $730 billion to the US economy (Outdoor Industry Association, http://www.outdoorindustry.org/research.new.php?action=detail&research_id=26). According to the U.S. Fish & Wildlife Service, in 2006 Americans spent $76.7 billion on wildlife-related recreation. (USFWS 2006, National Survey of Hunting, Fishing and Wildlife-associated Recreation—http://www.census.gov/prod/2008pubs/fhw06-nat.pdf). Contending with dust, pollution and noise from off-road vehicles disrupts these experiences.

Unfortunately, the travel planning efforts to date do not provide sufficient opportunities and areas for quiet, non-motorized recreation experiences.

EXAMPLES

- Utah RMPs.—Despite the acknowledged opportunities for primitive recreation and solitude in the nearly 3 million acres with wilderness characteristics outside existing WSAs, the RMPs do not include protection for these experiences, either through designation of special recreation management areas or management prescriptions. The Draft Monticello RMP would designate more than 500,000 acres as special recreation management areas, but only eight percent of this acreage (43,507 acres) is proposed for backcountry use—ORV use is identified as a primary activity in all other special recreation management areas. Although the Draft Moab RMP identifies about 25% of their special recreation management areas as having a non-motorized focus, none of them incorporate areas that are actually exclusively non-motorized. These RMPs also do not take the opportunity to close motorized ways in the 1.8 million acres of WSAs, which would not only improve wilderness values but also heighten the quiet recreation experience.
- Bangs Canyon Travel Management Plan, Colorado—The BLM agreed with Colorado citizens that large portions of this area had wilderness characteristics. However, the travel management plan designated a motorized trail through this area.
- Western Oregon RMP Revisions.—The recreation section of these RMPs focuses on proposals to designate new ORV emphasis areas, but fails to even consider comparable designations for traditional, non-motorized recreational uses, such as hunting, angling, hiking, horseback riding, or bird watching. For example, for the 865,800 acres managed by the Medford District, the RMP proposes 13 ORV Emphasis Areas, comprising 100,751 acres. While there are 3 proposed special recreation management areas, only one, for the Pacific Crest National Scenic Trail, and a portion of another, the Rogue National Wild and Scenic River where it is managed for its "wild" values, is really focused on providing primitive recreation opportunities—for a total of less than 15,000 acres.
- Apache-Sitgreaves National Forest.—The proposed management for the inventoried roadless areas in this Forest would open roads currently designated as closed, removing opportunities for primitive recreation, such as enjoyment of wildlife, that will no longer be available with increased motorized use.

Legal challenges.—The glaring inconsistencies of the travel plans issued to date with the mandates of the Executive Orders, other applicable laws, and agency guidance, as well as responsible management of our public lands, has led to formal legal

challenges. The travel plan for the Steens Mountain Cooperative Management Area has been appealed twice: first because the BLM failed to complete a comprehensive travel management plan altogether and then again because the plan tried to designate "obscure routes" that plainly violated the agency's obligation to protect the values identified in the Steens Act. The travel plans for the California Desert Conservation Area have also been subject to a number of challenges: the BLM has been directed by courts to close portions of the Algodones Dunes to ORVs to protect threatened and endangered plans and a current lawsuit challenges plans for other bioregions, including the WEMO, based on designations made without any reference to or use of the regulatory requirements, as well as ongoing failures to protect critical habitat. Unless firm and comprehensive corrections are implemented in the travel planning underway, there are likely to be more such challenges.

Status.—The FS is in the process of creating travel plans system-wide, with 108 currently underway. Of these, the majority are in the earliest stages of scoping or have not yet released a draft environmental document. The BLM is not subject to a specific rule requiring completion of travel plans, but is in the process of revising all of its governing land use plans, which inevitably addresses travel management decisions, and estimates 50 of these are currently in revision. (See, BLM Land Use Planning webpage: http://www.blm.gov/wo/st/en/prog/planning.1.html). The agency does not track completion of all travel planning efforts, especially where those plans are included in RMPs, although it highlights completion of nine. (See, BLM webpage showing completed travel plans: http://www.blm.gov/wo/st/en/prog/Recreation/recreation__national/travel__management/travel__mgt__planning.html). The Wilderness Society performed its own informal survey in 2006, which indicated that approximately 80 comprehensive travel management plans have been completed or are close to completion. However, other than plans for units of the Conservation System, most of these travel plans are for small portions of different planning areas, such as individual areas of critical environmental concern or special recreation management areas. As a result, while many travel management plans have been completed, many more are still needed to address the vast acreage managed by the BLM.

Based on the agencies' respective commitments to completing travel planning and the magnitude of acreage at issue, it is critical that these efforts be conducted correctly. Because the agencies have not completed plans for most of the lands they manage, there is still an opportunity for them to comply with direction to manage ORVs in a sustainable manner. The agencies should be directed to ensure that:

- Travel plans must prioritize protection of the ecological values of our public lands, including wildlife habitat, wilderness values, soil, and water, as well as historic and cultural resources. Use of ORVs cannot compromise these irreplaceable resources. Units of the BLM's Conservation System, cultural resources and other places with recognized conservation values should receive special consideration for management that will fulfill the purposes for which they have been identified.
- Travel networks should be defined by the agencies' available budgets for construction, maintenance, monitoring and enforcement.
- Natural quiet and beauty of the public lands are without question what most people seek when visiting public lands. Interior Secretary Kempthorne and Forest Service Chiefs have acknowledged impacts to visitor experiences from motorized off-road vehicle use. The agencies cannot overlook the importance of providing visitor experiences that are not compromised by destroyed scenic views and noisy interruption, which scares away wildlife.

The Wilderness Society and our partners appreciate the interest of the Committee in addressing the management of ORVs on public lands. Responsible management of ORVs is crucial to the health of our public lands and on our opportunities to enjoy them. We hope that the BLM and FS will embrace their responsibilities as stewards of these lands and use travel planning as a way to protect them. Thank you.

This testimony is submitted on behalf of The Wilderness Society and the following: Colorado Mountain Club, Center for Biological Diversity, American Hiking Society, Wild Connections, Central Colorado Wilderness Coalition, Idaho Conservation League, San Juan Citizens Alliance, Wildlands CPR, High Country Citizens' Alliance, Wilderness Workshop and Winter Wildlands Alliance.

The CHAIRMAN. Thank you very much.

Mr. Powell, go right ahead.

STATEMENT OF BRADLEY POWELL, WESTERN ENERGY AND ORV COORDINATOR, TROUT UNLIMITED, PAYSON, AZ

Mr. POWELL. Good morning, Mr. Chairman and members of the committee. I appreciate the opportunity to appear before you today and provide the views of Trout Unlimited and many other sportsmen and women that depend on public lands. I've provided a written testimony and will briefly summarize my remarks, followed by my recommendations.

My name is Brad Powell. I live in Payson, Arizona. I work for Trout Unlimited, a national organization with nearly 150,000 members, dedicated to the conservation, protection, and restoration of North America's cold water fisheries and their watersheds. I also am a retired manager with the U.S. Forest Service, serving as a regional forester, forest supervisor, district ranger, national monument manager. In addition, I serve on the board of directors for the Arizona Wildlife Federation. I'm an avid sportsman, enjoying the rivers, trails, and public lands of the West. I'm intimately familiar with the use of off-highway vehicles on public lands as a recreational user and as an agency administrator for many years.

My purpose today is to convey to you the critical need to implement and develop these travel management plans on Federal public lands. I'm not here to speak to you in opposition to the use of OHVs on public lands, but to ensure that their use is compatible with the land's capability, in particular fish and wildlife habitats.

I began my work on public lands 40 years ago on the Tonto National Forest in Arizona. In my estimation, no use during that period of time has had the potential to cause the level and scale of long-term damage that unregulated OHV use has. Beginning in the 1980s and continuing until today, OHV use levels have exploded on public lands and with it the damage.

While many ride responsibly, a growing number of irresponsible users are causing severe impacts by traveling off roads and trails, creating unauthorized routes. Unmanaged OHV use is destroying wetlands, impacting wildlife habitats, causing soil erosion, damaging important cultural resource sites, and spreading noxious weeds.

I personally have observed many examples of damage by OHVs. In New Mexico on the Santa Fe National Forest, I vividly remember deep ruts and bog holes in prime elk habitat. On the Tonto National Forest in Arizona, there are areas that look like heavy equipment has cut deep incisions in the land. I've provided you some pictures to the committee that you can see some of that use in Arizona.

I've witnessed OHVs chasing elk and deer in Montana. I've encountered OHVs in closed areas, including federally designated wildernesses. While working in Kentucky, Arizona, and New Mexico, I saw significant damage to some of the national forests' most sensitive riparian areas, damaging watersheds and valuable fisheries. These are some of my examples, but as I talk to other users of the public lands almost everyone has similar OHV horror stories to tell of their own.

The budgets of the agencies responsible for the management of our public lands continue to tighten. More and more, the budgets are spent on wildfire suppression and oil and gas development and

other needs; less and less is spent on protection of fish and wildlife habitat and managing the recreational opportunities.

I firmly believe that our public land natural resources—soils, watersheds, fish and wildlife habitat—cannot sustain the damage of unmanaged OHVs that is occurring today. In summary, I have great hope that the new travel management plans on the U. S. Forest Service lands will lay the foundation for greatly reduced natural resource damage from unregulated OHV uses. But these plans must be implemented effectively, not just be a plan.

Looking ahead, I offer the following recommendations for your committee's consideration: No. 1, public cross-country OHV travel should be prohibited on all national forests and other Federal public lands, except for special OHV management areas.

No. 2, a visible license plate or other form of identification should be used to identify every rider on public lands.

No. 3, the United States Forest Service needs to develop an accurate cost estimate that it will take to implement travel management plans on their lands and have some plans to implement that.

No. 4, a Federal funding mechanism should be implemented to fund increased law enforcement, user education, signage, and rehabilitation of damaged areas.

No. 5, a standardized motor vehicle use map should be developed for each national forest in a consistent manner that provides adequate detail to inform the user of the open areas and serves as the legal notification for enforcement purposes.

Finally, the Bureau of Land Management has no consistent national approach to travel management planning. They should adopt a similar approach as the U.S. Forest Service.

Mr. Chairman and members of the committee, I sincerely thank you for this opportunity to talk with you today on this increasingly critical public land management issue which, left unmanaged, will continue to severely impact Federal public lands in this country. I would be happy to answer any questions.

[The prepared statement of Mr. Powell follows:]

PREPARED STATEMENT OF BRADLEY POWELL, WESTERN ENERGY AND ORV COORDINATOR, TROUT UNLIMITED, PAYSON, AZ

Mr. Chairman, members of the Committee, I appreciate the opportunity to appear before you today and provide the views of Trout Unlimited and many other sportsmen/women concerned about the appropriate uses of public lands.

My name is Brad Powell. I live in Payson, Arizona, which is located in the north-central portion of the state, within the Tonto National Forest. I work for Trout Unlimited, a national organization with nearly 150,000 members dedicated to the conservation, protection and restoration of North America's coldwater fisheries and their watersheds. I also am a retired manager with the U.S. Forest Service, serving as a Regional Forester in two Regions, a Forest Supervisor, a National Monument Manager and a District Ranger. In addition, I serve on the Board of Directors for the Arizona Wildlife Federation. I am an avid sportsman enjoying the rivers, trails and public lands of the West. I am intimately familiar with the use of Off Highway Vehicles (OHV's) on public lands both as a recreational user and as an agency administrator for many years.

I appreciate the privilege to speak to you. My purpose today is to convey to you the critical need to develop and implement travel management plans on our federal public lands. I am not here to speak in opposition to the use of OHV's on public lands, but to ensure that their use is compatible with the land's capability (particularly fish and wildlife habitats) and the needs of sportsmen/women, recreational users and others who rely on America's public lands for their enjoyment.

I began my work on public lands 40 years ago, on the Tonto National Forest in Arizona. Since that time there have been numerous issues (including timber sales, grazing and endangered species) concerning the appropriate uses of our public lands. In my estimation none of those issues has had the potential to cause the level and scale of long term damage that unregulated OHV use has. Agency employees at the time I started my work with the U.S. Forest Service, and for many years thereafter, were proud that our lands were open for recreational use. Hunters, fishermen, campers, firewood cutters and other users could drive where they wanted, mainly with 4-wheel-drive trucks. The use of OHV's was minimal, mainly for administrative use. We sincerely believed that the relatively low amounts of use would cause little damage and were compatible with the natural resources we were charged with managing. To the contrary, beginning in the 1980s and continuing until today, OHV use levels on National Forests have exploded and with it the damage.

The number of off-highway vehicle (OHV) users in the U.S. has climbed tenfold in the past 32 years, from approximately 5 million in 1972 to over 51 million in 2004. The Forest Service manages more than 300,000 miles of roads and 35,000 miles of trails for motor vehicle use. More than 11 million people using OHV's visited National Forests and Grasslands in 2004. In Arizona, the number of registered OHV's has grown from approximately 51,000 in 1998, to 230,000 in 2006. It is estimated there are now more than 350,000 OHV's in the state, and that number continues to grow at a tremendous rate. There are similar growth rates occurring across much of the country.

While many ride responsibly, a growing number of irresponsible users are causing severe impacts by traveling off roads and trails, creating unauthorized routes. Unmanaged OHV use is destroying wetlands, severely impacting wildlife habitats, causing soil erosion, damaging important cultural resources and spreading noxious weeds. Former Chief of the U.S. Forest Service Dale Bosworth speaking at the All Terrain Vehicle (ATV) industry expo in Louisville Kentucky on October 14, 2004 had this to say concerning OHV damage:

> You don't have to go far to see it. I could show you slide after slide—tire tracks running through wetlands; riparian areas churned into mud; banks collapsed and bleeding into streams; ruts in trails so deep you can literally fall in; and sensitive meadows turned into dustbowls. Water quality deteriorates, soil erodes, and native plant communities decline, partly because invasive weeds are spread by tires going where they shouldn't be going.

I have observed numerous examples of damaging uses by OHV's. In New Mexico, on the Santa Fe National Forest, I vividly remember the deep ruts and bog holes created in prime elk habitat. On the Tonto National Forest in Arizona there are areas that look like heavy equipment has cut deep incisions into the land. On a typical weekend day in the spring there is a dust cloud over the area that can be seen for miles. When you enter the site there is an amazing array of OHV's tearing up the hills and denuding the landscape of its desert vegetation. There are hills with cuts in them up to 10 feet deep that have been caused by the destructive riding. I have witnessed OHV's chasing elk and deer in Montana. I have encountered OHV's in closed sensitive areas, including federally designated Wilderness areas. While working in Kentucky, Arizona and New Mexico, I saw significant damage to some of the National Forests' most sensitive riparian areas, damaging valuable watersheds and important fisheries. These are some of my first-hand examples, as I talk to sportsmen/women and other recreational users of Federal public lands, almost everyone have similar "OHV horror stories" of their own.

Another major concern is that the budgets of the agencies responsible for the management of our public lands continue to tighten. More and more of the budget are being allocated to suppress wildfires or manage oil and gas development at the expense of fish and wildlife habitats and hunting and angling opportunities.

These concerns and others from across the country led to the development of a Travel Management Planning Rule for the Forest Service, finalized in November of 2005. The rule requires each National Forest to designate roads, trails and areas that are open for motorized use including decisions on where OHV use may occur. Each National Forest is required to publish a Motor Vehicle Use Map (MVUM) indicating those decisions. After the MVUM is published, any use of OHV's on routes or areas not identified on the map will be illegal. While there was no deadline for Forests to publish an MVUM in the rule, the Forest Service Chief directed each National Forest to complete their work on travel management by September, 2009. Virtually all of the National Forests are currently engaged in the development of these Travel Management Plans.

I firmly believe that our public land natural resources (soils, vegetation, watersheds, and fish/wildlife habitats) cannot sustain the damage of unmanaged OHV use that is occurring today. It is my hope that the results of this process will be a well thought out, sustainable, managed system of roads, trails and areas that are approved for motorized and non-motorized uses including OHV's. This system should be balanced with the needs of other recreation users and within the capacity of the ecosystem. The identification and designation of the open roads, trails and areas is only the first step in developing a sustainable system. In the long-term, a significant increase in education, enforcement and rehabilitation of damaged areas is essential for the success of the Travel Management plans.

In summary, I have great hope that the new Travel Management plans on U.S. Forest Service lands will lay the foundation for greatly reduced natural resource damage from unregulated OHV uses. My primary concerns are based on the diminished agencies' budgets, lack of personnel and commitment of the agencies to adequately implement these plans. The increased levels of enforcement, education and rehabilitation that will be needed are significant. I don't believe that the agencies are prepared for this implementation workload.

Looking ahead, TU offers the following recommendations for your consideration:

1. Public cross-country OHV travel should be prohibited on all National Forests and other federal public lands except for special OHV management areas and for special needs. In the future, all illegally created user trails should be closed to any public use.
2. A visible license plate that can be used to identify the rider needs to be mandatory for all OHV's used on public lands. These visible license plates would greatly help in reporting and deterring illegal activities, as illegal riders are now essentially invisible. This may prove to be the single most effective deterrent to illegal activities.
3. The US Forest Service should develop an estimate of total of total the costs to implement their Travel Management plans, including necessary monitoring. The agencies need to develop a funding strategy (including the use of partners) to implement these plans.
4. A federal funding mechanism should be implemented to fund increased law enforcement, user education, signage and rehabilitation of damaged areas.
5. A standardized motor vehicle use map should be developed by each National Forest in a consistent manner that provides adequate detail to inform the user of the National Forest as to what areas, roads and trails are open and closed. This map should be developed in a way that insures that it is the legal notification of open and closed routes.
6. Finally, the Bureau of Land Management has no consistent national approach to travel management planning. They should adopt a similar process as the U.S. Forest Service to ensure that these public lands have well thought-out-plans balancing protection of their ecosystems with recreational uses.

Mr. Chairman and members of the Committee, I sincerely thank you for this opportunity to talk with you today on this increasingly critical public land management issue, which, left unmanaged, will continue to severely impact our National Forest and other federal public lands in this country.

The CHAIRMAN. Thank you very much.

Mr. Adams, you're our final witness. Go right ahead.

STATEMENT OF FRANK ADAMS, EXECUTIVE DIRECTOR, NEVADA SHERIFFS' & CHIEFS' ASSOCIATION, MESQUITE, NV

Mr. ADAMS. Thank you, Mr. Chairman and members of the committee. Thank you for extending the invitation for me to address you here today.

Besides my professional experience, I'm also a native Nevadan. I grew up hunting and fishing and enjoying my great outdoors there in Nevada, and I've owned and operated off-highway vehicles all of my life. It is my privilege to testify to you today about the increased burden on local law enforcement that a growing minority of reckless off- highway vehicle riders and the need for effective management of these riders. We're seeing a tremendous impact in local issues.

Approximately 96,000 of the 110,000 square miles of Nevada is held in trust by the Federal Government. BLM is responsible for over 48 million square acres and they police that with just 28 uniformed officers and 5 special agents. The other Federal agencies in Nevada have similar jurisdictions and similar staffing problems. As you could imagine, this makes any kind of public lands law enforcement challenging, but particularly when given OHV technology today, their ability to cover vastnesses and remote areas over very short periods of time. It's tough to chase them.

My fellow officers in the western States are facing similar type of problems. 14 of our 17 counties are considered rural. We have counties with 10 to 19,000 square miles of territory and very sparse populations. Many of those agencies only have between 15 and 60 officers to cover the entire area. Besides providing law enforcement services to these public lands, the sheriff is also required by law to conduct search and rescue missions throughout these counties. Search and rescue missions and the search and rescue responsibilities is commonly the duty of local sheriffs throughout the West, so we all experience these same issues. That request for search and rescue missions are going up every year. We see more and more requests for those assistance.

In my conversations with the counterparts in the other western States, I find that the issues of large jurisdictions and small agencies prevail throughout our region. It's not an individual problem to Nevada. With such large land masses and so few law enforcement officers, it doesn't take a large group of individuals disobeying the law to cause us a problem.

One of the things I think that really contributes to the reckless behavior is the feeling of anonymity that these riders have. There is no way of identifying the riders or the vehicles that they have under the current systems we have today. We have seen our pristine areas disturbed by off-highway vehicle riders for the thrill of an exciting ride. We have seen them use their off-highway vehicles to chase elk and deer through the trees in hopes that they knock their antlers off, to be collected and sold. We have seen water in streams and in ponds diverted into meadows and lowlands to run their vehicles through as mud bogs for the weekend.

How do we solve these problems? How do we approach solving these problems? Joint cooperation in the enforcement of Federal regulations I think is a key to that, at the local level and the State and the Federal level. It'll take a joint effort to do this. This issue has been on my association's agenda and the Association of Western Sheriffs for a number of years, and it's got to be a joint effort. A good example is Colorado that was spoken about earlier. They passed a law making Federal regulations of closed roads a State issue.

Some specific issues that I would like to talk about with regards to possibly mitigating the circumstances and the problems out there is that, one, we could expand the cooperation between local and Federal law enforcement. That has to be done. There needs to be a continual training and additional resources provided to local law enforcement officers.

We also need to take a look at the education of the public to the seriousness of the problem and the consequences of their reckless

behavior. As mentioned earlier, I think we need to have a standard identification and licensing and tagging of vehicles. There's not a way to do that. Many of the people that come into Nevada and to the other States come in as out-of-State residents to recreate and there's no way to identify those vehicles.

The other issue that was brought up by one of my sheriffs is to encourage or even require basic safety equipment on these off-highway vehicles, methods of locating and identifying those people in need of help when we have to respond with our search and rescue units.

Attempts have been made in Nevada to regulate off- highway vehicles in the past, but the one thing that's always been missing is that the law enforcement component has not been included. It's got to be part of the problem's solution. I fear that that may be the situation when we talk about Federal regulations, but I am encouraged by what I've heard here this morning, that there will be a law enforcement component.

I'd like to applaud the committee for its leadership in looking into the issues of grave importance to us on public lands and realizing that that's a heritage that we need to preserve for all Americans to use and to enjoy. We don't want to see a small minority of people ruin it for all of us. So by focusing on enforcement and education we can solve this problem. But it's not just a Federal problem, it's not just a State problem, it's not just a local problem; it's all of our problems to solve. If we don't do something about it now, the problem is just going to continue to increase and we're going to see much more damage to our lands and more people injured and perhaps a situation where we can't afford to correct it.

Thank you, sir.

[The prepared statement of Mr. Adams follows:]

PREPARED STATEMENT OF FRANK ADAMS, EXECUTIVE DIRECTOR, NEVADA SHERIFF'S & CHIEFS' ASSOCIATION, MESQUITE, NV

Good morning Mr. Chairman and Members of the Committee. Thank you for extending the invitation to me to address the committee today.

My name is Frank Adams, the Executive Director of the Nevada Sheriffs' and Chiefs' Association. Through this association, I represent the 17 elected Sheriffs, 13 municipal Police Chiefs and most other local, state and federal law enforcement chief executives officers in Nevada. I am a 38 year veteran of Nevada law enforcement, having worked at the local, state and federal level. Besides my professional experience, I am also a native Nevadan who grew up hunting, fishing and just enjoying the great outdoors of our State. I have owned and used a number of off highway vehicles (OHV) for all of my adult life. My wife and I enjoy using our four wheel drive truck and our ATV to travel the back roads of Nevada. So I speak to you today as a representative of local law enforcement from Nevada and as a long time user of our public lands.

On behalf of the Nevada's Sheriffs and Police Chiefs, it is my privilege to testify before you today about the growing burden on local law enforcement caused by a growing minority of reckless OHV riders and the need for effective management.

When Nevada was admitted to the Union in 1864, one of the prerequisites for State Hood was all non-deeded land was to become property of the federal government. Today that situation still remains with approximately 87% of the land in our State being held in trust by the Federal Government. That is 87% of 110,540 square miles or about 96,000 square miles. As you know, the Bureau of Land Management, U.S. Forest Service and the National Park Service are charged with protecting and managing this land for the good of all Americans. This is a vast amount of land to try to protect and manage. BLM is responsible for 48,000,000 square acres and they police that land with just 28 uniformed officers and 5 special agents. Of those 28 uniformed officers, 16 are assigned to Southern Nevada. The Ely District which

is in Northeast Nevada has two officers patrolling 6,000,000 acres of land. The U.S. Forest Service and National Park Service have even few officers. As you can imagine this makes any kind of public lands law enforcement challenging, but particularly with OHVs given the technology that allows users to cover vast distances in remote areas over a short period of time. My fellow officers in other Western states face a similar dynamic.

Fourteen of our 17 counties are considered rural counties and they make up a greater portion of the State. Our local law enforcement agencies outside the urban areas have similar staffing problems as the federal agencies for the area they have jurisdiction over. A good example of this is Elko County located in the northeastern part of our State. Elko County is one of the more populated of our rural counties but it has 17,000 square miles of land. The Sheriffs' Office has just 55 officers available to provide for law enforcement services outside the city limits of three incorporated cities in the county. This number also includes officers required to run the county jail. Another example of our rural counties is Lincoln County with a population of approximately 4,500 people and 10,637 square miles of land. The Sheriff's Office which is the only local law enforcement in the county has just 15 officers which also include officers to run the county jail.

Besides providing law enforcement services throughout their county, the Sheriffs are also required by Nevada law to be responsible for any Search and Rescue calls within their jurisdictions. In Northern Nevada, there are three or four Search and Rescue missions per month dealing with OHVs. In 2007 in Clark County where Las Vegas is located the Sheriffs' Search and Rescue teams responded to 98 missions involving OHVs. So far this year they have responded to 24 Search and Rescue missions. Although Clark County (i.e. Las Vegas) is considered an urban county, there is still a total of 8,091 square miles of land in the county. Search and Rescue responsibility is commonly the duty of the local Sheriffs thorough out the west. In my conversations with my counter parts in the other western states, I find that the issues of large jurisdictions and small agencies prevail through out our region.

With such great land masses and so few enforcement officers, it does not take a large group of individuals disobeying federal and local laws to cause a problem. We have determined that a small number of individuals riding OHVs that use our outdoors for recreation are causing the problems. They are reckless in the operation of their vehicles; they disregard instructions to stay off of sensitive lands and are destructive to the facilities that are provided for their use. This is evident by the increase in the number of injuries that are being reported and the increase in the number of search and rescue mission that occur. We see blatant disregard for areas that are posted as "do not travel" as they have been designated sensitive areas. Part of the problem that encourages this reckless behavior stems from the feeling of anonymity that many of the OHV riders have because there is no way of identifying them or their vehicles. Most States do not require a license plate for such vehicles. Those States that do require tagging, the tags are not large enough to be seen with out being in almost on top of the vehicle. If you are able to determine that there is a tag on the OHV, determining the tag number is almost impossible.

When I was an activity duty officer, I have worked a number of cases where irresponsible individuals have disturbed streams and springs to plant marijuana gardens. (Yes, marijuana will grow in the desert with enough water). Or have dumped by-products of drug labs in our deserts, on our watersheds and in our lakes. We have seen pristine areas disturbed by OHV riders for the thrill of an exciting ride. Elk and deer horn hunters have used their OHVs to chase the animals through the trees in hopes of knocking their antlers off so they could be collect for sale. Our Division of Wildlife has confiscated a number of OHVs that have been used in poaching operations and harassing of animals. We have even seen incidents where individuals have used dynamite to blow up restrooms built by the Forrest Service. The reason that they gave for committing such an act was they thought it would be fun and they didn't think they would get caught.

Wyoming officers have reported to me that they have had OHV riders taking to the high ridges off the marked trails to harass and chase the Elk herds. This has caused them to leave their natural habitats and disturbed the herd's normal activities. Colorado has reported that they have had problems with OHV riders diverting water into meadows and low areas to make a mud bog to ride their vehicles through. This does irreparable damage to some of these very sensitive lands.

The topic of joint cooperation in the enforcement of federal regulations on public lands has been on the working agenda of my association and that of the Western States Sheriffs' Association for a number of years. In order to try to get a handle on these problems, it will take a joint effort by all of the law enforcement resources available. In Colorado, they just passed a State law the makes the violation of federal road closure rules a State violation. The adoption of federal regulations as State

law is an approach that will help the problem, but it always comes down to a matter of resources. Speaking for Nevada, many of the local and state agencies are working on or have memorandums of agreement between themselves and the federal agencies such as BLM, US. Forest Service and National Park Service. More work needs to be done in this area to insure all our resources can be applied to the successful management of OHV on public lands. As you conduct oversight over Federal Agency plans for managing OHV use on public lands, I would encourage you to ensure there is a law enforcement component in that planning process. Specific actions that can help mitigate this problem before it spins out of control include:

1. Continued and expanded cooperation between federal and local law enforcement
2. Training for local officials and law enforcement officers on the joint protection of our public lands
3. Resources for our law enforcement agencies to complete their mission on public lands
4. Education of the public regarding the seriousness of the problem and the consequence of such reckless behavior
5. Consideration of some type of identification system for those OHV that are not licensed highway vehicles.
6. Federal incentives to States to implement plating of the vehicles and perhaps inclusion of points against drivers licenses for reckless operation of OHVs
7. Encourage the use of basic safety equipment such as signaling devices, ground location panels, and with new technologies. i.e. GPS locators

The Nevada Legislature considered a law last session regarding the licensing and titling of OHV. The big problem that we saw with this bill was that it left out a law enforcement component. The funds that were to be raised by this system would have gone to developing trails which is a admirable thing, but no consideration was given to providing resources to the law enforcement agencies that have to enforce this new law. I fear that there will be a similar absence of enforcement components in the BLM and Forest Service travel planning. If this bill is presented again in the legislature, we will be there again trying to make sure that law enforcement has the resources to provide the enforcement required to protect our public lands and the safety services that our OHV users need while using those lands.

Thank you again for the opportunity of addressing this committee and allowing me to share with you some of the issues that are facing us in the Western States. I would like to applaud the committee's leadership in looking into this issue of grave importance. Public lands are a heritage that we need to preserve for all Americans to use and enjoy. We do not want to see a small minority of irresponsible individuals ruin that for those of us that love the outdoors and all that benefits it provides. By focusing on enforcement and education we can solve this problem and improve the quality recreation for everyone, but if we continue to operate as we are now, the problems we are experiencing will only increase.

The CHAIRMAN. Thank you. Thank you all for your good testimony.

Let me ask a couple of questions about this issue of licensing and having some standard identification on these vehicles. I think, Mr. Adams, you were referring to the problem of anonymity, where people are going into the public lands and doing damage and violating rules of various kinds, but it's impossible to tell who they are in any reasonable way without catching up to them.

What is the status on this? Are there some States that are requiring license plates on these off-highway vehicles and others that are not? Is that the current status? Is there any thought about having a uniform rule for if you're going on the national forest land or you're going on the BLM land you've got to have identification of the following kind? Any kind of rule like that being contemplated anywhere?

Let me ask Mr. Adams first, then Mr. Powell and anybody else who wants to comment.

Mr. ADAMS. Mr. Chairman, thank you very much. It's a State by State situation. It's my understanding that Wyoming has a licens-

ing law where they actually put license plates on them similar to a motorcycle license plate. In Nevada we have absolutely nothing. I have an ATV that's registered in Utah—I have a little tiny sticker that goes on the back of it, and I almost need a magnifying glass to read the number off of it in order to tell who that sticker belongs to.

So I think that there needs to be some standardized policy, just like you have to have a license plate on your vehicle on the highway. We all have pretty well standardized that throughout the Nation, and that would be my recommendation, to look at some standardized licensing and tagging system where those people lose that anonymity and it will reduce the number of problems we have out there.

The CHAIRMAN. Mr. Powell, did you have a thought about this?

Mr. POWELL. I would just support what Frank said. It is State by State. Many States have no requirement at this point in time. You run from sticker systems in some States to licensing in some States. I think we need some mandated system that at least as a minimum carries some level of identification. I know when it gets to licensing that's often a State issue, but from a Federal standpoint it looks to me like that we could require some type of a designation, whether it's a large sticker, not these little two-inch stickers that they currently use in some States.

But people are invisible today and as they do things that, particularly if we're going to look at volunteers and other groups other than law enforcement, there's no way for those folks to turn in someone that's doing illegal activities today. They can only say it's a blue motorcycle. They don't have any idea——

The CHAIRMAN. It does seem like, even though licensing is historically and traditionally and appropriately a State function in our country, we do have certain requirements that State licenses—if you want to drive a vehicle on the public highways, you've got to have a license that is visible, that can be traced back to that vehicle. Having some kind of requirement, if you want to bring an off-highway vehicle into a national forest you've got to do the same thing, you've got to have enough identification that people can tell who you are in case they need to run that down.

Is this a radical idea? It doesn't seem that radical to me. Mr. Moreland?

Mr. MORELAND. Thank you. One of the concerns that riders have is a system that overly burdens law-abiding citizens. For example, in Ohio owners of off-highway motorcycles already are required by the State to title and register the vehicle. That's one fee and one opportunity to interact with our government. The second one is a State fee and a decal, which has a number and identification that's tied back to the riders, with a separate fee and a separate interaction.

The third one is if you travel on Federal lands you have to get another permit, with another fee and another decal that allows you to travel on Federal lands. Three opportunities for identifying the vehicle, the vehicle owner, and paying fees.

The idea that a plate would somehow allow law enforcement or other volunteers to identify law-breakers strikes me as a good intention, but might be overly burdensome to people who have al-

ready gone through three opportunities to identify their vehicle. It also in a wooded situation or on vast tracts of land where it's likely that you're going to have few opportunities to actually identify a plate as it's riding away from you through the woods, it may just be an opportunity to overly burden people who otherwise would obey the law. Those people who are willing to ride where they're not supposed to be and break that law are probably just as likely not to obey the law to put a plate on their bike.

The CHAIRMAN. Of course if they didn't put a plate on their bike then you'd be able to keep them off the national forest. I mean, presumably you wouldn't have to find any other violation. You'd say this vehicle is not properly identified, not properly plated, and accordingly you can't use it here; it doesn't matter whether you use it properly or don't use it properly, I would think.

Senator Craig.

Senator CRAIG. Thank you, Mr. Chairman.

I'm sitting here listening to this dialog thinking: Oh, a new license; oh, a new fee. We have license plates for our RVs, our off-road vehicles in Idaho, and I know the frustration that the public has in our effort to try to shape response. It seems like we're only proposing an identifiable tool for somebody who rides a vehicle versus somebody who hikes, fishes, hunts, does other things. I guess they're on their feet and so you can run them down faster, so you don't worry about them getting away, so they don't need a visible tag on their body.

Now, that's carrying it to the extreme, but it is another one of those restrictions or shaping of controls that I know frustrate people. They are certainly going to frustrate my citizens of Idaho a good deal who think they are law-abiding, although I'll agree with you, Frank, there are some who are not, and they are the ones who frustrate us.

But let us not dramatize those totally, because 99 percent are effective and with educational programs maybe we can make it 99.9. But you're still going to have the bad actor out there.

Brad, it's good to see you again. I remember when you were in region 1 and thank you for your service there. You talk about or you have dramatized certain situations that you saw that were obviously environment or habitat destructive. Was there any law enforcement effort at that time to block or stop that from happening?

Mr. POWELL. There was, Senator Craig. In some of those instances there were actually citations issued as a result of that. Some of them we actually encountered and were not able to do anything about it.

Senator CRAIG. The reason was the inability to identify the perpetrator or you got there after the fact?

Mr. POWELL. Some of it was we got there after the fact, some of it was we couldn't identify them. We were horseback and they were ATV-back and they won that race.

Senator CRAIG. You couldn't get that Forest Service mule to move fast enough, is that it?

Mr. POWELL. We could not.

One comment just to your earlier thought, though, and I'd use Arizona as an example. There's legislation at the State level in Arizona today that has brought a broad coalition all the way from the

Sierra Club to the four wheel drive groups to the NRA to virtually every group in the State that has agreed with some type of vehicle registration. Now, it's taken a lot of negotiation and discussion, but it was a one-time fee, it wasn't three or four fees. It would be used on the public lands. It would work anywhere throughout the State.

So I believe that can be done.

Senator CRAIG. I believe it can be done, too, because we do it in Idaho, and for a variety of reasons. First of all because a four-wheeler or a two-wheeler is a licensed vehicle and needs to display that they are licensed. A small sticker on a bumper or on a fender sometimes doesn't get us there.

It also is a way of collecting a fee to be used for a variety of reasons, whether it's a snowmobile—then you use it for trail maintenance and do those types of things. You may work cooperatively with a local recreational group or a local off-road vehicle group or with the feds, BLM or Forest Service, in cooperative trail maintenance, management, signage, and all those kinds of things. So it is a way of collecting a resource.

I thank you for that.

Ms. Culver, I find it interesting that you would single out the Sawtooth. I just sat down for a couple hours with the supervisor of the Sawtooth National about a month ago, to go through their travel management plan. I was struck at the time with the thoroughness by which they had approached it. I'm certainly not criticizing your observation or the observation you quoted of the Idaho Fish and Game. But it was my observation at the time, after having poured over all of the maps, looked at their schedule of public hearings, public input, response, that they had done a very thorough job and that there were some reacting. They were reactions of personalities more than they were reactions of substance, because somebody didn't quite get their way as we balanced this out.

I looked very closely at the South Hills, which is an important area potentially for mountain and some domestic sheep and it's probably the more accessible part of the Sawtooth as it relates to off-road vehicle access. So I have taken a very critical eye at that, both in process and in detail, and I'm not always as affirmative of Forest Service action as I ought to be. However, in this case, I thought they did their job well.

Now, I've also been over on the Jarbridge and in the Owyhees looking at those travel plans and I think you've given them credit as you should. They have done some good homework there. They've tried to balance these resources. But I'm one of those people who goes out and looks at the detail. I go to all of my forests and my forest supervisors' offices. I sit down with them, and I spend hours with them, because I know of no other thing in my State at this moment, other than a wildfire that's burning the place up, that is more intensely observed by local citizens than travel plans.

But I thank you for your observations.

Cooperative relationships with all of the stakeholders is what will make this thing work. Of course, Greg, I grew with the BlueRibbon Coalition being a very small little group starting to organize in Pocatello and Idaho Falls, and I've watched them grow today to a sizable influence. I thank you for your effort.

But you've said it well. It's when everybody comes to the table and doesn't approach it in a negative manner, but approaches it, in a manner that says how do we fix this problem, how do we educate, an train, so we can protect our resources while assuring access recreationally.

Ed, thank you for your testimony. Thank you all.

The CHAIRMAN. Senator Tester.

Senator TESTER. Thank you, Mr. Chairman. I also want to thank the panelists today.

The first question, I'd just like a simple yes or no, and I want to start with Ed and we'll go to Frank, right down the line. Do you feel that you've been adequately involved in travel management plans and forest plans? Do you feel you've had the opportunity to be adequately involved? Yes or no would work.

Mr. MORELAND. Not in all case.

Senator TESTER. OK.

Mr. ADAMS. Yes.

Senator TESTER. OK.

Ms. CULVER. Not in all cases.

Senator TESTER. All right.

Mr. MUMM. Yes.

Mr. POWELL. Yes, I believe we have.

Senator TESTER. OK, good. This is for the motorized users, although I would like the other conservation folks to answer it too. Are you involved in any collaborative partnerships with people that you traditionally are struggling with to find common ground? For instance, are the motorized users working with conservationists, and vice versa? Are you working with—we're talking about partnerships. Are you working with those folks to try to find common ground, and vice versa? Are the conservationists working with any of the motorized groups?

Go ahead, Ed.

Mr. MORELAND. We certainly look for every opportunity to partner with anyone who's interested in collaborating. We work with a lot of organizations in southern California and across the West.

Senator TESTER. That would be considered conservation groups?

Mr. MORELAND. We've had conservation groups at the table with us—

Senator TESTER. Good.

Mr. MORELAND [continuing]. In some of those efforts.

Senator TESTER. I think that's healthy.

Greg.

Mr. MUMM. Again, we make every good effort that we possibly can to do that as well. I could cite you several examples.

Senator TESTER. Good, I applaud that.

Nada.

Mr. MUMM. Pardon me?

Senator TESTER. I applaud that. Thanks.

Ms. CULVER. Yes, I think we do make every effort when we get the opportunity as well.

Senator TESTER. Good.

Brad.

Mr. POWELL. Yes, we are.

Senator TESTER. OK.

Mr. ADAMS. We're starting to. It's a slow process.

Senator TESTER. Thank you.

If there were—and this goes to—I think the others have answered this. But if there were no fees—and this goes to Greg and Ed, if there were no fees with a license or a decal that was big enough for people to see, people like Frank, would you be opposed to it?

Mr. MUMM. We'd have to discuss it, specifically what the process would be.

Senator TESTER. Let's just take for example, if we were to say to Ohio, because that's the example you brought up—I have no knowledge of it. If we were to say to Ohio that the numbers have to be big enough so you could see them from 100 feet away, by a normal person, would you be opposed to that if there was no additional fee involved?

Mr. MORELAND. I still don't believe it's needed, whether or not there is a fee required. In Ohio specifically, on the opening day of their national forest system, when they have the greatest impact and attendance to their forest lands, they were able to adequately enforce their rules on their property with the existing sticker program, without the need of a license plate system.

Senator TESTER. OK. How about you, Ed—Greg?

Mr. MUMM. You know, it's a bit of a struggle to answer that yes or no, simply because obviously we're open to looking at whatever solutions are necessary. But I got to tell you, I kind of agree with Ed that it appears on the surface to be a level of bureaucracy that creates a lot more questions than it does answers or solutions.

Senator TESTER. Although I will tell you, anonymity is kind of neat. You know, I live in Montana and I like to be anonymous, and I lose it when I come back here. It's always good to get back on the farm and you're away from everybody. So I get it.

But if there was no added bureaucracy, is what I'm saying. If we mandated that county governments—and they'll love me for this—would have to eat these costs, just to put a little decal that was a little bigger, that's all I'm talking about. But that's fine. That's OK. That's your perspective, and it's a good one, by the way.

The books that you showed, Ed, is there anything in there on chasing wildlife, chasing game?

Mr. MORELAND. Certainly that's not something I don't believe that the books cover, chasing wildlife. All of the educational materials circulated by AMA or BRC or NOHVC or our other partners, that is something we would absolutely——

Senator TESTER. I would assume that you would be very, very opposed to something like that.

Mr. MORELAND. Absolutely. Not only would we discourage that, we would encourage law enforcement to prosecute anyone who is caught doing something like that.

Senator TESTER. Let's talk about that for a second, because I had asked the previous panel about it. I relate it back to elementary school. If you go out on the playground and you get in a fight during recess, pretty soon they take your recess away from you. Would you be opposed to multiple offenders to have their right to go on public lands be taken away?

Mr. MORELAND. The bill that we support in the House provides for substantial increased penalties for those who willfully and wrongfully violate public land use.

Senator TESTER. Are we talking money?

Mr. MORELAND. We're talking money, misdemeanors. Yes, it's more, much more substantial than it is now. It also unifies the rules between BLM, Park Service, and Forest Service.

Senator TESTER. Do you know off the top of your head what a person would get penalized for, say, the second time if they left an area where motorized off-road vehicles were supposed to be?

Mr. MORELAND. Senator, I don't know off the top of my head, but I'm more than happy to provide that to you.

Senator TESTER. That would be good. If you have it, what the current penalty would be, because I really don't know. I just don't know.

Mr. MORELAND. That varies from forest to forest, from public land to public land.

Senator TESTER. OK. I want to thank you guys for taking the time to be here today. I really appreciate each and every one of your testimonies, and hopefully we can find common ground and make this thing work. Obviously we need a few more bucks.

The CHAIRMAN. Senator Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman.

Just to follow up a little bit with Senator Tester's line of questioning. Mr. Moreland, Mr. Mumm, you've indicated that you don't think that licensing necessarily is the way to go. I think it was you, Mr. Adams, who said, you know, you've got some bad actors out there and they are the minority, we recognize that. But when these bad actors do what they're not supposed to be doing, it puts additional pressure from others to say, enough already, we're going to cutoff access, we're going to limit, we're going to further restrict.

So in your opinion, how do we deal with the irresponsible users? Is it just a matter of sufficient funding for law enforcement? Is it ensuring that we have adequate resources for the education so that they're not irresponsible because they don't know, they've been educated?

You're not sure that licensing is the way to go. Is there some other way, any other mechanism, that we keep the few that are causing the problem, that ultimately will be the ones that you're having to fight with when you're trying to keep further restrictions from coming at you? Any other suggestions?

Mr. MUMM. I'd like to approach that just a little bit, because I think that it's important to point out here that we typically—the groups that are proponents of the heavier law enforcement and the concerns that we have with there's no amount of money you can throw at this law enforcement to solve the issue, we're looking at apples to oranges here. The directions that we're moving now, it's different than what the historic management prescription has been.

I would agree that under the historic management prescription or lack of management it is a huge problem. But as you move toward designated route systems, as you move toward management that is active, what you have is that's the orange compared to the apple. You've literally—because now you've introduced things like

control points instead of trailheads, because you introduce designated routes where the officers know where, know how, know when to patrol, whereas when you had the historic where it wasn't managed you don't even know where to start, and it's going to pop up here to there to everywhere.

So the thing that I think it's important to stress here is that you need to take a look at law enforcement from the concept of an active management system. Those systems that are out there that are proven to work, some of which we mentioned here today, do not experience the same issues that historically everybody keeps pushing on.

Enforcement's only one element of the mix. You need to design those systems around compliance, more so than around enforcement, because what you're doing by providing those systems where people want to be on those trails, because they want to be because it provides them with a quality of experience, not because they have to be, and when those folks are given ownership in the process to get there you introduce a whole completely different element than what everybody keeps pushing on, this law enforcement thing.

Senator MURKOWSKI. So it really comes down to active, active management. Many of you have——

Mr. MUMM. In short, if it's gotten to the point that you've got to hang a big old sign around their neck that says they're an offender, you already lost.

Senator MURKOWSKI. Let me ask one question of you, Ms. Culver. Your testimony seems to suggest that our current Federal land use practices favor the motorized recreationalist over the non-motorized or the quiet recreationalist, as I had suggested. When I asked Mr. Bisson about that he seemed to indicate that there's plenty of public lands out there to accommodate both. We've got wilderness that is specifically set aside, where there is no motorized access.

Do you believe that we have room in our public lands for both?

Ms. CULVER. I do believe we have room for both. The fact of the matter is, just for instance looking at the BLM lands right now, 4 percent of those 258 million acres are actually closed to off-road vehicles. We're not talking about a vast overwhelming effort going on to take, to keep land away from other users. We are talking about a need to accommodate the quiet recreation user and to make sure that those people have an opportunity to experience naturalness and quiet and solitude. There is ultimately room, but only if the travel plans that are created take all that into account, which of course requires full participation from everybody, and also I think requires that we do look at the ecological health of the land, because one of the things everybody likes to enjoy on our public lands is the water and air and wildlife and wilderness that Dr. Belnap already talked about was being impacted by just the current systems existing on the ground right now.

Senator MURKOWSKI. I'm glad we agree that there is room for both.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Let me thank all the witnesses again for being here. I think it's been useful testimony. We will conclude the hearing.

[Whereupon, at 11:31 a.m., the hearing was adjourned.]

APPENDIXES

APPENDIX I

Responses to Additional Questions

RESPONSES OF JOEL HOLTROP TO QUESTIONS FROM SENATOR BINGAMAN

In March 2007, the Forest Service issued a series of draft directives to help provide its land managers with more specific guidance regarding implementation of the new travel management rule. Forest Service units are scheduled to complete plans for nearly half of the Forest Service acreage in the next four months and the rule recognized that units need to begin travel planning 1-3 years before they are able to complete the motor vehicle use map.

Question 1. When will the Forest Service finalize the directives?

Answer. The directives should be finalized in the near future. In the meantime, however, the Travel Management Rule provides adequate direction for its implementation. The rule specifically identifies designation and public participation requirements; the requirement for coordination with federal, state, and local governmental entities and tribal governments; and the criteria which must be considered when making designation decisions. In addition, a Motor Vehicle Route and Area Designation Guide was issued in 2005 to provide guidance pending promulgation of directives. To enhance consistency in implementation of the rule, training sessions were conducted for each region of the Forest Service.

Question 2. We have seen a number of travel management proposals to completely maintain or expand road and trail systems that are admittedly far beyond the Forest Service's fiscal capacity to maintain. We also know from experience that a fiscally unsustainable trail system will not be environmentally or socially sustainable.

Does the Forest Service support designating OHV travel systems that it does not believe are fiscally sustainable?

Answer. The Forest Service supports the concept of a sustainable system of routes and areas for motor vehicle use. The availability of resources is a consideration in designating routes and areas for motor vehicle use. Section 212.55(a) of the Travel Management Rule includes as a criterion for designation "the need for maintenance and administration of roads, trails, and areas that would arise if the uses under consideration are designated, and the availability of resources for that maintenance and administration." This determination involves the exercise of judgment on the part of the local forest supervisor or district ranger. At times, resources are scarce, but a lack of resources does not result in blanket closures of National Forest System (NFS) lands to recreational users. Volunteers and cooperators can supplement agency resources for maintenance and administration, and their contributions should be considered in the designation process. Further, consistent with federal accounting standards, the Forest Service improved its classification of information for its financial reports on heritage assets and stewardship land that will provide more accurate assessments of capitalization and costing.

Question 3. In developing a travel management plan under the 2005 rule, is each unit required to develop a travel analysis report and make that report available to the public (and, if not, why not)?

Answer. There is no specific policy requiring preparation and publication of a travel analysis report. However, where a national forest or grassland has conducted travel analysis, this document is part of the planning record and is available upon request.

Travel analysis is a pre-National Environmental Policy Act process explained in the 2005 Motor Vehicle Route and Area Designation Guide and in regional training sessions. Proposed directives published in the Federal Register on March 9, 2007,

also included direction regarding travel analysis. We expect final directives to be published some time this summer. Currently, some national forests and national grasslands are conducting travel analysis as a part of travel management planning

Question 4. Is each unit required to estimate how much additional money will be required to enforce new travel management plans?

Answer. The Travel Management Rule does not require each unit to estimate how much additional money will be required to enforce that unit's designated system, and no additional money will be required to enforce travel management plan. As with all agency programs, money will be requested through the appropriations process to manage and monitor the designated routes and areas and whatever appropriated funds are available will be allocated on the basis of national and regional priorities and other factors. In designating roads, trails, and areas for motor vehicle use, the need for administration, including law enforcement, must be considered.

Question 5. Please provide a breakdown of how many law enforcement officers currently patrol each National Forest in New Mexico. Is this number adequate to enforce current and proposed OHV recreation (and, if not, please provide an analysis estimating the need for each National Forest)?

Answer. The Forest Service Law Enforcement and Investigations (LE&I) Staff in the Southwestern Region has 12 law enforcement officers (LEDs) assigned to patrol the six national forests and two national grasslands in the State of New Mexico. Also reporting to the Special Agent in Charge are two special agents and two patrol captains for the LEOs assigned to each national forest and national grassland in New Mexico.

The LE&I staff is assisted by Forest Service employees who serve as Forest Protection Officers. Each national forest and grassland has a Forest Protection Officer Program to assist the Forest Service Law Enforcement and Investigations Staff assigned to each National Forest System unit. Forest Protection Officers enforce a variety of regulations and laws connected with resource protection for the national forests and grasslands including those regulations that address off highway vehicle use. Forest Protection Officers augment the LEOs and expand the enforcement reach for resource protection. There are 41 Forest Protection Officers (FPOs) practicing in New Mexico's national forests and grasslands.

In addition, the Forest Service has developed cooperative and mutual assistance agreements for law enforcement with state game and fish conservation officers, state police agencies, county sheriffs and with the Bureau of Land Management and National Park Service.

The Carson National Forest in northern New Mexico includes approximately 1.5 million acres of NFS lands in four counties. There are two LEOs and 8 FPOs assigned to patrol approximately 750,000 acres in Questa, New Mexico, and Penasco, New Mexico, respectively. For perspective, the state of Rhode Island is approximately 776,957 acres in size.

The Santa Fe National Forest in north central New Mexico includes approximately 1.6 million acres of NFS lands in five counties. Three LEOs and 13 FPOs are assigned to patrol this unit and the Valles Caldera National Preserve. The LEOs are stationed at Pecos, New Mexico, Jemez, New Mexico, and Espanola, New Mexico, respectively. In August, a fourth LEO will be added to the force and assigned to Cuba, New Mexico. Each is assigned to patrol approximately 400,000 acres.

Three LEOs and 10 FPOs patrol the Cibola National Forest, Kiowa National Grassland, Black Kettle National Grassland, and Rita Blanca National Grassland, located in central New Mexico and the western Oklahoma Panhandle, Northern Texas Panhandle, and central Oklahoma, which encompass approximately 1.6 million acres. The Cibola is also administratively responsible for the Rita Blanca and Black Kettle National Grassland in Oklahoma and the Texas panhandle. The Cibola extends across New Mexico from its eastern to its western boundary. Each officer is assigned to patrol approximately 533,000 acres in 11 counties. The Sandia Ranger District, adjacent to Albuquerque, New Mexico's largest city, has high visitation and public use and is the only New Mexico Ranger District patrolled by two LEOs. There is also a LEO stationed at Mount Taylor in Grants, New Mexico.

Two LEOs and 3 FPOs patrol the Gila National Forest, which includes approximately 3.3 million acres and approximately 650,000 of Apache-Sitgreaves National Forest lands in three southwestern New Mexico counties. Each officer is assigned to patrol approximately 1.8 million acres. The LEOs are stationed at Mimbres, New Mexico, and Reserve, New Mexico.

The Lincoln National Forest covers approximately 1.1 million acres of NFS lands in four counties. The LEOs for that forest are stationed at Ruidoso, New Mexico, and Cloudcroft, New Mexico. Each officer is assigned to patrol approximately 550,000 acres and is assisted by seven POs.

Question 6. Can you provide an estimate of the amount of additional funding the Forest Service as a whole will need to effectively enforce its new travel management plans?

Answer. No additional funds are needed. The Forest Service is making a commitment to fund designation of routes and areas on each national forest and national grassland as a priority within available funding levels. As the route and area designation process is completed for each national forest and national grassland, the focus of available funding will shift from planning to implementation of route and area designations. This work will include the four "Es" of engineering, education, enforcement and evaluation.

The cost for implementing route and area designations will vary among forests and grasslands. Prior to the rule, some forests and grasslands had already eliminated cross-country motorized travel. For these forests and grasslands implementation costs will be less than for administrative units that are transitioning from cross-country travel to a designated system of routes and areas.

The Travel Management Rule enhances and simplifies enforcement by replacing forest or grassland orders with a motor vehicle use map and a regulatory prohibition against motor vehicle use off the designated system. A nationally consistent approach will improve public understanding of where a motor vehicle may be operated on any national forest or national grassland and will enhance the agency's ability to gain compliance.

Question 7. Some units recently have proposed designating user created routes in areas that have long been specifically closed to 011V use, generating concerns that such proposals effectively sanction illegal activities. What direction has the Forest Service provided to its decision-makers regarding this issue?

Answer. The Travel Management Rule provides a national framework for planning and decision-making for route and area designations. Decisions are made by district rangers and forest and grassland supervisors. Elimination or addition of routes, including user-created routes, may be considered in the designation process, pursuant to the public involvement requirements and evaluation criteria in the travel management rule. The proposed travel management directives address addition of user-created routes to the forest transportation system. The directives make no distinction between user-created routes in areas open to motor vehicle use versus user-created routes in areas closed to motor vehicle use. User-created routes that are proposed for inclusion in the designated system must be in the best interest of overall management of the national forest or national grassland. In addition, the evaluation criteria in the rule, including effects on natural and cultural resources, must be considered.

User-created routes proposed for inclusion in the forest transportation system are subject to environmental analysis. The analysis identifies and considers potential impacts to the environment, which may include impacts from having a designated route in an area previously closed to motor vehicle use. Any designations of routes for motor vehicle use must be consistent with the applicable land management plan (forest plan). If allowing motor vehicle use in a particular area is inconsistent with the forest plan, current policy at FSH 1909.12, section 25.4 identifies three options: modify the proposal to make it consistent with the plan, reject the proposal, or amend the forest plan to make it consistent with the proposal.

Question 8. It is my understanding that at least some units of the Forest Service only are permitting a formal public review of its travel management proposal before any environmental analysis has begun. Does the Forest Service believe that it is appropriate for units to only provide a formal comment period on its travel management proposal before the agency and the public has considered the information and analyses in its environmental review (and, if so, please explain why)?

Answer. Forest Service units have been encouraged to involve the public in the development of proposals for route and area designations. By engaging the public at this early stage, the Forest Service is able to consider public preferences for route and area designations. Once the proposal is developed, it undergoes environmental analysis, resulting in either an environmental assessment and accompanying finding of no significant impact and a decision notice or an environmental impact statement with its accompanying record of decision. Both of these environmental analysis processes require public involvement. At a minimum, the public must be involved early, at the scoping stage, to identify public concerns and prior to a decision, once the analysis is at a stage that permits meaningful comment. Many administrative units are comprehensively engaging the public prior to development of the proposal and throughout the analysis process.

Public notice of availability of the motor vehicle use map is sufficient if a national forest or national grassland has made previous administrative decisions which re-

strict motor vehicle use over the entire national forest or national grassland to designated routes and areas and no change is proposed.

RESPONSES OF JOEL HOLTROP TO QUESTIONS FROM SENATOR WYDEN

During the June 5, 2008, off-highway vehicle (OHV) hearing in the Senate's Energy and Natural Resources committee we discussed the Bureau of Land Management (BLM) and the Forest Service's actions to nationally partner with private groups to supplement federal efforts to manage OHV use and impacts; similar to the partnership taking place in my state of Oregon with the National Off-Highway Vehicle Conservation Council.

Question 9a. As follow-up to that discussion, please ensure that you provide the data I requested—information and examples of how you are partnering with private associations in Oregon and across the United States.

Answer. The National Off-Highway Vehicle Conservation Council (NOHVCC) has assisted the Forest Service not only in Oregon, but in many states across the country. NOHVCC consists of OHV enthusiasts who promote responsible riding. They developed and conducted route designation workshops across the country, with a target audience of Forest Service employees and OHV enthusiasts. They recently began a new series of workshop's on improving volunteer effectiveness in assisting the Forest Service with OHV route and area operation and maintenance.

A number of partnerships exist at the forest or grassland level in Oregon, with efforts focusing on maintenance of existing motorized trails. The most active efforts are on the Rogue RiverSiskiyou and Deschutes National Forests. Partnerships are typically between a forest and a local club or statewide organization that volunteers its time and energy in maintaining motorized trails and providing informational and educational contacts with other enthusiasts using the trail system.

A portion of state fuel taxes in Oregon provides funding for a variety of OHV related activities. The Oregon State Department of Parks and Recreation sponsors an OHV funds distribution committee, composed of OHV organizations and individuals who are OHV enthusiasts. The committee provides grants for development, maintenance, and operation of OHV routes and related facilities. The committee has also provided grants to county sheriff's departments to support enforcement activities.

Tread Lightly! is a national nonprofit organization whose mission is to preserve recreational access and opportunities through education and stewardship. Tread Lightly! works with the Forest Service and other land management agencies, as well as OHV manufacturers, industry groups, and motorized recreation organizations to promote responsible riding.

The Off-Highway Vehicle Program of the San Bernardino National Forest Association is a collaborative effort for conservation, recreation, and education among the National Forest Association, San Bernardino National Forest, State of California, and OHV user groups and industry. The program involves 300 volunteers who contribute over 25,000 hours each year. An example of their efforts is engaging other OHV enthusiasts in the field as peers, encouraging them to ride on designated routes to minimize impacts on native species and habitats.

The Bear River Watershed Council in Utah assists land management agencies with protecting, restoring, and sustaining ecosystem health and biological diversity in the Bear River Watershed. A notable aspect of this group is their cooperation with varied interests. A recent project obliterating 7 miles of unauthorized routes on the Wasatch-Cache National Forest involved over 100 people representing the Utah Backcountry Volunteers, Bridgerland Audubon Society, Back Country Horsemen of America, Utah 4-Wheel Drive Association, Bridgerland Trail Riders Association, Wasatch Outlaw Wheelers, Utah Division of Wildlife Resource's Dedicated Hunters Program, and Boy Scouts of America.

The Colorado Off-Highway Vehicle Coalition (COHVCO) represents approximately fifteen statewide OHV user groups and works cooperative with seven National Forests and BLM in Colorado. COHVCO promotes responsible motorized use, enhances quality recreational use, and encourages conservation of federal lands for future generations. Two nationally recognized achievements COHVCO has initiated include the TIGER Volunteer Project, through which local OHV clubs assist Forest Service field units with route inventory, and the Stay the Trail Program, which encourages responsible motorized recreation through educational outreach at motorized events and trade shows and advertising campaigns.

Question 9b. Also, as discussed please provide your plan regarding the prospects to increase these public /private partnerships.

Answer. For decades, the Forest Service has been working with volunteers and cooperators to enhance its ability to manage recreational use. Our directives governing trail management; encourage field units to work with cooperators. Also, the

Washington Office is beginning work on a guide for OHV management, which will include a chapter on developing and maintaining cooperative relationships and volunteer programs.

In recognition of the important role of cooperators in helping the Forest Service accomplish its mission, the Forest Service created the National Partnership Office in 2003. The role of this office is to increase the agency's effectiveness in collaboration with individuals, communities, nongovernmental organizations, and others. The Partnership Resource Center, which is a partnership between the National Forest Foundation and the Forest Service, provides a wide variety of information on how to develop and maintain cooperator and volunteer programs. The link to the Partnership Resource Center's website is http://www.partnershipresourcecenter.org/.

Question 10. We also discussed during that hearing that OHV user laws and rules vary on private, county, state, and federally-owned lands and how this can be confusing to many trail riders.

How are BLM and the Forest Service working to better coordinate and standardize cross-boundary OHV laws and rules to eliminate confusion for OHV riders in Oregon and on the national level?

Answer. The program staffs in the Forest Service and BLM collaborate on many common issues, including interagency road and trail management, fire suppression, and law enforcement.

The Travel Management Rule requires the local responsible official (forest or grassland supervisor or district ranger) to coordinate with federal, state, county, and other local governmental entities and tribal governments. Training provided to each Forest Service region for implementation of the Travel Management Rule emphasized the need to coordinate closely with these other parties. The training recommended close coordination on roads and trails that cross boundaries, so as to provide continuity of routes. The need for coordination is also addressed in the proposed directives for implementation of the Travel Management Rule and in the 2005 Motor Vehicle Route and Area Designation Guide.

Question 11a. Roads and motorized trails are expensive to construct and maintain whether they are asphalt, gravel, or dirt. The Taxpayers for Common Sense estimates the Forest Service currently has a $10 billion road maintenance backlog. Even where minimal construction or maintenance is required (as is the case for some routes on BLM lands), more routes mean more monitoring to ensure that they are not causing unacceptable damage and enforcement problems.

Is $10 billion an accurate estimate for the Forest Service's road maintenance backlog?

Answer. No, in 2007 deferred maintenance on National Forest System roads was estimated at $4.157 billion.

Question 11b. Are the Forest Service and BLM capable of assessing the funding and resources required to implement proposed travel plans?

Answer. Yes, the availability of resources is a consideration in designating routes and areas for motor vehicle use. Section 212.55(a) of the Travel Management Rule includes as a criterion for designation "the need for maintenance and administration of roads, trails, and areas that would arise if the uses under consideration are designated; and the availability of resources for that maintenance and administration."

Question 11c. If so, are your agencies proposing and designating road and motorized trail systems that are fiscally realistic based on available and projected funding for construction, maintenance, monitoring, and enforcement?

Answer. The Forest Service supports the concept of a sustainable system of routes and areas designated for motor vehicle use. This determination involves the exercise of judgment on the part of district rangers and forest and grassland supervisors. At times, resources are scarce, but a lack of resources does not result in blanket closures of NFS lands to recreational users. Volunteers and cooperators can supplement agency resources for maintenance and administration, and their contributions should be considered in this evaluation. Further, consistent with federal accounting standards, the Forest Service improved its classification of information for its financial reports on heritage assets and stewardship land that will provide more accurate assessments of capitalization and costing of roads.

The Forest Service maintains NFS roads and NFS trails in accordance with their management objectives, design standards, quantity and type of traffic, and the availability of funds. Volunteers and cooperators maintain many trails. The agency collects fees for use of some developed recreational facilities, most of which are retained and spent at the site where they are collected. All roads and trails require maintenance However, since resources are still limited, improvements in classification of information will lead to more accurate assessments of capitalization and costing, which in turn can inform investments that reduce the Forest Service's maintenance backlog. Coupled with the Travel Management Rule's contemplation of the

elimination or addition of routes, including user-created routes, in the designation process, the agency can more effectively align roads and trails with available budgetary resources. The Forest Service also actively tries to avoid unwanted closures by encouraging volunteer agreements and cooperative relationships with user groups.

Question 12. While many OHV users ride responsibly on designated trails, increased OHV activity is affecting hunting, fishing and hiking experiences for others that are trying to enjoy the tranquility of our Nation's public lands. Increased off-road use of all terrain vehicles, trucks, motorcycles and other motor vehicles is resulting in harm to wildlife habitat and other natural resources on both public and private lands throughout Oregon, placing further strain on law enforcement and impacting quiet users. According to the Forest Service and BLM, between 2005 and 2007 there were more than 5,000 OHV-related law enforcement incidents in Oregon and Washington states alone.

At the hearing, there was some discussion of this issue and inquiry into the consideration for quiet users given in travel management planning. Mr. Bisson, in the hearing you indicated that Wilderness exists for quiet activities. However, Wilderness is a uniquely rugged backcountry experience that not all hikers, campers, hunters or fishers are seeking. Mr. Bisson and Mr. Holtrop, do you not believe that it is important to have non-Wilderness areas on our public lands that quiet recreationists can enjoy without motorized impacts?

Answer. Opportunities to enhance the full spectrum of motorized and non-motorized recreation should be considered when designating roads, trails, and areas for motor vehicle use. Management opportunities may include designating roads, trails, and areas for motor vehicle use, as well as managing trails for a variety of non-motorized uses (such as hiking, horseback riding, and bicycling). The forest transportation system should provide access to NFS lands for both motorized and non-motorized uses in a manner that is socially, environmentally, and economically sustainable over the long term, enhances public enjoyment of NFS lands, and maintains other important values and uses.

RESPONSES OF JOEL HOLTROP TO QUESTIONS FROM SENATOR CANTWELL

The Okanogan-Wenatchee National Forest has, in some Ranger Districts, considered increasing trail and road miles available to off-road-vehicles (ORVs).

Question 13. How will USFS deal with maintenance of new motorized trails in light of its already thin budget?

Answer. The Forest Service is committed to using available funds to accomplish the purposes of the Travel Management Rule in a targeted, efficient manner. The agency makes appropriate use of all sources of available funding and has a number of successful cooperative relationships with state governments. Volunteer agreements with user groups and others have proven successful in extending agency resources for trail construction, maintenance, monitoring, and mitigation. Regardless of the level of funding available, the Forest Service believes that the Travel Management Rule provides a better framework for management of motor vehicle use on national forests and national grasslands than the Forest Service's previous regulations.

Question 14. I believe that the goal of banning cross-country use of ORVs is laudable. However, the Forest Service is increasing trail and road miles open to ORVs. This will only serve to spread motorized users around system lands, inviting illegal cross-country use.

Please explain why the Forest Service is increasing trail and road miles open to ORVs given the limited enforcement resources available to the agency to prevent cross-country use.

Answer. The availability of resources for route maintenance is a consideration in designating routes for motor vehicle use. Section 212.55(a) of the Travel Management Rule includes as a criterion for designation "the need for maintenance and administration of roads, trails, and areas that would arise if the uses under consideration are designated; and the availability of resources for that maintenance and administration." District rangers and forest and grassland supervisors decide which roads and trails to designate for motor vehicle use. Since most national forests and national grasslands have not yet made their designation decision, we do not have an estimate of how many miles of routes designated for motor vehicle use may be added to or removed from the forest transportation system.

Question 15. Non-motorized recreationists are by far the majority of National Forest users in Washington state and nationally. While the sale of ORVs has flattened over the last two years, quiet recreation uses such as hiking, snowshoeing and camping have risen.

Why is the Forest Service considering increasing the system of routes available to ORVs when those very vehicles displace non-motorized trail users?

Answer. Consistent with its multiple-use mission, the Forest Service believes that national forests and national grasslands should provide opportunities for both motorized and non-motorized users in a manner that is environmentally sustainable over the long term. The national forests and national grasslands are not reserved for the exclusive use of any one group, nor must every use be accommodated on every acre. It is appropriate for different areas of the national forests and national grasslands to provide different opportunities for recreation. The Forest Service believes that decisions regarding use of NFS lands are best made at the local level, with full involvement of federal, state, and local governmental entities, tribal governments, motorized and non-motorized users, and other interested parties.

Question 16a. In many Ranger Districts in Washington and nationally, the Forest Service is proposing to add unauthorized, user-created routes to the system of motorized trails.

What is the legal and policy basis for adding unauthorized, user-created roads to the Forest Service road system when such routes have not been analyzed for their impacts on the environment and other Forest visitors?

Answer. The preamble to the Travel Management Rule addresses the intent regarding addition of user-created routes to the forest transportation system. The preamble states that "user-created roads and trails may be identified through public involvement and considered in the designation process. After public consideration and appropriate site-specific environmental analysis, some user-created routes may be designated for motor vehicle use pursuant to δ 212.51 of the final rule.

If the Forest Service decides to propose adding user-created routes to the forest transportation system, that proposal is subject to appropriate analysis under the National Environmental Policy Act. Additionally, the Travel Management Rule requires that certain criteria be considered when designating routes or areas. Conflicts among uses of NFS lands are one of the criteria which must be considered and involve potential impacts on other Forest visitors.

Some user-created routes are well-sited, provide excellent opportunities for outdoor recreation by motorized and non-motorized users alike, and involve less environmental impact than unrestricted cross-country motor vehicle use and would enhance the system of designated routes and areas. The Forest Service believes that evaluation of which routes to designate for motor vehicle use, including user-created routes, is best handled at the local level by officials with firsthand knowledge of the particular circumstances, uses, and environmental impacts involved, working closely with tribal and local governments, forest users, and other members of the public.

Question 16b. How does adding such unauthorized user-created roads to the system not create an incentive for unauthorized ORV use to proliferate and 'create more user-created roads?

Answer. Many of these routes were created in areas that were (and often still are) open to cross-country motor vehicle use. By designating a system of routes for motor vehicle use that meet users' needs, compliance will be enhanced, and visitors will be more likely to stay on designated routes.

Question 17. We have heard about alarming rates of both ORV trespass on private lands and illicit cross-country use on public lands. This administration has cut the Forest Service budget drastically, sc the enforcement belt is tightened, while counties and local jurisdictions are strapped for cash and thus have few officers on patrol. In a recent incident in Washington State, a single night's rampage of illegal cross-country ORV use destroyed a pristine meadow at the headwaters of Orr Creek on the Wenatchee National Forest.

With declining enforcement capacity in our rural areas and backcountry, what is the Forest Service's plan to keep irresponsible and illegal use in check?

Answer. The Travel Management Rule enhances and simplifies enforcement by replacing forest orders with issuance of a motor vehicle use map. This map is posted on the World Wide Web and is available at the forest or grassland supervisor's and district ranger's office. The motor vehicle use map identifies routes and areas designated for motor vehicle use by vehicle class and, if appropriate, by time of year on each national forest or national grassland. This nationally consistent approach will augment public understanding of where a motor vehicle may be operated on any national forest or national grassland across the country and will enhance the agency's ability to gain compliance with motor vehicle prohibitions and restrictions. This approach will also make it easier for OHV users who want to do the right thing to be able to do so.

During this Administration, appropriations for Forest Service law enforcement increased from $74 million in FY 2001 to $132 million this fiscal year. Building on this 78 percent increase, the Forest Service will promote compliance with route and

area designations, the Forest Service will emphasize education, engineering, enforcement, and evaluation, known as the "Four Es." The first "E" stands for education: informing the public about where and when they can use various classes of motor vehicles. The second "E" stands for engineering: the proper location and design of routes and areas. Proper route location can help protect resources, reduce use conflicts, address safety, and provide quality recreational opportunities. Proper route design also enhances recreational opportunities, resulting in improved visitor satisfaction and a higher likelihood that visitors will remain on designated routes. The third "E" stands for enforcement: addressing compliance with motor vehicle prohibitions and restrictions. Most OHV users want to do the right thing. With effective public education, signing, and route location and design, the Forest Service can focus law enforcement resources on those few users who do not heed the law. The fourth "E" stands for evaluation: monitoring designated routes and areas for effects on natural and cultural resources, public safety, and conflicts among uses. Monitoring may also focus on the level of compliance and route conditions. Revisions to designations may be made based on the results of monitoring.

The Forest Service's enforcement capacity is also supplemented by state and local law enforcement agencies. For example, in Oregon, state fuel tax funds have been used to fund grants to county sheriff's departments to support enforcement of OHV restrictions. Another example is legislation recently passed in the State of Colorado. The new law allows state peace officers to enforce route and area designations. Arizona is considering similar legislation. The Forest Service also maintains cooperative law enforcement agreements with state and local law enforcement agencies that provide mutual support across jurisdictional boundaries.

Question 18a. I understand that travel planning can involve intensive public input and is comprehensive in its reach and evaluation of impacts. Yet, travel planning seems to be handled separately, outside of the overall forest planning process. I understand that on the Colville National Forest, an exceptional level of collaboration is occurring on land management issues simultaneous to comprehensive forest planning. However, I understand the Forest Service is preparing to issue a separate draft travel plan, including re-designation of nearly 1,000 miles of existing roads to allow ORV use, without rigorous environmental analysis or meaningful collaboration towards a proposal that all stakeholders could live with. Further, this plan is seemingly without relationship to the larger forest planning effort. Combined with local county ordinances that open public highways to ORV use, I'm concerned there is a risk for vastly expanded ORV use and misuse.

Will you commit to combining all Forest Service forest planning and travel planning processes to ensure a comprehensive analysis and understanding of their related environmental impacts?

The National Forest Management Act (NFMA) and corresponding Forest Service Planning Regulations dictate how often and to what specifications national forests and national grasslands conduct comprehensive forest planning. NFMA directs national forests and national grasslands to establish a forest plan and revise it every 10 to 15 years. The forest plan establishes the strategy managing national forests and national grasslands for the next 10 to 15 years. Given the variation in the date they were established, forest plans are subject to different time frames for revision. The Travel Management Rule requires each administrative unit or ranger district to designate those roads, trails, and areas under Forest Service jurisdiction for motor vehicle use and identify them on a motor vehicle use map. The Chief of the Forest Service has established a time frame for completion of motor vehicle use maps by the end of 2009. The time frames for development of motor vehicle use maps and revision of forest plans sometimes overlap and sometimes are very distant from one another.

Consistent with current law, Forest plans are subject to different time frames for revision and are strategic in nature, and designadon decisions are site-specific, The two processes have different requirements. Some district rangers and forest and grassland supervisors are choosing to conduct public involvement for forest plan revision concurrently with route and area designation under the Travel Management Rule.

Question 18b. Specifically, will you commit to combining the forest planning and travel planning processes on the Colville National Forest to ensure a comprehensive analysis and understanding of their related environmental: impacts?

Answer. As mentioned in the response to the previous question, the two processes have different requirements, since the Travel Management Rule contemplates a decision made by the local manager of whether to combine forest plan revision with route and area designation is best, while consistent with current law, Forest plans are subject to different time frames for revision. The Colville National Forest has been conducting intensive public involvement for both forest plan revision and route

and area designation. Due to overlap in timing, these two processes have occurred simultaneously. Where appropriate, information obtained is being shared between the two efforts.

The Colville National Forest plans to issue a 2008 motor vehicle use map re-designating approximately 600 miles of roads that are currently open to OHV use. These roads were originally designated in 2005 as a result of an intensive collaborative effort with many parties. Any additional designations will be the result of further collaboration and appropriate environmental analysis. The 2008 motor vehicle use map will also implement Amendment #31 to the 1988 Colville National Forest Land and Resource Management Plan. This amendment restricts motor vehicle use to designated roads, trails, and areas, thereby limiting cross-country motor vehicle use.

Question 19. The Forest Service Travel Management Rule δ212.52 states that for new designations of roads and trails, public involvement "shall be consistent with agency procedures under the National Environmental Policy Act." (NEPA) I believe that NEPA analysis is required because that is the only means by which the "public involvement" requirements would be realized. The Forest Service is currently proposing to amend their Travel Planning Handbook (FSH 7709.55) to, among other things, include the following statement: "The report provides the basis for developing proposed actions to implement the minimum road system and to change existing travel management decisions. These proposals must be subject to appropriate public involvement and environmental analysis under NEPA before travel management decisions are made."

Will the USFS commit to adopt this proposed language to clarify the intent of §212.52?

Answer. The statement quoted from FSH 7709.55 was included in proposed directives to implement the Travel Management Rule that were published in the Federal Register for public notice and comment on March 9, 2007. The public comment period for the proposed directives has closed, and the Forest Service is addressing those comments in development of final directives. The Forest Service hopes to publish the final directives in the near future.

RESPONSES OF JOEL HOLTROP TO QUESTIONS FROM SENATOR DOMENICI

Question 20. Can you tell us how much money has been expended to conduct the Travel Management Rule and the plans that it called for?

Answer. Over the past two years the agency has spent an estimated $200,000 for national training on route and area designation, issuance of Forest Service manual and handbook direction, and implementation support. During the four-year period scheduled for designating routes and areas for motor vehicle use, the Forest Service estimates that the cost of the full range of travel planning activities will be approximately $25 million per year. The Forest Service is committed to using available funds to accomplish the purposes of the Travel Management Rule in a targeted, efficient manner. These costs, which will be incurred as priorities within existing budgets, are not clearly distinguishable from other program management costs and vary widely from unit to unit, depending on the lo;a1 situation and local issues. Funding provided for travel management planning is used (1) to assemble and review existing travel management information; (2) to conduct travel analysis, scoping, and the requisite environmental analysis for route and area designation; (3) to publish motor vehicle use maps; and (4) to monitor designated routes and areas.

Question 21. Might that money have been better spent doing off-highway use compliance work?

Answer. It is very important to complete the route and area designation process. A system of designated routes and areas will result in improved land stewardship, since cross-country motor vehicle use generally will be prohibited. In addition, as discussed above, enforcement will be enhanced through reliance on the prohibition of motor vehicle use that is inconsistent with route and area designations. Thus, designation of routes and areas for motor vehicle use and the corresponding prohibition establish a better framework for efficient and effective management of motor vehicle use, including enforcement of motor vehicle restrictions.

Question 22. Can you give me an estimate of the funds expended on travel management compliance annually?

Answer. The cost for educational and forest protection officer personnel is approximately $9 to $16 million per year, or approximately $50,000 to $100,000 per national forest or national grassland. LEOs spend approximately 3 percent of their time directly involved in enforcement of motor vehicle restrictions on national forests and national grasslands. To promote compliance with route and area designations, the Forest Service will focus on education, engineering, enforcement, and evaluation.

Question 23. Given the written testimony we have already received, it appears that some of the recreation groups and many of the fish and wildlife groups are ready to try and throw the all-terrain vehicle and off-highway vehicle users off federal lands.

Why should we single out one user group for their negative impacts while overlooking the negative impacts of the other user groups?

Answer. The Forest Service manages multiple uses in a sustainable manner, with full consideration of the relative impacts of each use. As stated above, this approach is codified in the evaluation criteria for designation decisions in the Travel Management Rule.

Question 24. Are there any recreational uses of Bureau of Land Management and Forest Service lands that have no impact on those lands?

Answer. All uses of federal lands, including recreational uses, have some impact, to a greater or lesser degree, on the land. One of the recreational uses that has least impact and also enjoys great popularity is scenic viewing. The Forest Service endeavors to manage all recreational uses in a sustainable manner.

Question 25. If we do what some want and eliminate the use of off-highway vehicles and/or all-terrain vehicles from federal land because of resource damage, how should we respond to other recreational uses that damages the resource?

Answer. Every legitimate use of NFS lands, including OHV use, should be managed with the sustainability of the land as a guiding principle.

Question 26. When a Forest Service or Bureau of Land Management employee observes unauthorized recreational use, or someone damaging the resources through an unauthorized use what is that employee's responsibility?

Answer. Forest Service employees report unauthorized recreational use and damaging activities occurring on national forests and national grasslands. Damage is documented and reported to LEOs for further action.

Forest Service employees may make contact with those engaged in these activities, if the employees can do so without jeopardizing their personal safety. If Forest Service law enforcement personnel are unavailable, the local law enforcement personnel are contacted.

Often members of the public will report resource damage and unauthorized recreational use to Forest Service employees.

Question 27. Am I correct in my belief that local law enforcement agencies that work on federal lands do so through Memorandums of Understanding (MOUs) and could request monetary support to respond to medical emergencies on federal lands as part of those MOUs?

Answer. The Forest Service enters into cooperative law enforcement agreements with state and local agencies. Under these cooperative agreements, the Forest Service most often provides reimbursement to cooperating agencies for law enforcement patrol activities on national forests and national grasslands lands related to the protection of persons and property.

When a medical emergency arises, state or local law enforcement officers and emergency management services (EMSs) may respond. Cooperative law enforcement agreements do not provide for reimbursement for the cost of medical emergency response. State and local EMS agencies are primarily responsible for responding to medical emergencies, regardless of whether they occur on or off NFS lands.

Question 28. Am I correct that county government can be reimbursed for search and rescue on federal land through Title III of the Secure Rural Schools and Community Self-Determination Act?

Answer. Title III of the Secure Rural Schools and Community Self-determination Act provides for reimbursement to local governments for search and rescue activities on federal lands.

Question 29. Mr. Holtrop, many of the witnesses in this hearing list a litany of examples of all-terrain vehicle and off-highway vehicle abuses on federal lands in their testimony. Can you tell us what specific steps the Forest Service has taken to manage OHV and ATV use on the national forest lands?

Answer. First, every national forest and national grassland conducts travel planning and manages all types of uses, including motor vehicle use, on that unit.

Second, in 2005, pursuant to public notice and comment, the Forest Service promulgated a rule requiring each national forest and national grassland to designate those routes and areas under Forest Service jurisdiction for motor vehicle use, by vehicle class and, if appropriate, by time of year. Upon publication of a motor vehicle use map reflecting these designations, motor vehicle use that is inconsistent with the designations, including cross-country motor vehicle use will be prohibited. Thus, upon publication of a motor vehicle use map, routes and areas covered by the map will be closed to motor vehicle use, unless they are designated for that purpose. Before the Travel Management Rule, routes and areas in national forests and national

grasslands were open to motor vehicle use, unless they were posted as closed in a forest order.

Third and most important, national forest and national grasslands will manage designated routes and areas through education, engineering, enforcement, and evaluation.

Question 30. In a recent article in the Property and Environment Research Center (PERC) Report (volume 26—issue 1) former Forest Service Chief Jack Ward Thomas said the following:

> The primary supporters for national forests were the timber industiy and states and counties that profited from increased employment, payments, and tax revenues—which collapsed with the dramatic decline of the timber program. Potential constituencies related to recreation, fish and wildlife, and water, in large part, chose to remain adversaries rather than morph into supporters. They won the conflict over management focus of the national forests but have yet to come to grips with the consequences of their victory. Many wander the old battlefields bayoneting the wounded. As a result national forests have become an even heavier economic and political albatross in the eyes of many.

Given Chief Thomas's analysis, in your estimation, is it in the best interest of the Forest Service or the public to have some recreationists fighting to throw other recreationists off federal lands?

Answer. The Forest Service manages national forests and national grasslands consistent with its multiple-use mission. Conflicts can arise when there are multiple uses of federal land. On every national forest and national grassland, the Forest Service strives to minimize use conflicts. In minimizing use conflicts, the agency endeavors to achieve consensus among individuals and entities representing a variety of interests and uses. Through standardized procedures and the requirements for public involvement and participation of other governmental entities, the Travel Management Rule provides an effective framework for enhancing consensus on travel planning decisions.

RESPONSE OF BRAD POWELL TO QUESTION FROM SENATOR DOMENICI

Mr. Powell I appreciate your testimony and your appreciation for the valid right of public land access that the off-road community enjoys.

I note that you call for a visible license for all OHV users on federal land.

Question 1. I am wondering how you would feel about requiring a similarly sized identification that we would make all hikers, hunters, fishermen, and other recreationists wear while they are on federal lands?

Answer. I would strongly support the use of a license or identification sticker on all forms of vehicular access equipment that are used by all recreational users of the public lands.

RESPONSE OF NADA CULVER TO QUESTION FROM SENATOR DOMENICI

I get the sense that you would be happy to see OHV use ended on federal land.

Question 1. Given the number of ATV and OHV users, can you project what the non-federal land impacts might be if these users are kept off federal lands?

Answer. As discussed in my written and verbal testimony, and also highlighted by many of the witnesses at the hearing on June 5, 2008, we need "active management" of off-road vehicles on the public lands. The agency witnesses, including Dr. Jayne Belnap, concurred that the current routes systems and use levels are more than were anticipated and are unsustainable, both in terms of ecological impacts and accommodating the many users of these lands.

The Wilderness Society believes that land management agencies must adequately plan to determine where off-road vehicle use is acceptable on public lands. Allowing ecological damage caused by off-road vehicles to persist unchecked does not serve the public and does not comply with the laws and policies governing federal public lands. To reiterate my response to a question from Senator Murkowski, there is sufficient "room" for motorized and non-motorized users on federal lands, but minimizing and mitigating damage caused by off-road vehicles to natural resources and the experience of other users requires thoughtful planning and management. Since this is the focus of our work, we have not made specific projections related to non-federal lands.

RESPONSES OF GREG MUMM TO QUESTIONS FROM SENATOR DOMENICI

BLUERIBBON COALITION,
Pocatello, ID, June 18, 2008.

Hon. JEFF BINGAMAN,
U.S. Senate, Committee on Energy and Natural Resources, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for the opportunity to address the additional questions from Senator Pete Domenici in detail for the record of the hearing by the Committee regarding Off Highway Vehicle Management on Public Lands held on Thursday, June 5, 2008.

Question 1. While licensing is a state responsibility, I am wondering how your organization would react to an administrative requirement for OHVs that use federal land to have a readily visible identification number to aid with enforcement of the Forest Service travel management requirements?

Answer. BRC would be opposed to any federal "administrative requirement" for motorized vehicle access to public lands. Licensing should remain a state responsibility precisely because the federal land managers rely on state, local and user group partnerships to effectively manage recreational uses. Such a requirement would be highly controversial in rural areas and may well be vigorously opposed by many Local and County governments.

Additional discussion

"Visible identification," whether required by federal or state programs, is not the key to effective enforcement of travel management regulations. There are several reasons why this is so.

The supposed benefit of a more visible "number" is minimal. After experimentation with larger registration numbers, the Utah OHV Program found that when trying to identify numbers on a moving vehicle, the larger numbers provide little improvement. When asked to comment on the benefit to OHV enforcement of Utah's larger number requirement, Fred Hays, Utah's OHV Program Coordinator said; "Been there. Done that. Didn't work."

The "large number" proponents seem motivated by the mistaken belief that "enforcement" is related to, if not synonymous with, "compliance." The proper relation between compliance and enforcement is central to any proper understanding of recreation management. Compliance with travel management regulations is the goal, not enforcement. Compliance is achieved via balanced application of a variety of management actions, including, but not limited to, common sense rules, quality user information (maps and signage), active peer group involvement and enforcement.

In many areas compliance is high even though enforcement efforts are low. Conversely, there are areas where compliance with regulations is low even though enforcement efforts are vigorous. Compliance and enforcement are thus not necessarily even positively correlated, let alone causally related.

Finally, we believe there is a risk that necessary law enforcement on federal lands will be improperly diverted by those with an overly zealous anti-recreation agenda. A review of the information provided to the Public Employees for Environmental Responsibility via a Freedom of Information Act shows that very serious crimes are taking place on federal lands, including commercial marijuana growing operations, illegal drug trafficking, illegal immigrant trafficking, and assaults, rapes and homicides. A preservationist group's campaign against OHV use should not be moving resources away from needed law enforcement efforts.

Question 2. Given your experiences in the Forest Service travel management process what would be the three most important lessons you would pass on to the BLM if they were to undertake such a process?

Answer. Lesson 1: The Travel Management Planning process must not be used as a convenient excuse for elimination or drastic reductions of OHV use. The policy is supposedly motivated by a need to address "unmanaged recreation," but some units of the U.S. Forest Service are overreacting and using the policy to make landscape level changes. Indeed, the Eldorado National Forest has issued a decision closing over 1000 miles of existing roads and trails across the Forest. These closures include not just the so-called "user created" routes, but approximately 400 miles of "system" roads and trails that had long been depicted as open to travel in previous Forest Service travel maps. Decisions of this nature create unnecessary tension between all user groups and may actually increase environmental "impact" through the inadequate opportunities to meet user demand and the likelihood of poor compliance.

Lesson 2: The agencies must be committed to effective implementation of the "restricted or limited to designated roads, trails, and areas" policy. However, good man-

agement will not flow from the whisk of a pen in Washington; D.C. Successful policy implementation must be accompanied by adequate budget and staffing. Above all, implementation must be accompanied by management's priority to achieve critical on-the-ground goals.

Lesson 3: A key lesson from the U.S. Forest Service travel management planning process is that the users are the key to getting it right.

The Travel Management Rule is properly viewed as an opportunity to provide for current and future recreational demands, mitigate impacts and leverage existing partnerships and programs for management and monitoring. Former Forest Service Chief Dale Bosworth directed and predicted that "[l]and Managers will use the new rule to continue to work with motorized sports enthusiasts, conservations, state and local officials and others to provide responsible motorized recreational experiences in national forests and grasslands for the long run." "A managed system of roads, trails and areas designated for motor vehicle use will better protect natural and cultural resources, address use conflicts, and secure sustainable opportunities for public enjoyment of national forests and grasslands." In fact, "it is Forest Service Policy to provide for a diversity of road and trail opportunities for experiencing a variety of environments and modes of travel consistent with the National Forest recreation role and land capability."

The Forest Service should be planning for a managed system, and working with all groups, especially OHV enthusiasts, in order to comply with not only the agency's directives and the Travel Management Rule, but the policies behind the Rule. Close coordination with all stakeholders, but especially the users themselves, should be emphasized across all federal land managing agencies.

Important note regarding Question 2

We understand the purpose of question 2 and attempted to answer it fully. However, the question incorrectly implies BLM lassitude in managing recreation. Many BLM units have long been addressing recreation management challenges, and all are stepping up their efforts. A significant portion of BLM-managed lands have been closed to motorized vehicles in the last 20 years. In other areas, including states such as California, Colorado and Arizona, significant percentages of BLM managed lands have moved into the "vehicle limited to designated roads, trails and areas" category. In other areas such as Utah, multi-year planning processes are in the final stages and will generate detailed travel management plans including specific road/trail/area prescriptions. In Utah alone such plans will cover approximately nine million acres, or more than two-thirds of BLM lands in that state.

It is certainly important that BLM learn from the unprecedented Forest Service travel planning effort that is underway. However, Congress should be careful to properly evaluate past, present and reasonably foreseeable future planning so as to give appropriate weight to the predictable efforts of special interests to exert political influence over administrative planning processes.

Question 3. From your experience recreating on federal lands, and what you've learned during the travel management planning process, what would be the best and most user-friendly way to designate the routes that will be open to OHV use?

Answer. The most "user-friendly" way to designate routes open for OHV use is for the federal agencies to fully commit to an active and long-term management vision and to "see the process through."

Unfortunately, environmental laws and agency regulations have often become one-way gates that largely constrain active management of the Forests and provide fodder for preservationist agendas designed to stop such active management through embroiling the agency in a war of procedural attrition.

Therefore we reiterate that successful recreation management policy must be accompanied by adequate budget, staffing, and above all, management's priority to achieve critical on-the-ground goals. Importantly, BRC notes that the agency's allocation of budget, staff, and management effort should reflect the developing reality that outdoor recreation provides a greater good for more Americans than any other aspect of its multiple-use mandate. The time has come to make managed recreation the BLM and Forest Service's top priority. The time is long overdue for allocations of agency resources to reflect Recreation's position as the dominant multiple use of public lands.

In conclusion, I again would like to thank you for this opportunity to answer these questions in detail for the record.

Sincerely,

GREG MUMM,
Executive Director.

RESPONSE OF FRANK ADAMS TO QUESTION FROM SENATOR DOMENICI

Mr. Adams, let me start by thanking you for your 40 years of public service and law enforcement work.

I noted your concern about reimbursement to counties for the search and rescue and emergency medical work they have to do on federal lands.

I suspect that you may not be aware that Congress passed a law in 2000 that would allow counties to utilize a portion of the Secure Rural Schools and Community Self-determination Act payments to repay the search and rescue work a county carries out on federal lands.

I also note that over the years only one county in Nevada (Nye County) has utilized this opportunity.

I also note that counties in Nevada received over $13 million of payment in lieu of taxes from the federal government and that those payments can be used for any purpose the county chooses.

Question 1. Can you help the Committee understand if any of the counties in your State use either of these sources of funding to help pay for search and rescue or emergency medical response that they undertake on the federal land?

Answer. Thank you and the committee for the opportunity to testify on the matter of local law enforcement impact on federal land regulations. I did poll the sheriffs regarding the use of both funds for the payment of search and rescue missions conducted on federal lands. The vase majority of them related that all the "in-lieu" taxes were used by the counties in their general funds, All but on Sheriff was unaware of the second funding source, the Secure Rural Schools Funds.

I told them that I would do some research on the second funding source and provide them with a method of tapping this fund.

RESPONSES OF ED MORELAND TO QUESTIONS FROM SENATOR DOMENICI

Question 1. While licensing is a state responsibility, I am wondering how your organization would react to an administrative requirement for OHVs that use federal land to have a readily visible identification number to aid with enforcement of the Forest Service travel management requirements?

Answer. The American Motorcyclist Association (AMA) would oppose any additional federal regulatory requirement for licensing, registration or permitting. Law abiding Off-Highway Vehicle (OHV) enthusiasts are already sufficiently burdened by government mandated titling, registration and permitting requirements.

The AMA previously supported a number of state OHV titling and registration programs. We have also been supportive of the federal Recreation Fee program. All three of these types of programs provide a way to link an OHV to its owner, registration holder or permit holder.

For example, to ride on the Wayne National Forest's OHV trail system in Ohio, a rider must title the vehicle with his or her home state, have a valid state OHV registration and buy and display a federal Recreation Fee program trail pass decal which shows the rider's full name.

A valid state OHV registration in the State of Ohio consists of a permanent decal with a unique registration identification number from Ohio's All-Purpose Vehicle (APV) registration program. The sticker must be displayed with the Recreation Fee program trail pass decal on the OHV in order to operate the vehicle in the National Forest. Thus a variety of identification tools already exist for the enforcement of public land OHV regulations.

Furthermore, when public land managers exercise initiative and creativity they can provide effective enforcement. For example, in early 2008 the Wayne National Forest organized a targeted enforcement campaign. With the existing identification tools Rangers were able to write all applicable citations, as note in the attached press release from the Wayne National Forest. We are unaware of any case in which their enforcement personnel were unable to serve a citation because of the lack of a license plate or larger registration numerals.

While we oppose the creation of any new and additional mandates, we would be willing to work with state and federal agencies to redesign existing registration and permit decals to enhance vehicle identification, as long as such modifications are practical.

Question 2. Can you tell us what has worked and what has not worked in that process? How would you improve it to gain a better, more easily implemented plan.

Answer. The experience of our members with this process has varied greatly from one federal forest to the next. Most of the negative experiences are the result of the Forest Service either rejecting or failing to evaluate enthusiast provided trail inven-

tory data. In these cases the Forest Service often cities a lack of time or funding to do a more thorough inventory and analysis of the existing trail system.

The AMA and other motorized recreation groups supported the Forest Service's new Travel Management Rule. We did so, however, with a number of caveats, not the least of which was our opposition to unfunded mandates and artificial deadlines that would sacrifice accuracy for expediency. Now those very issues threaten to undermine any genuine efforts by the Forest Service to fully inventory their trail systems.

Nowhere is a creation groups' support more clearly demonstrated than in the state of Colorado. There, off-highway enthusiasts from the Colorado Off-Highway Vehicle Coalition (COHVCO) have formed Trail Inventory Gap Resolution (TIGeR) teams to systematically collect route information using state of the art Global Positioning Satellite (GPS) information to share with the Forest Service. This information is made available to officials in the White River, Gunnison, Pike and San Juan national Forests.

Unfortunately, the personnel in those forests have refused to accept much of the information provided by COHVCO and the Trails Preservation Alliance (TPA), citing their inability to stay on schedule. This is an example of hard deadlines and unfunded mandates preventing a truly comprehensive list of trails for consideration in the final plans for those forests.

While the Forest Service asserts that this is simply the start of the process and that all of the trail information could still be considered prior to the final rule, many remain concerned that if these trails are not documented now, they may be lost forever to a process that refused to even review user provided input.

As other agencies, such as the Bureau of Land Management (BLM), move toward designated trail systems, inadequate funding and artificial timelines should not be allowed to diminish the quality of the final product. An inventory system that fails to provide adequate time and funding to do the job right is destined to fail.

Question 3. From your experience recreating on federal lands, and what you've learned during the Travel Management planning process, what would be the best and most user-friendly way to designate the routes that will be open to OHV use?

Answer. A user-friendly OHV use map would be the best way to inform riders of the designated routes following the Travel Management process. However, an effective enthusiast map will need far more detail than the minimal requirements set out for the Forest Service's Motor Vehicle Use Map in the route planning regulations.

At a minimum an enthusiast map should include the topography information generally available on a topographic map, designated OHV trails, trail head locations and legal access routes, emergency services access points (if available) and sufficient information to estimate distances and difficulty. Maps must also be of sufficient scale to be useful. We have seen federal agencies provide 8.5 by 11 inch Xerox "maps" to the public of extensive trail systems. Clearly, a map of this scale has little value.

A good map is only a starting point. The land management agencies must still provide informational kiosks at trailheads, confidence markers on the trail system and sufficient trail maintenance and signage to assist riders in identifying the designated trail system.

[Responses to the following questions were not received at the time the hearing went to press:]

QUESTIONS FOR HENRI BISSON FROM SENATOR BINGAMAN

Question 1. The Forest Service's regulations specifically require the official responsible for designating roads and trails "to consider . . . the need for maintenance and administration of roads, trails, and areas that would arise if the uses under consideration are designated; and the availability of resources for that maintenance and administration." 36 CFR §212.55(a).

Question 2. Does the BLM have direction to analyze, publish, and consider the availability of resources when developing and adopting its travel management plans?

Question 3. Your testimony identified the Hackberry Lake OHV Area in New Mexico as an example of an open area with minimal resource conflicts. Please provide a complete list of other areas in New Mexico that are open to cross-country travel and have minimal resource conflicts.

Question 4. Please provide an analysis of the implementation costs (including maintenance, monitoring, enforcement, and education) for the motorized travel systems proposed in each of the six resource management plans under consideration in Utah.

Question 5. There is a picture in your testimony of some restoration work in Southern California. How much money did that restoration project cost?

Question 6. Please provide a description of the status of each action item outlined in the 2001 National Management Strategy for Motorized Off-Highway Vehicle Use on Public Lands (including an explanation of whether the action was carried out as called for (and, if not, why not and, if so, a description of any lessons learned from carrying out the action)).

Question 7. At the hearing, you mentioned that quiet recreation needs were satisfied by such areas as Wilderness and Wilderness Study Areas. However, in many cases, the BLM is proposing to specifically designate OHV routes through WSAs. Can you explain the apparent inconsistency? In addition, can you please explain what direction the BLM has on designating OHV routes through WSAs and other areas identified for wilderness consideration?

Question 8. How many of the BLM's Resource Management Plans that have been complete in the previous five years or are scheduled to be completed in the next five years do not include or are not expected to include comprehensive travel plans? For each, how many acres remain or are expected to remain open to undesignated OHV travel routes?

QUESTIONS FOR HENRI BISSON FROM SENATOR WYDEN

During the June 5, 2008 off-highway vehicle (OHV) hearing in the Senate's Energy and Natural Resources committee we discussed the Bureau of Land Management (BLM) and the Forest Service's actions to nationally partner with private groups to supplement federal efforts to manage OHV use and impacts; similar to the partnership taking place in my state of Oregon with the National Off-Highway Vehicle Conservation Council.

Question 9a. As follow-up to that discussion, please ensure that you provide the data I requested-information and examples of how you are partnering with private associations in Oregon and across the United States.

Question 9b. Also, as discussed please provide your plan regarding the prospects to increase these public/private partnerships.

Question 10. We also discussed during that hearing that OHV user laws and rules vary on private, county, state, and federally-owned lands and how this can be confusing to many trail riders. How are BLM and the Forest Service working to better coordinate and standardize cross-boundary OHV laws and rules to eliminate confusion for OHV riders in Oregon and on the national level?

Question 11a. Roads and motorized trails are expensive to construct and maintain whether they are asphalt, gravel, or dirt. The Taxpayers for Common Sense estimates the Forest Service currently has a $10 billion road maintenance backlog. Even where minimal construction or maintenance is required (as is the case for some routes on BLM lands), more routes mean more monitoring to ensure that they are not causing unacceptable damage and enforcement problems.

Is $10 billion an accurate estimate for the Forest Service's road maintenance backlog?

Question 11b. Are the Forest Service and BLM capable of assessing the funding and resources required to implement proposed travel plans?

Question 11c. If so, are your agencies proposing and designating road and motorized trail systems that are fiscally realistic based on available and projected funding for construction, maintenance, monitoring, and enforcement?

Question 12a. While many OHV users ride responsibly on designated trails, increased OHV activity is affecting hunting, fishing and hiking experiences for others that are trying to enjoy the tranquility of our Nation's public lands. Increased off-road use of all terrain vehicles, trucks, motorcycles and other motor vehicles is resulting in harm to wildlife habitat and other natural resources on both public and private lands throughout Oregon, placing further strain on law enforcement and impacting quiet users. According to the Forest Service and BLM, between 2005 and 2007 there were more than 5,000 OHV-related law enforcement incidents in Oregon and Washington states alone.

At the hearing, there was some discussion of this issue and inquiry into the consideration for quiet users given in travel management planning. Mr. Bisson, in the hearing you indicated that Wilderness exists for quiet activities. However, Wilderness is a uniquely rugged backcountry experience that not all hikers, campers, hunters or fishers are seeking. Mr. Bisson and Mr. Holtrop, do you not believe that it

is important to have non-Wilderness areas on our public lands that quiet recreationists can enjoy without motorized impacts?

QUESTIONS FOR HENRI BISSON FROM SENATOR DOMENICI

Question 13. Can you tell us how much money has been expended to conduct the Travel Management Rule and the plans that it called for?

Question 14. Might that money have been better spent doing off-highway use compliance work?

Question 15. Can you give me an estimate of the funds expended on travel management compliance annually?

Given the written testimony we have already received, it appears that some of the recreation groups and many of the fish and wildlife groups are ready to try and throw the all-terrain vehicle and off-highway vehicle users off federal lands.

Question 16. Why should we single out one user group for their negative impacts while overlooking the negative impacts of the other user groups?

Question 17. Are there any recreational uses of Bureau of Land Management and Forest Service lands that have no impact on those lands?

Question 18. If we do what some want and eliminate the use of off-highway vehicles and/or all-terrain vehicles from federal land because of resource damage, how should we respond to other recreational uses that damages the resource?

Question 19. When a Forest Service or Bureau of Land Management employee observes unauthorized recreational use, or someone damaging the resources through an unauthorized use what is that employee's responsibility?

Question 20. Am I correct in my belief that local law enforcement agencies that work on federal lands do so through Memorandums of Understanding (MOUs) and could request monetary support to respond to medical emergencies on federal lands as part of those MOUs?

Question 21. Am I correct that county government can be reimbursed for search and rescue on federal land through Title III of the Secure Rural Schools and Community Self-Determination Act?

Mr. Bisson, you are going to hear several witnesses today suggesting that your agency undertake single resource planning, in the same manner that the Forest Service has.

Question 22. Would it be possible for the Bureau of Land Management to do that type of Travel Management planning work in the next five years?

Question 23. Can you estimate the potential cost of that work?

Question 24. To your knowledge, have any of the counties in Nevada taken advantage of the opportunity to get Title III funds from the Secure Rural Schools and Community Self-Determination Act of 2000?

Question 25. Are there any other mechanisms that would allow the Bureau of Land Management to provide any financial aid to counties to help them provide search and rescue and law enforcement help on BLM lands?

QUESTIONS FOR JAYNE BELNAP FROM SENATOR BINGAMAN

The literature synthesis cited in the Department's testimony emphasized the need for further research on the cumulative and indirect environmental effects of off-highway vehicles. Specifically, it states:

> Whereas the results of past OHV-effects research have been reasonably consistent in demonstrating the nature of OHV effects in the immediate vicinity of single trails and OHV sites, there is a need for stronger emphasis on the cumulative effects-both spatial and temporal-of OHV use.
>
> The concept of cumulative impacts as they relate to OHV activity, therefore, must be applied in a landscape context, as these impacts are not site-specific and may affect adjacent or even more remote habitats and landscapes. For example, dust created from OHV activities can be dispersed to areas far away from habitats directly impacted by OHV activities. Likewise, erosion of soils during heavy rain events may increase sedimentation far downstream of areas directly subjected to OHV activities, and edge or corridor effects of OHV routes may promote widespread dispersal of non-native and invasive species. Thus, there is a need for greater monitoring and research emphasis on the effects of OHV activities not only in the areas directly subjected to those activities, but across impacted habitat types, watersheds, and landscapes.

Question 1. Can you describe the state of the science and what current research is underway to improve our understanding of the cumulative and indirect environmental effects of OHV use-particularly those at large spatial scales?

Question 2. Can the kind of research that is called for by the synthesis be reasonably carried out? If so, please specifically describe how.

Question 3. In his hearing testimony, Mr. Mumm cited a long list of studies estimating the apparent economic benefits of OHV use. The synthesis points out that, "by the same token, economic analyses of OHV use are needed to account for not only the immediate and apparent economic benefits, but also the long-term, large-scale, and ongoing costs associated with OHV use. Without factoring these variables into models of economic impacts, true cost : benefit ratios of OHV use will remain unknown."

What specific factors should be considered in a full-cost accounting of OHV use on public lands, and is such a study something that USGS is capable of conducting?

Question 4. The synthesis discusses the impacts of OHV use on invasive species, but it does not discuss the indirect or cumulative effects of those impacts. Can you summarize your understanding of the indirect and cumulative effects of the impacts of OHV use on invasive species?

Question 5. The synthesis states that once certain soils are disturbed by OHV use, "it may take 300-500 years per inch for soil stabilizers to recover or return to their original state." Can you expand on this statement and its relevance to OHV management?

Question 6. During the hearing, we briefly discussed the impacts of OHV use on dust production. Can you summarize the existing research on the subject, including the implications of dust production, and what further research is necessary?

Question 7. What other activities on public lands have significant impacts on dust production?

APPENDIX II

Additional Material Submitted for the Record

Twentynine Palms, CA, June 1, 2008.

Hon. JEFF BINGAMAN,
U.S. Senate Chairman, Senate Committee on Energy and Natural Resources Washington, DC.

Re: Off-Road Vehicle Abuse on Private and Public Lands

DEAR SENATOR BINGAMAN: My name is Christine Carraher, and I have been a full-time resident of the east Morongo Basin in the Mojave Desert of California for 16 years. I am a homeowner on 5 acres. I work as a medical transcriptionist, telecommuting from home. I thank you for the opportunity to testify on the issue of off-road vehicle ("ORV") abuse in the desert area.

Population pressures, increasing proliferation of off-road vehicles, a sense of rider entitlement, and an utterly inadequate system of regulation have led to direct conflict between ORV riders and rural landowners such as myself and my neighbors. It is my position that until off-road vehicles are regulated along the same lines as street vehicles, with visible identifying plates, licensing of drivers, meaningful penalties for infractions, and mandated liability insurance, we will make no real progress towards a solution to the conflict.

I live in a rural high-desert area where the exposure to ORV use is frequent. Please understand that I value the rights of Americans to enjoy their public lands in nondestructive pursuits and acknowledge and appreciate that many citizens enjoy off-roading as recreation. However, the inhabitants of my area witness the misuse of public and private lands by ORV riders on an almost daily basis. Those of us on property adjoining or near public lands are routinely subject to the noise, dust, and destructiveness of ORV users who do not recognize law or limits. The problem is particularly intense in the outlying areas like where I live because homestead-based settlement here created a quasi-checkerboard pattern of property ownership, with private residences scattered amount parcels of federal land.

I have experienced first-hand the destruction that an off-road vehicle causes the moment it leaves the road or trail. I see the collapsed burrows, the crushed and uprooted vegetation, the eroded wash-banks and hillsides. I witness the changes in rain run-off patterns and the increased dust from formerly living areas that have been turned into barren dirt lots. I also watch ORV tracks slowly turn into trails as one user follows another, until the desert is just a criss-cross of routes—routes that ORV users may subsequently attempt to defend as historic roads that must remain open to vehicle traffic.

I have been threatened by riders who resented any obstacle to their free use of lands—-public OR private. I have been subjected to unprovoked hostility and verbal assault and left in the dust as riders speed off laughing in complete disregard of the law or my rights. I have had motorcycles buzz right by my door or around barriers on my own property as though I lived in an open-riding area, utterly disregarding any attempt on my part to stop or redirect them.

I have seen my neighbors and colleagues who protested and took action against these illegal behaviors subjected to the most extraordinary and vicious vilification and defamation in on-line attacks by people who do not even live here but want to be able to ride essentially in our yards, including such threatening practices as posting directions to our homes.

Let us be clear what we're talking about here: The modern off-road vehicle is a powerful, potentially very dangerous machine. It can turn from a tool of recreation into a weapon of menace and destruction in an instant, with no mechanical modification necessary, depending only on the intent of the rider. It is at the same time a perfect means of escape from accountability. The ORV outlaw may, at will, use

their vehicle as a weapon to destroy land, vegetation, and wildlife and also as a weapon to intimidate, menace, or even injure members of the public, and once the injury is done use the very same instrument to flee the scene, knowing the likelihood of their being caught is extremely remote.

It is unacceptable that tax-paying, law-abiding residents should be so menaced, injured, and deprived of the peaceful enjoyment of their homes. It is also unacceptable that public lands be destroyed without compensation to the public.

So what is to be done to correct this injustice? We must tie the action to the actor.

It is my belief that we will not make real progress toward a solution until we reconceive fundamentally our regulatory structure governing off-road vehicles and begin to treat ORVs similar to the way we treat street vehicles, building personal accountability into the system.

Education and proper enforcement can help measurably, as has been demonstrated in the Morongo Basin where I live through the vigorous activism of Community ORV Watch. But for real progress we must address the fundamental and overarching problem: That the non-accountability of the ORV user renders education and enforcement attempts permanently insufficient and, in the end, effectively meaningless.

The problem is inherent in the activity itself, and this point is crucial: The ORV user rides with, to all intents and purposes, absolute impunity, as they are almost impossible to catch and almost impossible to identify. Until we can reliably tie the action to the actor, legally and financially, we will not solve this problem. Period.

Remember, the ORV races across a land that is essentially not patrolled. It is a rare day that a ranger or deputy would be in the vicinity to respond to a complaint; considering the immense area these officers cover, timely assistance from law enforcement is simply too much to expect. And citizens cannot catch them—unless they perhaps jump on an ORV and, in their pursuit, become part of the problem themselves. And, in the process, seriously risk their personal safety as confrontation with riders can be extremely dangerous.

Nor can the citizen meaningfully identify the illegal rider. Covered head to toe in gear and dust and moving at high speed, the ORV user rides under a cover of anonymity. Whether they be weekend warriors from the city or local juveniles, there is effectively no way of knowing for sure who they are. The tiny "green sticker" that is required in California is meaningless unless one is in the immediate proximity of a halted vehicle whose driver is allowing inspection—not a situation that happens frequently in the field.

And, on the rare occasion when a lawbreaker is confronted by law enforcement, the penalties imposed are so minor as to be little more than a nuisance, and no real deterrent.

What would change this discouraging equation? Bringing off-road vehicle use under the same type of regulatory system covering street vehicles. It is difficult to understand why powerful vehicles with such destructive capacity are not already required to meet the same registration, identification, and liability requirements that street vehicles do.

An updated, realistic system that would meet the purpose of bringing accountability to the ORV rider would include:

- Identifying plates that are visible from some distance, at least equivalent to those required on street vehicles. This could help the public participate in enforcement, as it would enable them to convey to rangers and deputies more usable information than "a guy with a red helmet on a quad." It would also make immediately apparent outlaw vehicles that were not registered. It would also bring an element of awareness to the ORV rider that they are identifiable and will be held accountable for their actions and therefore would be well advised to mind the law. The pernicious cover of anonymity would be removed.
- Registration of vehicles with an agency that would keep records of infractions, so that bad actors could be tracked. Registration would need to be produced upon demand of law enforcement.
- Licensing of drivers, with qualifying testing to demonstrate that the driver has the knowledge and skills to ride within the law. This requirement would make strides towards removing lack of education as an excuse for illegal action.
- Mandatory liability insurance, with proof to be surrendered to law enforcement upon demand as is required with street vehicles. This provision is KEY. Riders must be held financially responsible for the damage they do. If it's found that their actions are so dangerous as to be uninsurable, then we must question why we are allowing them to perform these actions publicly and put others' lives and property at risk. Riders and their insurers need to be made appropriately subject to civil action.

- Reevaluation of our standards for minors. These machines are potentially very dangerous for both rider and public, and it is prudent to question whether juveniles have the judgment to appropriately handle the privilege of riding. Additionally, despite the law juveniles frequently ride with no oversight. This is inexcusable. The actions of juveniles on off-road vehicles must be tied to their parents or guardians with full civil and criminal liability.
- Penalties must be increased to a level sufficient to provide real deterrence. Education followed by a warning may be fine to start, but after that penalties must be increased precipitously, up to and including confiscation of the vehicle. Weekend warriors from urban areas have come to regard small fines as simply part of the cost of riding wherever they want in the desert. That is not acceptable. The penalty must be sufficient to deter abuse.

I recognize that this is not a program that the Federal government can create alone and that interagency cooperation would be required. Nevertheless, it must be done. Nothing less will fix the problem. Funding can be provided by the users of off-road vehicles.

However we proceed, until we tie the actor to the actions there will be no real progress in the growing crisis of off-road vehicle abuse and no real relief for property owners. This abuse of peaceful citizens and their property must stop!

I thank the Senators for allowing me to testify on the issue of off-road vehicle misuse and appreciate the efforts of the Committee to study the problem. It is my sincere hope that you will vigorously pursue this matter and bring justice and needed relief to the law-abiding rural resident, as we have no way to stop these abusers except through the actions of our elected officials and the problem is getting dangerously out of control.

Respectfully,

CHRISTINE CARRAHER.

Twentynine Palms, CA.

Hon. JEFF BINGAMAN,
Chairman, Senate Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SIR: It is with a great deal of appreciation that I write this letter to you. I am grateful to be given the opportunity to express my concern and dismay over off-road vehicle trespass on private property in my neighborhood. This letter includes a short introduction to my situation, a detailed account of the problems I face as a private property owner under siege by riders of off-road vehicles, and finally some considered solutions to the problems.

By way of introduction, I am a professional who retired after a spinal disease crippled me. I am a parent of three contributing citizens. I have a long history of community involvement. I am not a member of any anti-ORV riding group, but I have worked cooperatively with one such group on a few occasions.

I retired to Wonder Valley, a quiet corner of the Mojave Desert and a Special Service District within San Bernardino County that covers 130 square miles and has a land-to-dwelling ratio of four homes to every square mile. I am currently an appointee to the Road and Park Commission that makes recommendations to the County for the Wonder Valley area and although I am not writing to you in my capacity as Commissioner, it is worth mentioning that the problems that accompany off-road vehicle riding are well known to the Commission and the County Board of Supervisors.

Wonder Valley is situated about two and a half (2.5) hours from Los Angeles, San Diego and Orange County and about an hour and a half (1.5) from Riverside and San Bernardino. My home sits on a five-acre Small Tract Homestead parcel. Bureau of Land Management (BLM) land abuts my property on three sides.

Since I moved to Wonder Valley, I have been plagued by riders attracted to a sand pit a thousand or so feet from my home that was created by the action of flash-flood water where two dry washes meet. The land is managed by the BLM and is theoretically closed to off-road vehicles. The riders soon get bored with playing in the pit and leave to explore the dry washes. One of those washes crosses my property, and the trespass is non-stop. If it is a weekend there is someone on an off-road vehicle roaring across my property past my back door, through my garden, to get out of or into the wash.

In the three years I have lived here, through constant work and expense, I have managed to reduce the trespass to three or four trespasses a month, but is has been a Herculean task that should not be the work of a simple property owner trying to enjoy a little peace and quite and recuperate from a series of surgical spinal re-

constructions. I have often feared for my personal physical safety. The reduction in trespass has required the combined work of the San Bernardino County Sheriff, San Bernardino County Code Enforcement, the District Attorneys of San Bernardino and San Luis Obispo Counties, and the Superior Court of San Bernardino County. The struggle has required me to be strong, articulate, tenacious, resilient, well-funded, and creative. It has taken several hundred hours of my time as well as the time of neighbors and friends who have helped and supported me through the fight.

My neighborhood like others in Wonder Valley has become a volatile hotbed of contention with private and BLM no-trespassing signs cut down, swastikas and other hate images appearing in sensitive and significant locations, and neighbors on high alert. The off-road community waves the flag trying to justify their practices by declaring that President Grant went on "wild buggy rides in the streets of Washington, DC" and demanding their "[constitutional] right to ride" while residents fight for their right to peace and quiet in their homes.

I have personally been menaced by a man who charged me at fifty miles per hour with his off-road vehicle while he was trespassing on my land. I had to go back to court a second time to ask for a restraining order against him. I have been harassed in my home and on the street. The directions to my home have been published on line in several locations over a period of several years by members of the off-road community with exhortation to their buddies to ride their ORVs by my home and voice their opinions. Early on the Sheriff was an unwitting victim in this, sent on bogus calls to my home by "anonymous" tipsters.

There are so many things wrong with this situation that it is difficult to address them all, but let me try to do so. Let me do so for all of those beleaguered neighbors of mine who may not be as strong, tenacious, resilient, articulate, well-funded, and creative and who may not have the hundreds of hours of time or the support of friends and family as has been my good luck.

First and foremost, as an American citizen and a homeowner, I am entitled to the peaceful enjoyment of my home. I should be safe in my home. My property should be under my control as long as I am acting in a lawful way. I should be free from trespassers. I believe I am entitled to this as a citizen of San Bernardino County, the State of California, and the United States of America.

Second, trespass reduces the value of my land. Every wheel rut results in constant erosion by wind and seasonal erosion by water. The vehicles damage the existing plant and animal populations by altering the terrain and habitat and by killing them outright. My property is a nursery for many creatures on the protected species including the Kangaroo Rat, the Smoke Tree, and the Cat's Claw Acacia. Much aesthetic and biological value lies in these creatures. A four-foot Smoke Tree costs about $250 in local nurseries.

Third, every ride across my property changes the drainage and ruins the levees, called berms, that divert water during flashfloods. Since only a small break in the levees that hold back the flash floods will cause them to fail, every trespass potentially endangers the structure of my home if at any time I cannot get someone to come and repair the berms before a storm.

Fourth, the dust the vehicles raise is a health hazard as well as a nuisance. The dust problem persists long after the vehicle is gone as each gust of desert wind raises dust where an ORV breaks the hard desert crust. Dust is filled with microscopic particles of clay and silica, and sometimes contains other organic and inorganic debris, like the fungus that causes Valley Fever and asbestos fibers, all known to cause life-threatening illness when inhaled. I will skip a discussion of the effects of an illegal 100+ decibel engine shattering the stillness outside one's door.

Fifth, protecting myself against outlaws on off-road vehicles has cost me thousands of dollars in materials and labor. The expenditures fall into two categories, damage prevention and damage mitigation. Prevention includes building fences and barricades. Mitigation includes restoration of disturbed drainage, damaged levees and berms, erasing tracks so other off-road vehicles don't follow them, and restoring the desert crust. As you may imagine, because I am no longer able to do any of this work myself, the bill has been considerable.

Sixth, protecting my property against off-road vehicle trespass has diverted my precious resources. The actual cost of defending my perimeter is matched by an equally onerous and significant opportunity cost. As a disabled person, you can imagine how frustrating it is to have to spend my limited physical and financial resources on fighting trespass, instead of improving my quality of life. I fail to see why as an American citizen, my disposable income must be spent on protecting my perimeter against outside aggressors. I thought peace in our homes was what my father fought for at Normandy and the Battle of the Bulge.

Land owners carry a heavy economic, physical, and psychological burden imposed on us by outlaw ORV riders. The source of this problem is not so much that people

want to ride off-road vehicles. It is still a legal activity in some specific locations in America. The problem lies largely in three facts that are, in my mind, the key to a workable solution. First, most riders come onto my property from BLM land. Second, most riders are unidentifiable and untrackable. Third, there are few real penalties for the transgressions, few consequences for illegal behavior, and no restitution for the property owner.

The argument is sometimes made by the ORV community that not all riders are outlaws, and I am sure that is true, but it is an immaterial argument. It is like saying that since most people do not murder and rob other people, there should be no laws regulating robbery and murder. If ALL people were ONLY riding legally, I would never see a rider on my property. Although I see fewer riders on my property, this spring alone there have been at least a dozen high-speed trespassers and I see people riding illegally on other land on a regular and continuing basis, except at the hottest time of the summer, when activity is rare.

So the problem becomes what to do about the outlaws. Because it is so cheap and easy to be an ORV outlaw, many riders choose to step over the line. Until the riding community pays for the full cost of their fun, including damage to private property, the problem will continue unabated. When the only punishment one gets for stealing cookies from the cookie jar is the cookie itself, it is likely that the cookie stealing will continue. This is the situation with ORV outlaws. The only consequence ORV outlaws currently suffer is doing whatever they want, whenever they want, with impunity. They are as unidentifiable and unapprehendable as the banditos of the Old West, and they cause as much upset in our communities. The problem of ORV outlaws is pervasive and it will take a combination of civil and criminal justice solutions to return peace to our neighborhoods and end what is tantamount to motorized terrorism in some locations.

I hope you will consider the following list of suggestions in framing the best solution to the problem.

First, rider anonymity needs to be ended. I was able to get the Sheriff and DA involved in my situation because I was able to track a perpetrator to a nearby home. But understand what a rarity this is—of the hundreds (100s) of trespasses in the last three and a half years, I have been able to identify only one (1) rider. Riders are unidentifiable because they are covered in protective gear and they are not required to have registered license plates that can be read as they flee the scene.

Second, the BLM needs to be given adequate resources to successfully steward the land under their care. We need rangers and we need maintained signage. Most of the trespass on my land comes from the BLM land that surrounds my property. Calls to the BLM are not returned. Although Ranger Kevin MacLean is assigned locally, he is called a "Ranger Trainer" and so he is mostly out training other BLM employees, not rangering our neighborhoods. When our neighborhood watch volunteered to install and maintain signs on BLM land in our neighborhood we were told there were no signs available.

Third, law enforcement needs additional funds to purchase the specialized equipment and special training required for off-road vehicle enforcement. I fail to understand why the funds for this very expensive, specialized enforcement should not come, in large part, from the pockets of the community that offends. Law enforcements efforts will be improved by tighter regulation and better rider education as outlined below.

Fourth, riding needs to be more tightly regulated. ORVs are high-powered vehicles and their drivers need to be issued licenses after rigorous testing that includes items about the laws regarding public and private property. Minimum age limits and other requirements that are in line with those for a regular driver's license need to be established. Riders should be required to carry proof of medical, property damage, and personal liability insurance on their vehicle when they ride—with the provision that this information be surrendered to the injured party and any law officer upon injury or damage to another person or their property.

Fifth, rider education needs to be required for all riders. Riders need easy to access, readable information about where they may legally ride.

Sixth, the penalties for illegal riding need to be stiffened, particularly for repeat offenders, who should have their vehicles seized.

Seventh, ORV routes in areas that suffer from frequent incursions should be closed until adequate law enforcement, clean up, and restoration can be guaranteed.

And finally, I am tired of paying the bill for the freewheeling destruction of outlaw riders. A fund needs to be established through user fees to pay for the damage done by riders to private property through illegal trespass.

I would like to thank this august body for the opportunity to testify on this critical issue affecting the future of American land and resources. It is clear that there is a huge problem, that homeowners are being arbitrarily deprived of their right to the

enjoyment of their homes by modern-day outlaws. It is also clear that a solution is possible, one that respects the rights of riders who ride legally and the rights of property owners who want nothing more than to remain unmolested in their homes.

We must act now if we want to reduce the tension in our communities, the devastation of pristine environments, the aggravation and loss of homeowners, and the drain down of public and private resources. We cannot wait if we want to improve the air quality, the quality of life for residents, and the biological diversity of our American Home.

Again thank you for the opportunity to speak.

Respectfully,

D. S. DOZIER.

STATEMENT OF VICTORIA FULLER, JOSHUA TREE, CA

Thank you for the opportunity to speak to you about a very serious problem that is getting worse as more and more off-road vehicle riders come out to our communities causing widespread damage and nuisance.

I live in a small town in the California desert. My neighbors and I are just like other rural Americans who seek a friendly community to live-in surrounded by wide open public land.

We have reached a point of desperation as we witness our rural communities taken over by off-roaders who have no respect for our private property rights. Many of our calls for help are ignored because there is insufficient funding and support for law enforcement who are often overwhelmed by the problem. In our communities, ORV trespass and nuisance is a major complaint to law enforcement both local and federal. Every holiday weekend, and often in between, people from urban areas haul their vehicles out to our neighborhoods and act in a way they would never act in their own neighborhoods—they treat our communities like off-road vehicle playgrounds: riding cross-country and trespassing on both private and public lands.

Large staging of 10, 20, 30, 50 ORVs assemble on someone's five acre weekend getaway and ride day and night creating noise and dust—degrading the quality of life in our communities. Every weekend we suffer from helmeted riders who act as though they are invincible by trespassing on our lands and disappearing into the distance before law enforcement can respond. They are nearly impossible to identify because they do not have license plates. And due to the lack of local as well as federal law enforcement, residents have been forced out of their homes while the riders continue to break the law with impunity.

Our public lands are lacking adequate route designations to inform riders where they can and cannot go in addition to information like maps and signage. Because off-road vehicles are going anywhere and there is no information to contradict this notion, we see Real Estate ads promoting irresponsible behavior by implying that people can ride anywhere they want.

Can you imagine what it's like to be a prisoner in your own home, or the feeling of helplessness as dirt bikes, quads and sand rails ride past your "no trespassing" signs right onto your private property? Don't I have a right to peace and quiet? to the safety of my home? to the full value of my property?

One especially egregious circumstance was told to me last week involving a private residence bordering on BLM land that includes a wash adjoining the private property. With the coming of spring weather, groups of riders numbering 8 to 10 at a time are beginning their annual treks along the wash as if it were a Disneyland ride. According to County code enforcement officers, the BLM office has informed them that the wash is now an "established route" because of its "common use". BLM personnel have also said that "washes are generally allowed routes". Our understanding has always been that vehicles are allowed only on routes specifically designated on official maps. No exceptions have ever been given, not to mention how so-called common use might be established. Is this like Tombstone justice where if anyone wants to open up their own ORV trail on BLM land they only have to use it three times or so? What is the BLM thinking and why is no one-not even Congress—holding them accountable?

The "checkerboard" pattern of private, public and BLM lands can create misunderstandings and ambiguities in the interpretation of the law. It can also lead to encroachment onto the outer boundaries of Joshua Tree National Park, where it has been made clear that no off-road traffic is ever allowed. The BLM's lack of clear rules and specific areas for off-road vehicles leads to riders carrying over their lawless behavior onto all lands—both private property and National Parks.

You need to know that we also suffer from retaliation by riders who engage in harassment of their neighbors who call for help. Some riders use their vehicles to intimidate and try to deny us due process of the law. There are horror stories of residents who have received threats, have been physically attacked, brushed past closely by vehicles, their pets killed, and their property destroyed. There have even been shootings over this conflict.

We need to find effective ways to deal with this problem before it gets even more out of hand.

I live in Joshua Tree, California, located in the Morongo Basin in San Bernardino County, the largest county in the nation, where you can find the largest designated off-road vehicle open area in the United States, but riders do not stay in designated areas and we have been suffering from the onslaught of abuse.

Three years ago, a group of residents and business owners could not take it any more and got together to find solutions to this problem. We organized meetings, conferences and public education campaigns and have asked our local law enforcement for relief. As a result:

- We assisted the local Sheriff's department obtain more than $250,000 in state ORV law enforcement grants.
- We coordinated a series of stakeholder meetings with residents, conservation groups, off road vehicle vendors and state, local and federal law enforcement agencies to create an informational brochure encouraging safe and responsible riding, informing the public about the law and providing a map showing clearly where it is legal to ride. Thousands of these brochures have been distributed to riders throughout our area. (Brochures for distribution).
- We participated in a stakeholder process to create a county ordinance that is helping to fairly and effectively protect private property. The ordinance was passed unanimously by the San Bernardino Board of Supervisors, and according to the Sheriff's department, code enforcement and residents, the law is working. (Copies of the ordinance for distribution).
- We have formed volunteer groups to serve as stewards of our public lands since the BLM has not been able to protect our cultural and natural resources. Adobe ruins, stagecoach sites, mining districts and other historic treasures are routinely damaged by uncaring riders. We need help from the BLM and other federal land management agencies to protect these places that are part of our national heritage.

Rural communities all over our country are suffering from the reckless, unchecked motorized sport and it is very important that we take a national approach to this growing problem.

We ask that our Congress craft legislation to give relief to rural American communities and would like to suggest the following:

1. We need stricter laws, greater fines, confiscation of vehicles and jail time for repeat offenders. We must have zero tolerance for harassment and intimidation.
2. We need a national campaign to educate riders about where to ride legally, to respect private property and public lands, and advice on how to ride safely and responsibly.
3. Every vehicle should have a visible license plate so that property owners and law enforcement can identify offenders. The presently used small sticker on the back of the vehicle is impossible to see when it is moving.
4. ORV vendors must finally take responsibility to promote responsible riding through their advertising campaigns and at the dealerships.
5. Our federal law enforcement agencies must begin to respond to this huge problem with a concentrated effort, special task forces, and cooperation with local authorities and law enforcement agencies.
6. Parents must be financially responsible for the actions of their children who ride dangerously and damage private property and public lands.
7. We must find less dangerous and less destructive recreation for our youth.
8. State and county law enforcement should not have to compete with federal law agencies for state-funded grants for ORV enforcement. It's time for the BLM to take their mandate seriously and protect our public lands, many of which have become illegal, de facto off-road vehicle open areas.
9. Riders should be required to cover the cost of the impact of their sport through fees and fines.
10. Rider should pass a driver's test that educates them on their responsibilities and the impact of trespass.

It has been a privilege to be able to testify before this committee and I hope you will take these comments to heart and provide the leadership we need to address this serious problem.

ATTACHMENT.—FOLLOW UP TO SENATE TESTIMONY

ORV users are not informed about where they can and cannot legally ride. We live in rural communities and everyone cannot afford to fence in their 5+ acre lots. Local riders congregate in large stagings in our communities and then leave their property and ride cross-country trespassing on private lands. Riders remove "No Trespassing" signs from our properties and then claim they did not know they were trespassing. The BLM does not respond to calls in a timely fashion, are understaffed and have essentially abandoned the public lands in our area as they concentrate on the huge stagings at other areas. The Sheriff's department is understaffed and cannot respond to complaints in time to catch perpetrators who cannot be identified since they do not have visible license plates. County code enforcement personnel cannot apprehend trespassers and do not have the mandate or proper vehicles to pursue violators.

Sheriff's department dispatchers are often ill-informed about the laws and commonly de-prioritize calls about ORV trespass or send these calls to the California Highway Patrol, which has stated that it will not respond to these complaints. The public is stuck in the middle of the lack of response and coordination between these different law enforcement agencies. We need large format signage, electronic message boards, better law enforcement response and public education to help stem the large-scale trespass and nuisance on most holiday weekends.

We have had a number of meetings in the past with the local Barstow BLM with little result and it has become more difficult to communicate with the local office. We are told that they are understaffed and unable to patrol sufficiently in our area. Barstow Field Manager Roxie Trost, after much public advocacy and our support of state ORV law enforcement grants for the BLM, informed us that she had hired a "Resident Ranger" for the Morongo Basin. But in subsequent conversations with the "resident ranger" Kevin MacLean, we were informed that he is not our resident ranger but a "Ranger Trainer" and is most often out of the area training other rangers.

When we asked Field Manager Trost to inform us if we could have a ranger patrol the area on busy holiday weekends, we were informed that she would not provide us with information about coverage "for security reasons." This is both confusing and troubling.

> We recently held a public meeting and conference about ORV problems in our area (please see enclosed flyer) and requested that local law enforcement officials attend to report on their activities and hear from the public. We invited Field Manager Roxie Trost to attend but she sent instead a ranger who had been on the job for only two months and who did not have knowledge of the problems, or any authority to establish policy.

The BLM is unable to respond to our requests for law enforcement when incidents occur and our calls and emails to the Barstow office are often ignored. This is not only frustrating for the public, but allows for ORV trespass and destruction to occur with impunity. The public has essentially given up on even trying to obtain relief from the BLM.

Unlike our cooperative and constructive relationship with the local Sheriff's department and county Code Enforcement officers, we feel as though we have been abandoned by the Barstow BLM office. In the last three years, we have assisted the local Sheriff's department obtain over $250,000 in state ORV enforcement grants. ORV destruction of BLM lands in the area, including two designated wilderness areas and important cultural and natural resources continues unabated in the Morongo Basin.

Since 2007, Barstow BLM Field Manager Roxie Trost and CDD Manager Steven Borchard have refused to meet with concerned citizens and resident groups regarding the lack of enforcement and extensive illegal activity on public lands, while meetings with pro-ORV groups continue on a regular basis.

The BLM's response is completely unsatisfactory in curbing illegal off-road use and they act as though ORV abuse of public lands in our communities is a low priority. The BLM provides little or no patrol coverage in our area at identified areas and on holiday weekends and does not communicate sufficiently with the community. We have identified particular "hot spots" and have asked with no success that the BLM conduct special operations in these areas to stop widespread destruction of our public lands. Since there is a checkerboard land use pattern where public and

private lands are mixed, the BLM's lack of coordination with the local Sheriff's department and county Code Enforcement makes enforcement very difficult.

We have received more cooperation from the local US Marine Corps Base in the prevention of ORV abuse of our lands than from the local office of the BLM.

There is an area in the Morongo Basin (Post Homestead) under the jurisdiction of the BLM that has important cultural resources including 100 year old adobe ruins and sensitive sand dune plant communities that is currently used as a de facto open ORV area. A spider's web of illegal routes are destroying these resources. At times, ORVs have used the adobe ruins, once part of an historical stage coach system, as a "jump." The area also suffers from illegal trash dumping.

We teamed up with the local historical society, conservation groups and local residents to protect this important cultural and natural resource we consider part of our American historical heritage. We have organized community clean-ups of the area, provided historical and ecological interpretation and continue to provide volunteer stewardship of the area. We have repeatedly asked the BLM to patrol this area with stepped-up enforcement, additional signage and special protection including an informational kiosk to inform users of its historical value and ecological sensitivity. We have asked the BLM to close the illegal routes. The photograph of the shot-up and damaged "Closed Route" sign we have sent you shows the kind of disregard ORV riders have for attempts to protect this land. The BLM has yet to respond to our request for increased signage and an informational kiosk for the area, despite our offer to pay for all the materials and provide local volunteers for labor. Other local communities throughout the California Desert Conservation Area have similar issues with the BLM.

Another important concern is that we seem to be in a "Catch-22" situation regarding the signed designation of ORV routes. According to the recent Western Mojave (WEMO) BLM Plan, ORVs can only ride on designated routes, yet we have been informed by Barstow BLM Ranger Kevin Maclean that off—route travel violations in the Morongo Basin will not be cited even if witnessed by a BLM Ranger due to the BLM's failure to post designated routes. A close look at the WEMO plan shows that the BLM designated ORV routes that appear to stop at the boundary of private land then continue on the other side inviting trespass. It is obvious that the BLM failed to conduct "ground-truthing" exercises in the designation of these routes. There are numerous examples of BLM designated routes leading to the homes of local residents who experience constant trespass by ORVs.

> Depending on the area and weekend, we can have dozens of trespass incidents including the destruction of private property, use of washes as illegal ORV routes, illegal riding on county service roads and the destruction of flood control infrastructure and berms. Illegal stagings of ORVs on private property can reach as many as 50 ORVs riding day and night and onto adjacent private and public lands.

Of particular concern are the many disturbing incidents of harassment and intimidation by ORV riders against residents who contact law enforcement for relief. This retaliation has come in the form of threats of physical violence, threats to burn down complainants homes, threats against pets (in one case, ORV riders are believed to have poisoned a complainant's dogs), destruction of private property and security fences, and stolen and/or damaged "no trespassing" signs. We view this is an attempt to deny law-abiding residents access to due process of the law. In addition, residents who speak out in the local newspapers and public meetings continue to be victims of internet stalking including the posting of libelous accusations and racist attacks. There has recently appeared what seems to be an effort to track enforcement calls and to advertise these on the ORV internet sites.

It has all gotten very ugly at times and this has had a chilling effect on residents taking action and reporting illegal activities to local officials.

> In 2005, a stakeholder group of ORV enthusiasts, vendor's groups, ORV lobby groups, local homeowners and residents and conservation organizations working closely with the San Bernardino County Department of Code Enforcement presented a fair and effective county ordinance to the San Bernardino County Board of Supervisors who passed the law unanimously. For the complete text of the ordinance please visit our web site: www.orvwatch.com . The county ordinance contains a number of important provisions protecting private property including:
>
> a. limits on noise from ORV tailpipes consistent with state noise regulations
>
> b. ORV riders must have written permission on their person to ride on private land other than their own

c. recourse for residents to document and seek judicial relief for excessive noise and dust and trespass of private lands

d. responding to the problem of large scale stagings of ORVs in rural neighborhoods. ORV stagings of 10 or more people must obtain a permit from the local county code enforcement.

Since its passage in 2005, there have been numerous attempts by ORV users (including the state's largest ORV lobby organization—CORVA) to repeal or weaken the ordinance, and therefore protection of our lands can only be accomplished with continual vigilance. The county ordinance, created through a stakeholder process, is viewed as a model for other counties in California.

Maps and educational material will not stop the problems and impact we are facing from illegal off-road vehicle use. There must also be increased fines and law enforcement and stakeholder cooperation as part of a comprehensive plan. We participated in a stakeholder process with the Bureau of Land Management, county Sheriff's department, California Highway Patrol and National Park Service to produce an informational brochure (enclosed) and then assisted the local Sheriff's department obtain California State Off-Highway Vehicle Recreation grant funding to produce thousands of these brochures for distribution.

The problem has reached crisis proportions. The Morongo Basin is a short 30 minute drive to Johnson Valley, the largest designated ORV open area in the entire county, yet riders continue to trespass on public lands closed to ORV use and private property. Throughout the California Desert Conservation Area, new illegal ORV routes appear constantly.

What is needed is large format signage on major highways in the areas indicating that grant funds are at work and that the area is patrolled by law enforcement, and that riders must know the law before riding in our area.

Other recommendations

1. Age limit of 16 years for riders—ORV are just too dangerous for children, please refer to the testimony by the American Association of Pediatricians.

2. Increased fees and dramatically increased penalties for ORV violations leading to confiscation and jail time. Some penalties are so low that riders consider them the cost of recreation (ORV sponsored internet sites regularly talk about that).

3. Visible license plates so that residents and law enforcement can identify violators, and so that riders do not feel anonymous and feel they can disobey the law with impunity.

4. Mandated riding tests such as those required to operate a motor vehicle.

5. Large format signage and informational kiosks with maps to inform riders of the law and to indicate where they can legally ride.

6. Installation of a BLM "resident ranger" in our area who will concentrate on enforcement, be available to the public, and who will coordinate with the Sheriff's department and county code enforcement. We need a full time BLM resident ranger whose primary position description and responsibility would be to routinely patrol BLM land in the Morongo Basin. The Ranger filling this position should spend not less than 60 % of his/her time patrolling in the field, with a special emphasis on protecting BLM resources, preventing user conflict, educating off-road recreation users, and enforcing applicable off-road law.

7. Education in the schools to engender a respect for private property and the environment. Information about the environmental impacts of ORVs on wildlife and vegetation. Alternative recreational opportunities for young people.

8. Vender responsibility—ORV vendors continue to advertise their vehicles clearly riding off-route, cross-country and destroying virgin landscapes. Vendors should be required to provide information about safe and responsible riding.

9. ORV routes in areas that suffer from frequent incursions should be closed until adequate law enforcement can be guaranteed.

10. The BLM designated California Desert Conservation Areas should be clearly marked since these areas contain critical habitat for endangered species and areas of critical environmental concern (ACEC) vulnerable to ORV damage.

In closing, we would like to work with your office and with a group of stakeholders to develop federal legislation to address widespread ORV abuse of our public lands so that we may preserve these lands for future generations. We work with a coalition of grass roots groups called the Alliance for Responsible Recreation, an all-volunteer effort to protect our precious cultural and natural resources.

STATEMENT OF PHILIP M. KLASKY, WONDER VALLEY, CA

I am a teacher and resident of Wonder Valley, California, a small rural community in the eastern Mojave desert. My home and peace and quiet is constantly invaded by off-road vehicles (ORV)s resulting in damage to my property and impacting my quality of life. Every holiday weekend we have to suffer the illegal activities of hundreds of ORVs acting illegally and creating a nuisance with excessive dust and noise and trespass on private and public lands.

This hearing is a good first step, but we need action. I am writing to ask that the U.S. Senate take specific measures to deal with the crisis of illegal off-road vehicle destruction and trespass on our private and public lands and to finally reign in a huge problem that is causing millions of dollars of property damage, creating additional costs to rural communities for impacts on law enforcement and emergency services and is resulting in violent conflicts between illegal riders and law-abiding citizens.

I cannot exaggerate the impact of hoards of ORVs, trailered out from urban areas to our rural communities, and wreaking havoc on our neighborhoods, property, businesses, roads and flood control infrastructure. Something must be done now to stop this attack on our communities.

My neighbors and I formed a Neighborhood Watch Program to coordinate the defense of our lands and to work cooperatively with local law enforcement and code enforcement to catch the perpetrators. We have created an all-volunteer organization of homeowners and businesses in the Morongo Basin to help law enforcement obtain ORV enforcement grant funds, to educate the public on how they can defend themselves and to pass local ordinances to address the problem. Our web site is www.orvwatch.com.

Despite our best efforts, the fines are so low, resources for enforcement so limited and the ability to apprehend the perpetrators so difficult that some riders act as though there are no consequences for their activities. There is something terribly wrong with this picture.

My neighbors and I have been physically and verbally assaulted by riders trespassing on our lands. As I stood in my backyard to take photograph of one trespasser, he tried to run me over. Local code enforcement officers, attempting to stop illegal stagings of dozens of ORV have been physically attacked. You don't really understand the problem unless you have experienced it personally.

Our federal, state, county and local laws have not caught up with the explosion of vehicles destroying our private and public lands. Our politicians seem reluctant to deal with the big ORV vendors who promote illegal activity with their ad campaigns and do little to educate the public about responsible riding.

Our public lands in the Western Mojave desert region have been abandoned by the Bureau of Land Management (BLM)—the federal agency tasked to protect them. Our local BLM office in Barstow does not respond to our requests for assistance, cooperation, communication, or law enforcement. The lands in the Morongo basin are a checker-board pattern of private and public holdings and the lack of cooperation between the BLM and local law enforcement allows for widespread and unchecked violations. These are public lands set aside for everyone, not illegal riders destroying important habitat and natural landscapes.

I understand that the same kinds of problems with ORVs can be found across the country and therefore I would like to suggest federal legislation. I would like to suggest the following: responsible advertising by vendors and an added tax for law enforcement and restoration; a significant effort at public education through the schools and in the media; large format signage and informational kiosks in problem areas; higher fines, jail time and confiscation of vehicles for repeat offenders; age limit for riders; AND MORE FUNDS FOR LAW ENFORCEMENT.

I am grateful for the opportunity to submit this letter to the Committee on Natural Resources and would appreciate a reply to my concerns.

STATEMENT OF MARY L. RIGGS-CUYNO, JOSHUA TREE, CA

My name is Mary Riggs Cuyno. I live in Joshua Tree California, next to the Joshua Tree National Park and several BLM and wilderness areas in the Morongo Basin. I have been a resident and a teacher for our local school district for the last 18 years.

I began my involvement in issues regarding off road vehicle abuse on public and private lands as we began to see a drastic increase in neighborhood and public land abuses in 2003 by Off Road Vehicles. Though some abuses occured before this time, neighborhoods began experiencing significant increases in trespass, noise and even harassment as local real estate agents began to advertise this place as having "lots

of room to bring your toys" at the start of the housing boom. Even if homes were on 1/4 acre lots, the open areas surrounding developments were seen as "just a bunch of trails" by newcomers and newly affluent alike. In addition, the Joshua Tree National Park began seeing an increase in incursions onto park territory adjacent to unsupervised and unmanaged BLM lands in our area.

Enforcement in this area was virtually non-existent, existing laws were vague or fell under the jurisdiction of various agencies to the point that not one agency could tackle the scope and sequence of ORV abuses on public and private lands. I had neighbors who would invite friends over to ride on our neighborhood dirt roads at high speeds on quads and dirt bikes. However, they wouldn't stay on the roads, they would ride up washes and onto my private property. I had instances where they would ride through open desert not caring whose property they were on. We had others in our neighborhood who would allow their children to ride unsupervised on paved streets around the neighborhood and even one instance where they were using an elementary school bus stop as a jump where they would land in a street where cars regularly travel between 45-60 MPH.

When I tried to talk to my neighbors who trespassed or the parents of these unsupervised children, though some responded well, we had many others who felt if they didn't get caught, it didn't matter what they did. One family in would ride daily all over our once quiet neighborhood. They would drag race, spit up dirt plumes that could literally be seen over a mile away and trespass with regularity. We would call the sheriff, who only dealt with trespass and nuisance issues. If we mentioned the riders were on the streets, we were told to call the highway patrol, who never showed up. When and if deputies arrived, often hours later, we were frequently told there was nothing they could do because they didn't observe them in the act, even though evidence of tracks leading to and from the perpetrators' residences were clear and bikes were parked in plain sight. Sometimes they would go "talk" to the families responsible. When these riders found who was calling on them, myself and others were often targeted with deliberate trespass where riders would ignore private property signs and run over barriers, an act of deliberate harassment. With little relief, several families chose to move out rather than deal with the constant and daily problems of ORV abuse for almost 3 years.

I decided to stand my ground and I got active. I started documenting evidence and working with a local organized group who regularly met with law enforcement and public officials. Because of public outcry and protest against ORV abuse, in 2006, San Bernardino County passed Ordinance 3973. This ordinance simply outlines the rules of ORV use and consequences of ORV misuse in an enforceable format under one jurisdiction. Rules are clear about trespass and puts the responsibility on the rider, not the property owner. Repeat offenders are met with stiffer fines with a fourth offense leading to jail time. Since the passage of this ordinance, law enforcement and riders alike now have a set of clear rules to follow. Though the law is not perfect, as a homeowner I now have the tools to deal with ORV abuse in my neighborhood and the number of offenses have dropped significantly.

Unfortunately, this is just one county and our officers have had their work cut out for them. Funding at the state OHV level is highly competitive and since the advisory commission has been disbanded due to pressure from the powerful OHV industry lobby, we risk losing the funding we fight for every year to pay for enforcement, and we are one of the better off communities. What about those communities that have no clear laws? No education programs? No funding at the state level? What about abuses of our public lands? Why is the BLM chronically under funded when this is a growing national problem?

The solution is simple. Just like in a classroom, clear rules and consequences for breaking them ensure a well-run class. Abusive riders stay away from areas where enforcement maintains a presence and stiff penalties for repeat offenders are put into effect. Methods of identification such as mandated license plates and training certificates with a photo ID help officers do their job. On the other hand, abusive riders flock to areas where enforcement is nonexistent which often leads to other crimes such as drunken riding, property damage, trespass and harassment. American citizens should not have to live with this disregard for our quality of life.

In conclusion, I would like to thank this committee for investigating this national issue of Off Road Vehicle Abuse. Please continue to represent the majority of American citizens who deserve to enjoy their neighborhoods and public lands free from ORV destruction, abuse and trespass. This requires active involvement by the public and most importantly, by our elected representatives.

STATEMENT OF MARK E. HEUSTON, TWENTYNINE PALMS, CA

My name is Mark Heuston, and I live in the unincorporated community of Wonder Valley near Twentynine Palms, where I have resided for 25 years. I am an artist by profession, with an established presence in the local art and commercial community. I am a local property owner, drawn to this area by it's intrinsic natural beauty and rural lifestyle.

BACKGROUND

Off-road recreationists have come to this area for many years, but conflict and trespass was rare up until about five years ago when off-road vehicle (ORV) use in the area began to soar. Increasingly, weekend recreationists assembled in large groups at vacation cabins in the area with dune buggies, dirt bikes,and quad runners and proceeded to run roughshod over local tax payer maintained roads, private property, and public lands. Inadequate laws, funding, and staffing contributed to a failure by both local and federal (BLM) law enforcement to address the growing problem. Emboldened by the apparent lack of enforcement, some local ORV enthusiasts began to engage in increasingly abusive riding behavior as well.

Successful enforcement and user conflict resolution is further exacerbated by a local land use pattern of interspersed federal (BLM) and private land parcels that make jurisdiction determination by law enforcement field personnel problematic. Inadequate cooperation and coordination between BLM and local county law enforcement managers has also contributed to the problem. To make matters worse, a BLM management plan (WEMO) has designated riding routes threaded though the Wonder Valley community that invite trespass and promote conflict between residents and users. Ranger presence is virtually non—existent on these new routes, and law enforcement personnel with the BLM Barstow office has advised that they will not enforce on these routes even if violations are observed.

All of these factors have combined to reduce residential quality of life to the point of hardship. Trespass, vandalism, dust, noise at all hours, violence, threats of violence, and harassment have become a grim reality for many rural area residents who ask no more than to be left in peace and have their property rights respected. Deeply concerned about the future of their homes and properties, local residents banded together to form Community ORV Watch www.orvwatch.com to better seek a resolution to the problem. We quickly discovered that many other regional (Morongo Basin) residents were experiencing similar problems, and invited their participation and assistance.

In cooperation with other county residents and the Alliance for Responsible Recreation, (ARR) Community ORV Watch urged the San Bernardino County Board of Supervisors to pass Ordinance 3973 in 2006. This ordinance established new enforcement tools for use by the county's code enforcement and law enforcement branches alike in providing relief to residents affected by illegal or abusive ORV use. Ordinance 3973 has helped, but cannot address ORV abuse on federal lands. Some defiant pro ORV activists continue to ride irresponsibly, and work actively to weaken or overturn ordinance 3973 as well as targeting and harassing any resident they can identify who supports ordinance 3973 or publicly advocates for responsible riding. Much remains to be done if the rights and well being of area homeowners are to be assured.

MY OWN EXPERIENCES WITH ORV IMPACTS

My experiences relating to ORVs over the last few years have been educational to say the least. I have learned much about ORV politics and how to participate to some degree in local political process. I would gladly have forgone this education to focus instead upon the day to day matters of family, friends, and work if I'd had the choice; I am a reluctant activist.

I've never been happy with the growing damage to the desert landscape I've observed over the last 25 years, but like many folks I was too engaged in matters of my own day to day life to get involved until the problem (literally) came to me. It wasn't a particular seminal moment of awareness so much as a growing realization that I was having to deal with trespass more and more often, and with increasing frequency having my sleep and other normal life activities disrupted by the howl of revving engines tearing across my land or nearby BLM land.

A nearby cabin owner had long been coming out on weekends to ride ORV's with friends and family, but what was previously a minor irritation took on new dimensions when he began to show up with increasing frequency with larger and larger groups of riders, and staying for longer durations. As many as 60 participants would show up for as long as five days straight of riding on local roads, private lands, and

public lands, at all hours with quad runners, dirtbikes, and sand rails so powerful that when I took refuge at a friend's home three miles away the din was still clearly audible at that distance. I was to learn later that the growing ORV staging activity I was observing was being repeated all over Wonder Valley and the rest of the Morongo Basin.

I was raised to respect law enforcement as a friend and ally, and turned to the local Sheriff for help. My calls for assistance were greeted time and again by officers responding hours after the call, and usually after the activity had temporarily subsided. Some tried to be helpful, some were indifferent, and some openly sympathized with the riders. "There's nothing we can do" was a common refrain. When later I began to contact the local Barstow BLM Office for help, the response was much the same with the exception that rangers were not available and no response could be expected.

The riders at the nearby cabin were not pleased by the presence or occasional visit of a deputy, and expressed their displeasure with a systematic pattern of retaliation: One Deputy appearance equalled one (or more) harassing visits, often late at night. Retaliation variously took the form of "donuts" cut into my driveway or land, a rider tearing across my land, late night drive—bys in extremely loud vehicles on consecutive nights to assure sleep deprivation, and hostile riders parking at my residential or studio (place of work) driveway staring, watching, and revving engines. A visit by a county code enforcement officer to the staging location precipitated a visit to my studio of a group of riders on quad runners who parked nearby and treated me to curses, threats and epithets for nearly 10 minutes.

I've cited the incidents above in some detail as examples, but time and space will not permit a detailed narrative of all the examples of intimidation or abusive off-road activity my neighbors and I have been subjected over the last three years. Suffice to say that threats of violence and harassment by off-road advocates have become an unwelcome part of my life. As my neighbors and I became more publicly active through Community ORV Watch, the harassment has shifted to more public arenas such as internet message boards, blog sites, and local papers with character assassination and slander of a vile nature an increasingly common tool currently being used against us.

All of this has served to create a climate of fear. Some of my neighbors are reluctant to speak out or even to call in a complaint to the authorities out of fear of retaliation. Many are elderly, and some have disabilities such as asthma, neurological conditions, or COPD that are aggravated by the excess dust, noise, or stress abusive riding subjects them to. One neighbor is a military veteran with cancer who moved here to spend his final years in a peaceful rural setting. He also suffers from Post Traumatic Stress, and routinely leaves his home for days at a time during "ORV holidays" such as Thanksgiving and President's Day to escape from the stress and noise.

Although some progress has been made on a local County level, The apparent lack of concern and disregard for the hardship imposed on area residents exposed to trespass and disturbance from adjoining BLM lands by the BLM Barstow office has been disappointing. Worse than the lack of concern has been the active and open deference displayed by the BLM Barstow office in favor ORV recreation "opportunities" at the expense of area residents.

I participated in a BLM sponsored stakeholder process facilitated by BLM employee Russell Scofield three years ago along with other community representatives and members of the local Sheriff's Office to design an off-road brochure as a public education tool. During that process, Scofield severely limited the number of participants from Community ORV Watch while inviting a large number of ORV advocates and representatives of the ORV business community. Pro—ORV interests easily outnumbered all other participants combined.

Mr. Scofield turned a blind eye to heckling and harassing behavior directed repeatedly at me by at least one pro ORV stakeholder, and stalled the brochure process for months by variously claiming computer glitches, lost documents, and other mishaps that added up to a clear pattern of obstruction. This went on for so many months that Sheriff's Captain Jim Williams (a stakeholder) finally took matters into his own hands to push though the completion and final publishing of the brochure without BLM assistance.

When Roxie Trost came on board as manager for the Barstow BLM office she greeted members of Community ORV Watch and other concerned residents cordially, and even attended a tour of the local area to view and discuss ORV problem spots in Wonder Valley. While initially encouraging, her subsequent behavior towards the community has proved to be disappointing. Trost indicated to Community ORV Watch and other concerned residents both in writing and though oral communication that she would work to refill the vacant local district Ranger position,

which would once again put a ranger presence in the Morongo Basin thus restoring regular patrol and a local ranger response. The position was filled by Ranger Maclean, but it was not until he had been on duty for a number of months that I learned from him that he had not been hired as the district ranger, was not expected to patrol our district on a regular basis, and was in fact actually hired by Barstow BLM as a training officer. I was present at this conversation with Ranger Maclean during a meeting with area residents at the Post Homestead. Given the circumstances, it is difficult to imagine that Trost's misinformation regarding the district ranger position was unintentional.

Under Roxie Trost's administration, Barstow BLM has largely failed to address community concerns about continuing ORV damage to the BLM Cleghorn Wilderness and ongoing ORV damage to cultural and natural resources at the historic Post Homestead. With the exception of brief ranger appearances during some ORV Holidays, BLM Barstow has failed to effectively address user conflict and trespass from BLM lands and designated routes. While some of this might be excusable due to funding and staffing limitations, the pattern of misinformation, poor communication and poor cooperation with concerned area residents is not. For most of us this is our home, and there is too much at stake to simply give up and walk away from admittedly uncomfortable issues.

POTENTIAL SOLUTIONS

Having lived close to the problem of ORV abuse for several years, it may come as no surprise that I've had the time and opportunity to think about the issue at length, and I'm happy for the opportunity to share a few ideas that I feel might reduce user conflict and protect private property and residential neighborhoods.

BLM: Better cooperation and communication between Barstow BLM and local county law enforcement to resolve local jurisdictional enforcement issues.

BLM: Better cooperation and communication between Barstow BLM and area residents adversely affected by ORV activity on BLM managed lands. This should include improved communications with ARR and Community ORV Watch, both of which represent area residents and advocate for responsible ORV use.

BLM: Cooperate with local residents, ARR, and Community ORV Watch to better protect, restore, and interpret local BLM holdings such as the Post Homestead and the Cleghorn Wilderness. Local residents including Community ORV Watch have expressed willingness to donate volunteer hours to assist in directed projects, and Community ORV Watch has expressed a willingness to fund projects such as interpretive kiosks or picnic tables where BLM budgeting is inadequate.

BLM: Closure of problematic WEMO routes that go through populated rural areas, especially where those routes invite trespass on private lands or local taxpayer maintained roads. Future designated route considerations should favor siting such routes in Federal land holdings remote from residential areas, with preference given to areas already impacted by historic activity such as mining. BLM designated routes in the old Gold Crown Mining District East of Twentynine Palms are a good example of this.

BLM: Staffing of the former district ranger's position in the Morongo basin with a candidate who's primary responsibility will be to respond to incidents in district, routinely patrol BLM land holdings in the Morongo Basin, enforce federal ORV regulations, and conduct educational outreach to ORV recreationists using BLM lands and routes.

GENERAL: Grant programs to assist local law enforcement with ORV enforcement in locations where Riding opportunities on federal lands are adversely affecting local communities. Grants should be targeted to assure better field coverage by law enforcement as well as educational materials to minimize user conflict.

CONCLUSION

A particular recreational activity should not be at the expense of private property rights or the rule of law. Federal land managers must consider the effects of ORV management decisions on adjoining private lands, and be accountable for them. The gratuitous destruction of undesignated public lands for mindless entertainment must end. The abuse of private lands and subsequent harassment of residents who object can no longer be tolerated. To these ends, I humbly request the assistance and consideration of this august and distinguished committee. Thank you for the opportunity to offer my testimony, and thank you for your leadership in considering the important issue of ORV abuse.

STATEMENT OF MARK MENLOVE, WINTER WILDLANDS ALLIANCE

I am Mark Menlove. I live in Boise, Idaho and I serve as the Executive Director of Winter Wildlands Alliance.

I submit this statement for the committee record on behalf of Winter Wildlands Alliance, a national nonprofit organization with the mission of promoting and protecting winter wildlands and a quality human-powered snowsports experience on public lands. Winter Wildlands Alliance represents the interests of the 18 million Americans who Nordic and backcountry ski, snowboard and snowshoe on our nation's public lands. We have members in 45 states and a network of 28 local or regional grassroots clubs and advocacy groups.

My concern with off-road vehicle (ORV) management, particularly with respect to winter use, is both personal and professional. I grew up skiing, hiking and camping in Utah's Wasatch Mountains. My childhood time in the outdoors profoundly influenced my life and, indeed, served as the basis for my pursuing a career in the outdoor and winter recreation industry. Among other recreation jobs, I worked for the U.S. Ski Team and served as President of the Utah Ski Association. I've also worked as a backcountry ski guide and am a certified avalanche and snow safety professional. I was involved, through my role at Ski Utah, in the Salt Lake Olympic bid efforts and later had the honor of working for the Salt Lake Olympic Committee by running the press operation for all of the Olympic events held at Park City Resort.

Much of my time these days is spent passing on my love of the outdoors to my children. Winter weekends find us at our local ski hill, Bogus Basin, located on the Boise National Forest, or backcountry skiing or snowshoeing into the Sawtooth National Recreation Area. This winter, as we do every winter, we made a family trek into one of Idaho's backcountry yurts for an overnight stay. I put my five-year-old-son, Asa, on cross-country skis for the first time and to see the sense of accomplishment and sheer joy he got from skiing all the way in to the yurt and back out by himself was one of the most rewarding parenting experiences of my life.

I also want to point out I have logged my share of miles on a snowmobile. Growing up, my family owned snowmobiles (though those machines in the early 1970s bore little resemblance in power and reach to today's snowmobiles) and I have fond memories of family outings on snowmobiles. Before moving to Boise for my position with Winter Wildlands Alliance, my wife and I and our two young children lived for three years in a remote cabin at 9200 feet in the Wasatch Mountains. In winter we were five miles and several thousand vertical feet from the nearest plowed road and so we commuted for six months of each year on snowmobile.

I am well acquainted with snowmobiles both as recreational and utilitarian vehicles. My concern is not with the legitimacy of snowmobiles, but with the gross imbalance in the current management of national forest lands with respect to winter ORV use. While millions of Americans turn to national forests for peace and quiet during winter months, noisy and polluting snowmobile traffic monopolizes a lion's share of forest lands.

As documented in the attached Winter Wildlands Alliance report* analyzing Forest Service data on winter recreation patterns, snowmobiles are a minority of those who use national forests in winter, yet they dominate 70 percent of the winter forest and 90 percent of winter trails. There are many winter trails and slopes where I would love to take my family to cross-country ski or snowshoe but to do so would put them in the path of machines that weigh up to 600 pounds and travel in excess of 100 miles per hour, a speed at which it takes more than 200 feet to stop on snow.

It doesn't need to be this way. The report also highlights successful resolution to winter conflict such as the Wood River Valley Winter Use Plan on Idaho's Sawtooth National Forest where local skiers and snowmobilers sat down and worked out an agreement about which areas were best suited for snowmobiles and which were best suited for traditional, quiet recreation. After eight years that agreement is proving both successful and durable.

The problem is, since snowmobiles and other over-snow vehicles (OSVs) are excluded from the current Travel Management Rule, Forest Service regulations actually discourage this kind of citizen involvement and collaboration. The 2005 Travel Management Rule, because of its exemption of OSVs, represents a missed opportunity to correct the imbalance on national forest lands in winter.

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*Report has been retained in committee files.

BACKGROUND ON OVER-SNOW VEHICLES AND THE TRAVEL MANAGEMENT RULE

Since 1972 when President Nixon issued Executive Order 11644, the U.S. Forest Service has regulated the use of all ORVs, including snowmobiles, on national forest lands on the basis of a uniform set of standards. However, in December 2005, the USFS repealed the regulations (former 36 CFR Part 295) that, based on EO 11644, provided for this uniform system of regulation (70 FR 68264).

The Department of Agriculture on December 9, 2005 published final rulemaking (70 FR 682684) to promulgate revised regulations governing travel management on National Forest System lands, specifically to clarify policy related to motor vehicle use on Forest Service lands. The final Rule requires the Forest Service to designate those roads, trails, and areas that are open to motor vehicle use (36 CFR Part 212.51), and prohibits the use of motor vehicles off the designated roads, trails, and areas (36 CFR Part 261.13).

Although the Secretary states that the Rule is "consistent with provisions of Executive Order 11644 and Executive Order 11989 regarding off-road use of motor vehicles on Federal lands," Winter Wildlands Alliance and our 28 grassroots groups believe the Rule is deeply flawed insofar as it exempts snowmobiles and other OSVs from the mandatory designation scheme provided under Part 212.51.

The 2005 Rule requires Forest Service managers to adhere to a number of requirements in designating lands as either open or closed to motor vehicle use. These include mandatory public involvement, periodic revision of designations and, perhaps most importantly, application of specific substantive criteria in making designations (e.g., the responsible official must act to minimize "damage to forest resources, harassment of wildlife [and] conflicts between motor vehicle use and existing or proposed recreational uses"). The Rule does preserve a Forest Service manager's ability to allow, restrict or prohibit over-snow vehicle use (36 CFR §212.81). However, because snowmobiles are exempt from the Rule's designation scheme, none of these otherwise mandatory requirements apply to a manager's decision to designate lands as open to snowmobiling. The decision is wholly within the discretion of the responsible official.

Even more objectionable, the Rule does require the application of the mandatory standards when a land manager desires to close an area for snowmobiling. Thus, under the new regulations, opening lands to snowmobile use requires no public involvement, no analysis of potential damage to soil and other forest resources, and no consideration of conflicts between snowmobile use and other recreational uses such as skiers and snowshoers. Yet an action to close those same lands to snowmobiles would first require a public comment period and all other procedural elements of the Rule. Importantly, the Rule contains no standards to guide land managers in their decision whether to allow snowmobiling. In other words, the regulation contains within it a clear preference or bias in favor of unrestricted snowmobile use.

In addition, the Rule introduces an entirely new definition of "over snow vehicle." The rule-writers, "[I]n order to improve clarity and ensure equitable treatment of over snow vehicle use," define over-snow vehicles to include not only snowmobiles but also snow-cats, snow groomers and treaded ATVs. While such clarity is warranted, the fact remains that these additional vehicles are now also excluded from the mandatory regulatory framework of the Rule.

This exclusion of OSV use from the requirements imposed on other motorized uses of national forest lands is in direct contradiction to the Executive Orders upon which the Rule is based.

WHY ARE SNOWMOBILES EXCLUDED FROM THE RULE?

The Rule provides little insight into why the Department decided to exempt snowmobiles and other OSVs. First, the rule-writers agree that snowmobiles are "off-road vehicles" under Executive Order 11644 and thus are subject to "administrative designation of the specific areas and trails on public lands on which the use of off-road vehicles may be permitted, and areas in which the use of off-road vehicles may not be permitted." This would appear to require the regulation of OSVs, but instead, the Department "believes that cross-country use of snowmobiles presents a different set of management issues and environmental impacts than cross-country use of other types of motorized vehicles."(70 FR 68273). As evidence, the agency offers that unlike ATVs, "over-snow vehicles traveling cross-country generally do not create a permanent trail or have a direct impact on soil and ground vegetation," an assessment that first, ignores the instruction given in the Executive Orders to minimize user conflict and second, disregards the growing evidence of snowmobile damage to alpine tundra, reforested areas (tree-top damage), and stream banks and riverbeds at water crossings.

The rule-writers reach the conclusion that "the Department expects that management of winter recreational use will continue to be an important issue on many National Forests." But instead of following its own logic and folding snowmobiles into the just-introduced regulatory framework, the rule-writers decide, "[T]herefore, the final rule exempts snowmobiles from the mandatory designation scheme" (70 FR 68273).

WHY TRAVEL MANAGEMENT PLANNING SHOULD INCLUDE WINTER USE

While the Travel Management Rule simply "writes out" snowmobiles from its mandatory designation scheme, Executive Order 11644 provides a framework that would seem to compel forest managers to include winter travel in their forests' travel planning, under certain circumstances.

Section 3(a) of the Executive Order requires that regulations be based on protection of the resource, promotion of the safety of all users, and minimization of conflicts among the various users. Specifically, the regulations require that the location of areas and trails minimize——

- Damage to soil, watershed, vegetation, or other resources;
- Harassment of wildlife or significant disruption of wildlife habitats; and
- Conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands.

The presence of any one or more of these issues occurring during winter should compel forest managers to undertake winter travel planning. Because of the noise and noxious exhaust fumes they emit, as well as their potential to inflict serious injury in the event of a collision, snowmobiles are indistinguishable from other ORVs in terms of their adverse impacts on non-motorized users of national forest lands. The fact that snowmobile tracks are not "permanent" (because snow melts) is irrelevant if while they exist they have adverse impacts in the form of scarring the visual landscape and creating hazardous ruts and ridges when the snow melts and refreezes. Similarly, snowmobiles have adverse impacts on wildlife and wildlife habitat that are no less severe than those caused by other ORVs. And when snowmobiles are used in areas with inadequate snow cover—a common practice—they do have a "direct impact on soil and ground vegetation." In short, the similarities and parallels between snowmobiles and other ORVs in terms of their impacts on the natural resource values far outweigh the differences between them.

The social conflict dimension is well documented. The most telling characteristic of the conflict between motorized and non-motorized recreationists is that the impacts experienced fall disproportionately on one type of forest user. That is, the presence of a few skiers or snowshoers does not diminish the recreational experience of snowmobilers, while the noise, exhaust, tracks and speed of just one snowmobiler may significantly degrade the experience of many quiet recreationists.

THE DEREGULATION OF OSV USE ON NATIONAL FOREST LANDS NEEDS TO BE REMEDIED

Winter Wildlands Alliance and our grassroots groups believe this effective deregulation of an entire class of motor vehicles on national forest lands, the result of the 2005 Travel Management Rule, must be remedied by putting in place a set of standards for motorized use that treats OSV use no differently from the standpoint of resource damage and user conflict than other motorized uses. This could be accomplished by removal of the exception for OSV use in the 2005 Rule or by promulgating a new rule specifically for OSV use on national forest lands.

STATEMENT OF PAT FLANAGAN, PROGRAM COORDINATOR, THE MOJAVE DESERT LAND TRUST, JOSHUA TREE, CA

Thank you and the committee for taking the time to listen and consider our experiences with illegal Off-Road Vehicle abuse.

The Mojave Desert Land Trust is a non-profit land trust whose mission is to preserve in perpetuity the Mojave Desert ecosystem and its cultural and scenic resources through land acquisition and stewardship. The land trust acquires private land through purchase, easement or gift. Under land trust ownership, the land is private until transferred to a government agency.

We raise funds through private donations, foundation grants, government programs, and membership. Many donations are the modest sums that could have filled the tank or purchased groceries but instead feed hopes for continuing dark skies, clear air, profound quiet, free roaming desert tortoise and miles and miles of open desert land.

Land Trusts are responsible to their mission, their members and funders, the state Franchise Tax Board and the Internal Revenue Service to maintain the acquired land or easements for conservation purposes. These are responsibilities which drive all trust activities. Failure can bring severe consequences including loss of public support, fines, and loss of non-profit status.

The Mojave Desert Land Trust was founded in 2005 and has since purchased, with private foundation funds, over 6,000 acres of inholdings within the California desert national parks. These inholdings will be given to the National Park Service under an agreement that they will be maintained for the conservation purposes they were acquired. The Land Trust will steward the agreements in perpetuity and have trained 40 volunteer stewards for this purpose. We are painfully aware that a major threat to our activities is the behavior of ORV riders and their belief that they have the "right to ride" whenever and wherever they choose.

In 2006, our first capital campaign required us to raise nearly a million dollars from all sources to preserve a section of land (640 acres) providing habitat for big horn sheep, mule deer, multiple bird and animal species, and ancient stands of Perry Nolina and Pinyon Pine. The section is within the Wildlands-Urban Interface and a high fire zone. Although this land will eventually become part of Joshua Tree National Park, to date it has always been private land. From the moment escrow papers were signed it was essential to invest in a heavy steel gate and signage to protect the area from illegal ORV traffic and trails. The trails promoted erosion and provided access for illegal riding, hunting, target practice and logging of ancient Pinyon Pine trees. Currently we have spent nearly $6,000 and many volunteer hours to restore the area, maintain the gate, and discourage vandalism. It appears our efforts provoke illegal trespass rather than promote respect for private property. The land trust is accused of "closing out the public" but this land has always been private; never open to ORV riders or loggers. It has been and remains open to hikers, horse riders, and cross country bike riding. Many of these recreational users supported the purchase with their dollars and volunteer time.

We appreciate this opportunity to comment in the belief that national awareness of the overwhelming magnitude of illegal OHV destruction of private and public lands will promote new control efforts at all government levels and increase essential restoration programs. Currently, laws which should protect private property rights are ineffectual and encourage illegal OHV riding. This lawlessness hampers land conservation groups, like the Mojave Desert Land Trust, from meeting their mission, honoring their supporters, and complying with state and federal tax laws.

STATEMENT OF THE SOUTHERN UTAH WILDERNESS ALLIANCE

We wish to thank you for the holding this oversight hearing on such an important and relevant issue as off-road vehicle (ORV) management and planning, which impacts millions of acres of public lands across the nation. The damage and impacts caused by ORV use on public lands throughout the West, particularly in Utah, has led to a great amount of recent attention focused on ORV management and the ORV travel plans that government agencies are currently drafting. The Southern Utah Wilderness Alliance (SUWA), a membership based citizens' group dedicated to preserving the wilderness quality public lands of Utah, has made ORV travel plans and management a priority in preserving the health and quality of Utah's public lands.

Off-road vehicles have long been acknowledged as the number one threat to wilderness quality lands in Utah. The Bureau of Land Management's (BLM) management of public lands in Utah, which currently allows cross-country travel, in conjunction with skyrocketing ORV use has left permanent scars on Utah's fragile desert landscape, and has led to increased vandalism and looting of ancient archaeological resources. Recently, in conjunction with BLM's revision of its outdated Resource Management Plans (RMPs), the agency has drafted ORV travel plans for some 11 million acres of public lands that are managed by six BLM field offices in Utah—all on the Colorado Plateau. Conservation and quiet-use advocates for the public lands in Utah have seen this process as a great opportunity for the BLM to effectively address and balance various resource issues and needs including: wilderness, cultural resource protection, scenic values, traditional recreation and access. Despite having taken seven years and spending tens of millions of dollars in the process, the Utah BLM has failed to meet its legal obligations to produce reasonable, enforceable and protective ORV travel plans. Yet the agency is rushing to finalize these inadequate travel plans before the final days of the current administration.

One of the greatest oversights in the agency's proposed ORV travel plans is the disregard for lands that BLM, itself, has identified as "having wilderness character."

These BLM Roadless Areas, approximately 2.8 million acres, are made up of some of Utah's most wild unprotected public lands. Although the agency has officially identified and mapped these BLM Roadless Areas, it is proposing to designate approximately 1000 miles of ORV routes in these roadless areas. Rather than manage for the protection of this special roadless resource, the BLM has chosen to disregard its own findings by designating official ORV routes in nearly every identified Roadless Area. The BLM has the opportunity to protect these roadless areas by choosing not to designate a mere 1,000 miles of the nearly 18,000 miles of route proposed for ORV use across the 11 million acre planning area. This constitutes a relatively small percentage (6%) of proposed route mileage and will provide wide-ranging benefits by protecting not only wilderness lands, but also cultural and natural resources.

Preserving the remaining roadless areas will allow BLM to comply with federal mandates that apply to public lands management. Federal law and regulations require BLM to manage public lands for multiple use, but certainly not every use on every acre. In addition, BLM is required to protect cultural resources and artifacts as well as the natural resources, including wildlife, riparian areas, vegetation, and soils, and minimizing impacts of ORV use to other users. (Federal Land Policy and Management Act, 43 U.S.C §1701 et seq. and 43 C.F.R. §8342.1). Preserving the remaining roadless areas is consistent with FLPMA's multiple-use mandate as well as the federal regulations governing ORV use on public lands.

Utah's public lands contain vast amounts of historically significant cultural resources, but the vast majority (nearly 95%) are unsurveyed and unrecorded. Although BLM does not know the location and extent of these irreplaceable resources, BLM's ORV travel plans will put these treasures at increased risk of vandalism, looting, and inadvertent damage as the agency is proposing ORV use in areas that are known to contain prehistoric artifacts. Although the National Historic Preservation Act requires that BLM conduct meaningful consultation with Native American Tribes before taking actions that could effect these cultural resources, absent comprehensive surveys, such consultation are not complete. Professional archaeologists as well as agency specialists agree that allowing ORV use in areas with cultural resources increases damages and risks to these important links to the past. Cultural sites in close proximity to or within eyesight of ORV routes are at a significantly increased risk of vandalism, looting, and other damage.

We also harbor grave concerns about the future of natural resources such as scarce desert streams and wetlands, flora and fauna—all heavily impacted by ORV use. Water is the lifeblood of the Colorado Plateau including the high arid deserts in Utah. Although riparian areas make up only 1-2% of our public lands, they host 75-80% of all wildlife. Inexplicably, Utah BLM proposes to designate ORV routes in most (if not all) of the riparian areas in the 11 million acres under review. There is little disagreement among the scientific community that ORV use in riparian areas should be stringently avoided, as such use results in significant, long-term impacts to the riparian areas and associated ecosystem such as erosion, flooding, flora and fauna loss and diminished water quality. In addition, BLM's proposed ORV travel plans ignore conflicts with threatened, endangered and sensitive species, including both wildlife and plant species.

User conflict is an important component of the BLM's ORV management mandate that the Utah BLM has failed to address. Utah BLM's proposed ORV travel plans make available to ORV use 84 percent of public lands in eastern and southern Utah (specifically, between 77 and 96 percent of public lands depending on BLM Field Office), blanketing the Colorado Plateau with a dense, unplanned, and unmanageable network of ORV routes. BLM's proposed ORV travel plans essentially adopt local county route proposals, fail to state a purpose and need for each route, and fail to analyze potential resource impacts for these thousands of miles of route. BLM's wholesale acceptance of the counties' proposal of "existing" routes is little, if any, improvement over the status quo, which is allowing natural and cultural resources to be irreparably damaged, and provides few places for traditional, non-motorized recreationists to escape the sites and sounds of motor vehicles. For example, in the heart of canyon country near Moab, 84% of the public lands will be within 5 city blocks of a motorized route, leaving few places where visitors can find a quiet, remote place away from the noise, pollution, and other impacts caused by off-road vehicle use. BLM's plan to blanket public lands with official off-road vehicle routes is at odds with the agency's own visitor survey that revealed that only 7% of visitors to Moab's public lands said their main activity on public lands was using off-road vehicles.

With the recent clamor surrounding ORV enforcement nightmares, it would be remiss not to address the enforceability of BLM's proposed ORV travel plans. However, Utah BLM's draft ORV travel plans are largely silent on how the agency in-

tends to manage and enforce ORV use on a sprawling network containing approximately 18,000 miles of route. This is even more critical, given that 50% of dirt bike riders report that they prefer to ride "off trail, and over 50% of ATV riders report that they did, in fact, ride "off trail" on their most recent outing.[1] Even with designated, signed and mapped route plans, it is difficult to imagine that BLM will be able to enforce the thousands of miles of ORV routes and to prevent cross-country travel. Simply stated, fewer designated routes and more non-ORV use areas would help ensure enforcement of Utah BLM's ORV travel plans.

Last, October and again this past March—nearly 100 Members of Congress signed letters addressed to Interior Secretary Kempthorne, requesting that he personally review these plans for Utah with consideration of the concerns raised above. Secretary Kempthorne has repeatedly assured Congress that natural resources are being adequately protected under these plans and that the process under which the plans were produced is in compliance with the law. It is distressing to us that BLM continues to ignore and gloss over federal law and regulations and is solely focused on finalizing these inadequate plans before the current administration departs. The American people are being shortchanged by the BLM's failure to protect natural and cultural resources and its politically motivated tilt to prevent future wilderness designation in Utah.

There is an easy fix for these plans. By not designating ORV routes in Utah's roadless areas that have been identified by BLM, itself, until comprehensive surveys and analysis are completed, our natural and cultural heritage can be preserved, while motorized recreationists continue to have thousands of miles of routes to access public lands in Utah's canyon country.

SAFE KIDS WORLDWIDE,
Washington, DC, May 30, 2008.

Hon. JEFF BINGAMAN,
U.S. Senate, Chairman, Senate Committee on Energy and Natural Resources, Washington, DC.

DEAR CHAIRMAN BINGAMAN: On behalf of Safe Kids USA, a member of Safe Kids Worldwide, I want to call your attention to the dangerous practice of children riding all-terrain vehicles (ATVs). In light of your Committee's hearing on June 5th concerning off-highway vehicle management on public lands, please know that Safe Kids USA recommends that children under the age of 16 never operate all-terrain vehicles of any size, including youth-sized ATVs.

As you know, ATVs are motorized vehicles designed for recreation and farm, ranch and industrial work. Each year, an estimated 130 children under age 16 die and approximately 40,000 are seriously injured in ATV-related incidents. ATVs are inherently difficult to operate, and children under 16 do not have the cognitive and physical capabilities to operate these vehicles safely. In addition, ATV-related injuries tend to be serious and, while wearing a helmet can reduce the risk of head injuries, there are no safety devices to protect against other injuries commonly sustained while riding ATVs. We urge the Committee to consider a policy, if not an outright ban, on the use of ATVs for children under age 16 on our country's public lands.

Sincerely,

ALAN KORN,
Director of Public Policy & General Counsel.

STATEMENT OF JACK DUGGAN, JACKSONVILLE, OR

I have learned that your Committee is holding a hearing on the issue of Off-Highway Vehicles (OHV). I would most like to come to the hearing and testify in person, but lack both the time and finances to do so. Please accept this letter as one citizen's testimony.

I was thrilled, as a young Vietnam veteran, recently settled on the family homestead (at the head of Forest Creek, in Jackson County, Oregon), to purchase a Honda 90 Trailbike. It got me around the backcountry between Timber Mountain and Mount Isabelle more often than I could ever do on foot. I was not so thrilled, however, to cross the saddle between those two mountains and see the hillside

[1] Off Highway Vehicle Uses and Owner Preferences in Utah (Revised), 2002, Utah Division of Natural Resources, Division of Parks and Recreation, Professional Report IORT PR2001-02.

ripped and torn, bleeding mud downstream. Four roads join on that saddle and the four-wheel drive crowd just loved that hill.

I never considered the impact my little trail bike was having on the land. But the evidence of what four-wheel drive recreational vehicles could do to a decomposed granite hillside that, left undisturbed, had grown trees . . . that evidence was overwhelming.

That happened on what was then Boise Cascade land. The hillside is still a mess today. A lot of the same kind of activity was happening then, and is still happening now, on public land.

For myself, it was a game of cat and mouse along the mile-long road that runs the length of our lower parcel. The dirt bikes that came a few years after the four-wheelers had chewed up Boise's hillside ignored Private Property and No Trespassing signs. While the four-wheelers had sometimes been a noisy bunch, the roar of the 2-cycle two-wheelers bounced off every ridge and hillside in every direction. As a recent Vietnam veteran, I had more than a few dark times when the machine noise overwhelmed the natural sounds that comforted me. Back then, though, they were few in number. Eventually, with signs and gates and stopping enough of them, very few came through the property.

In 1983 I left the land to pursue my career in Seattle. I returned to the land in 1999.

The big issue in the Seattle area was jet skis, of which I know little. I know little also about snowmobiles or any number of other machine recreation tools. But in my frequent visits to the property while living in Seattle, I continued to learn about four-wheeler recreation and the two-wheelers most frequently called dirt bikes. During this time the All Terrain Vehicle (ATV) was introduced as a three-wheeler, which quickly proved to be a fundamentally unstable design. Within a few years the market had converted to four-wheel ATVs and that market continues to grow.

On my visits from Seattle I encountered continuous incursions as new machine recreationists purchased four-wheel drive toys, dirt bikes and ATVs. By far the largest number were the dirt bikes.

The growth in activity in our area, however, really began to climb in 1996, following the listing of the John's Peak/Timber Mountain OHV Area by the BLM in their 1995 Resource Management Plan. By the time of my return to Forest Creek in 1999, the John's Peak/Timber Mountain OHV Area had a boundary around it, maps at the Medford BLM office, and was listed in the Oregon Department of Parks and Recreation "ATV Oregon, The Official Guide to Oregon Off-Highway Vehicle Recreation." Though the listing in the 1995 RMP was by name and acreage only, it had become a de facto destination for dirt bikes, quads and recreational four-wheelers. None of the other 290 landowners within those boundaries, my family included, had been consulted about making their land a target playground for the off-road crowd.

Today the western drainage of Forest Creek from Mount Isabelle contains more than 17 miles of road on public land across a six mile area. A user-created staging area on public land, where Forest Creek enters the Applegate Valley, has become a popular gathering spot for dirt bikers and ATVers. The sound of them echoes up and down the drainage nearly every day during spring and summer. Once they become familiar with the main roads and trails, they become bored with them. Then they start cutting across corners and making new trails. The dirt bikers are the worst. They can go anywhere, so they will go anywhere.

The frequent, brazen and sometimes combative nature of those who tried to ride across our land prompted us to completely close our road in 2000 after hearing automatic weapon fire there. Still, in the past seven years I had a dirt biker try to run me down when I signaled him to stop, I've been shot at and often threatened. My sister was threatened with a wrench pulled from beneath the seat of an ATV. Within sight of my house a dirt biker told me he was on public land. Those who do stop plead ignorance to trespass, despite two hardware store's worth of signage and gates at both ends of the road. I will treasure forever, though, the four-wheel toy driver who argued, "I can't be trespassing; I'm not walking!"

The off-road crowd, however, have not been idle in establishing organizations to further their interests. In 2000 the local Motorcycle Riders Association (MRA) sought a five-year permit from the BLM to hold three events of up to 500 riders each in the Timber Mountain/John's Peak area. While responding to BLM's Environmental Assessment of the request, I learned that the MRA had submitted route maps that included nearly two miles of Forest Creek Road, a county road, while Jackson County remained ignorant of their plans. Route maps also showed trails crossing our property. The MRA did not acquire their permit, but they have steadily lobbied BLM as well as state and local governments to further their use of public land. As the ridership increases, the noise and trespass increase as well.

Machine recreation on public land is increasingly controversial because of the damage from erosion, wildlife disturbance, spreading of noxious weeds and the presence of machine recreationists driving off other recreational uses of public land. But machine recreation on public land also directly impacts those of us who are neighboring landowners. Through the government's invitation, active or implied, we must fight off trespass, noise and the same kinds of negative impacts (erosion, etc.) that occur on the public land. The government is failing miserably to protect all of its citizens.

The machine recreation industry has numerous lobbyists who will tell you how much money is spent pursuing their activities. I am sure that people who bowl for enjoyment could tell you how much money they spend, people who hunt or hike could tell you about their investments. The government, however, makes no special accommodations for bowlers and strongly regulates both hunters and hikers. Why should machine recreation be any different?

We are talking about huge impacts from an optional activity that is for play. Even the machine recreationists describe the trailers they use to haul their machines as "toy haulers." I ask the government, "Should you be making special accommodations for people who play with toys?"

Many will tell you of the destructive nature of this activity. Many others, like myself, will tell you the invasive nature of this activity. And all will tell you the government, mostly the BLM and Forest Service, are woefully behind in addressing the issues.

Your committee has the authority and the responsibility to take action. Right now most public lands are open to motorized recreation unless marked closed. That means that two-wheel dirt bikes can tear up any part of the public land they wish, unimpeded and without consequence . . . at least without consequence to them. Protect our public lands and close all lands until the government agencies who manage them can make the case for opening them to machine recreation. Our forefathers did not fight for their freedom to destroy the very resources that give this country its greatness. I did not fight in Vietnam to watch the heritage of my citizenship washed away by ruts from expensive toys.

I urge you to close public lands to machine recreation and begin addressing the very difficult problem of controlling the impacts. Americans should enjoy the freedom to recreate as they wish, provided they do it without injuring others. As it now stands, dirt bikers and quad riders can injure all of us as they recreate. Please put a stop to it.

ALBUQUERQUE WILDLIFE FEDERATION,
Albuquerque, NM, June 16, 2008.

Hon. JEFF BINGAMAN,
Suite 130, 625 Silver Avenue, SW, Albuquerque, NM.

DEAR SENATOR: Thank you for providing the public the opportunity to discuss OffHighway Vehicle ("OHV") use on Bureau of Land Management ("BLM"), Forest Service, and other public lands. This is certainly an issue-relevant to the work of the Albuquerque Wildlife Federation.

The Albuquerque Wildlife Federation is a hundreds—strong, non-partisan, all-volunteer group that works to improve conditions for wildlife in New Mexico. We are proud to have been founded by conservation pioneer Aldo Leopold in 1914. Our membership includes biologists, federal land agency employees, state wildlife agency personnel, hunters, anglers, bird-watchers, wildlife enthusiasts, and outdoor recreationists—as well as Democrats and Republicans.

The bulk of our organization's work is spent on outdoor projects to improve wildlife habitat on public lands across New Mexico. We coordinate closely with state and federal wildlife and land agencies on these projects. Over decades, our membership has donated thousands of hours of sweat-equity every year to improve habitat for New Mexico's unique game and fish. We are extremely proud of this service to the people of New Mexico and its wildlife.

Recently our group, like many others around the West, has witnessed with growing concern the exponential proliferation of OHVs on public lands. Indeed, several of our own completed projects have been damaged by OHVs, and have also worked to restore areas where irresponsible OHV use has damaged wildlife habitat.

We have also participated in BLM and Forest Service OHV management plan processes. For example, the Forest closest to us, the Cibola National Forest, is undergoing such a review now.

Yet having engaged in these processes we are concerned they are not up to the task of reining in OHV damage. We are even more convinced that enforcement of whatever OHV rules come out of these planning processes will not be adequate.

We are well-aware of and support the multiple-use aspects of our public lands. However, the time has come for us to scale back OHV use, as it now significantly disrupts multiple other uses. Given OHV users represent only 5% of those who use our BLM, National Forests, and state public lands, it is only rational for their impact to be more accurately reflected on the land.

As such, we as consitituents strongly encourage you to use your influences as Ranking Member of the Senate Energy and Natural Resources Committee to achieve four goals:

1. Ensure federal and state agencies consider the impacts to natural resources, analysis the cost of developing and maintaining ORV routes and identify the reclamation cost during the process of designating OHV use and non-use areas.
2. Provide increased protections for important wildlife, water, timber, range, and cultural resources from OHV use.
3. Provide greater funding and resources for enforcement of OHV management.
4. Provide appropriations for remediation and damage resulting from OHV use.

We hope you receive these comments in the spirit they have been offered, with respect for New Mexico's beautiful and unique lands and wildlife. In considering our recommendations, we offer the guidance of our nation's greatest conservation President, Republican Theodore Roosevelt:

There can be no greater issue than that of conservation in this country.

We again thank you for bringing attention to this issue, and hope to be able to contribute to a constructive solution.

Sincerely,

GENE TATUM,
President.

STATEMENT OF THE AMERICAN ACADEMY OF PEDIATRICS

The American Academy of Pediatrics (AAP) appreciates this opportunity to submit testimony for the record of this oversight hearing by the Senate Committee on Energy and Natural Resources regarding the management of off-highway vehicles on public lands. The American Academy ofPediatrics is a non-profit professional organization of 63,000 primary care pediatricians, pediatric medical sub-specialists, and pediatric surgical specialists dedicated to the health, safety, and wellbeing of infants, children, adolescents, and young adults.

As the Resources Committee examines the enforcement of laws and rules on the use of off-highway vehicles on public lands, the American Academy of Pediatrics urges you to consider not only recreational and environmental issues, but also health and safety issues for our children. All-terrain vehicles (ATVs), minibikes, personal watercraft (PWC), snowmobiles, and other off-road vehicles pose unique dangers to children who ride or operate them.[1] In fact, from the perspective of injuryprevention, this situation creates the perfect recipe for tragedy due to the confluence of multiple high risk factors:

- Person Factors:—Children lack the physical and developmental maturity to operate an off-roadvehicle safely, especially in terms of judgement.
- Environment Factors:—Public lands are often difficult to access for rescue crews due to distance and challenging terrain.
- "Agent" Factors:—ATVs, snowmobiles and other off-road vehicles allow high rates of speed, weigh a great deal and completely expose the driver. Some, like ATVs, have a tendency toroll if not used properly. PWC operation is different from other motorized vehicles and can confuse operators, especially in crisis circumstances.

ALL-TERRAIN VEHICLES

The statistics regarding children and ATVs are grim:

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[1]

- Between 1982 and 2006, over 2,300 children were killed in ATV crashes. This is the equivalent of five 747 jets full of children, or 35 fully loaded schoolbuses.
- In 2006 alone, at least 111 children perished due to injuries sustained when riding an ATV.[2]
- An estimated 39,300 children were treated in emergency departments for ATV-related injuries in 2006. Serious injuries among children have ranged from over 32,000 to over 44,000 every year since 2000.[3] Since 1990, over 485,000 children have been treated in hospitals for ATV-related injuries- equivalent to the entire population of Atlanta, Georgia.
- Injuries sustained by children riding an adult-sized ATV are often very serious, including severe brain, spinal, abdominal, and complicated orthopedic injuries. ATV riding involves almost twice the risk of injury serious enough to require hospitalization than any other activity studied. This is true even for activities generally considered to be high risk, including football (62% higher risk for ATV riding), snowboarding (110% higher risk for ATV riding) and paintball (320% higher risk for ATV riding).[4]
- Children lack the strength, coordination, and judgement to operate ATVs safely. In a Consumer Product Safety Commission (CPSC) study, the primary causes of children's deaths on an ATV were overturning, collision with a stationary object, and other collisions.[5] Each of these implies the inability to control the vehicle properly.

Despite the alarming increases in ATV deaths and injuries, government regulation continues to be all but absent. No ongoing review has ever been undertaken regarding possible additional or revised regulations, in spite of changes in the patterns of ATV design and use. In 2000, the Academy's Committee on Injury and Poison Prevention reviewed the evidence regarding children and ATVs and reaffirmed its long-standing recommendation that no child under the age of 16 should operate orride an ATV.[6]

The Committee on Energy and Natural Resources has the power to reduce ATV-related deaths and injuries among our nation's children. If the federal government adopted limitations on ATV use by children on public lands, this would serve as both a powerful message and a model for states and localities. The attention and publicity generated would educate parents, who are often unaware of the safety risks of these vehicles. Moreover, this committee could have a significant impact on a key issue regarding ATV injuries. When an ATV crash occurs on public land in a remote, unpaved, or inaccessible area, precious hours can be wasted in locating, reaching, and transporting the victim to medical care. Trauma surgeons refer to the "golden hour" after injury as the critical window for initiating medical treatment. By placing meaningful restrictions on the use of ATVs by children on public lands, this committee could reduce the likelihood that children would die of preventable and treatable injuries.

Today, the operation of ATVs on federal lands is governed largely by the laws of the state in which the land is located. If a park or parcel covers portions of more than one state, the laws may differdepending upon one's location in the park. For example, Yellowstone National Park is set mostly in Wyoming, but also overlaps into Montana and Idaho. Idaho requires all ATV riders under the age of 18 to wear a helmet; Wyoming requires helmets for those under age 18 on an "enrolled road;" and Montana has no helmet law at all.

POLICY RECOMMENDATIONS

The American Academy of Pediatrics calls upon the Committee on Energy and Natural Resources to direct the Department of the Interior and the Department of Agriculture to adopt a uniform set of laws and guidelines for the operation of ATVs on all federal lands. Rules for riding ATVs should not vary depending upon whether one is riding in a national park, a national forest, or land controlled by any other federal agency. Uniform laws and guidelines would assist rangers in their

Children under 16 should not operate ATVs. An ATV can weigh in excess of 500 pounds and travel at speeds of over 60 miles per hour. Children do not possess the

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[2] Consumer Product Safety Commission, 2006 Annual Report of ATV Deaths and Injuries, February 2008, Table 3.

[3] Consumer Product Safety Commission, 2006 Annual Report of ATV Deaths and Injuries, February 2008, Table 5.

[4] Consumer Product Safety Commission, Briefing Package on Petition No. CP-02-4/HP-02-1, "Request to Ban All

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physical strength, coordination, or judgment necessary to pilot these vehicles safely.[7] When a child crashes on one ofthese large machines, it often rolls over them or traps them beneath it. The result is devastating injuries, including crushed internal organs and multiple broken bones.

A driver's license should be required to operate an ATV on public lands. The federal government does not allow children to drive cars in national forests or parks. Yet an unlicensed child is permitted to drive an ATV at high speeds, without a helmet, on unpaved surfaces in those same areas. This situation defies all logic. The safe use of ATVs requires the same or greater skill, judgment, and experience as needed to operate an automobile. A driver's license should be requiredto operate any motorized vehicle on public lands.

Alcohol use by operators of ATVs should be prohibited, with zero tolerance among 16- to 20-year old operators. Just as alcohol- or drug-impaired operation of automobiles threatens the lives of drivers, passengers, and bystanders and is prohibited, operation of any motorized vehicle under the influence of alcohol or drugs should be forbidden. Young drivers under the influence of alcohol or drugs are particularly dangerous because of their relative inexperience and poorer judgment. Alcohol use by those under the age of 21 is already banned by federal and state laws, and zero tolerance policies for underage ATV operators on public lands would strengthen the prohibition and send a strong message to parents and adolescents.

ATV use should be banned on paved roads in public lands. All-terrain vehicles lack the features necessary to operate safely on roads and highways. Most have few or no lights, mirrors, signals orsafety features. A significant number of crashes occur on paved roads where cars or trucks cannot see the ATV, or where ATV operators make unexpected maneuvers. In the CPSC survey on ATV crashes mentioned earlier, the highest number of fatalities occurred on paved surfaces.[8] Use of ATVs should be allowed only on designated, well-maintained trails.

Appropriate protective gear should be required to operate an ATV on public lands. Research regarding motorcycles and bicycles tells us that helmets save lives and that helmet laws result in greater helmet use.[9] [10] [11] The federal government should take a leadership role and require ATV riders on public lands to wear a helmet.

The popularity of all forms of motorized recreational vehicles raises serious questions about safety, particularly on public lands. The vast majority of concerns elucidated about ATVs also apply toother off-road vehicles. It is difficult to overemphasize the risk involved in allowing immature children to operate these dangerous machines in remote, unsupervised, and potentially hazardous circumstances.

Carrying passengers on an ATV should be prohibited. The vast majority of ATVs are not designed to carry passengers. An ATV's large seat is meant to allow a rider to shift his or her weight and maneuver adequately. Children can easily be thrown from these vehicles at high speeds. The Academy is even aware of cases where parents drive ATVs with children strapped onto the rear in a car seat, in the tragically mistaken perception that this is somehow safe. In a recent CPSC analysis of 184 child deaths involving ATVs, the agency concluded that, "CPSC has long recommended against the carrying of passengers on ATVs, and yet 24 percent of the deceased children were riding as passengers, and 45 percent of the fatalities occurred in multiple rider situations. Certainly, if CPSC's recommendations had been followed, the deaths of at least 45 child passengers would not have occurred."[12]

ATVs should not be operated before sunrise or after sunset. ATVs are challenging to operate safely even under ideal conditions. Darkness adds an unacceptable degree of additional risk, due to both unseen hazards and the difficulty of being seen by other vehicles. The use of ATVs in lowlight or darkness should be prohibited.

CONCLUSION

In conclusion, the American Academy of Pediatrics urges the Committee to support meaningful restrictions on children riding or operating ATVs and other off-road vehicles on public lands. Clearly, ATVs pose a significant hazard to children who ride them. This fact is indisputable. The cost to society is also high, not only in regard to loss of life and health but in actual dollars. In 2005, the journal Pediatrics

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[8] Consumer Product Safety Commission, Briefing Package on Petition No. CP-02-4/HP-02-1, "Request to Ban All-Terrain Vehicles Sold for Use by Children under 16 Years Old," February 2005, p.108.

[9] Kraus JF, Peek C, McArthur DL, Williams A. The effect of the 1992 California motorcycle helmet use law on motorcycle crash fatalities and injuries. JAMA. 1994;272:1506-1511.

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published a study which estimated that total hospital charges for children's ATV injuries over a two-year period exceeded $74 million.[13] If no further action occurs this year, we can expect over 100 children to die and over 35,000 to be treated in the emergency room again next year due to ATV-related incidents.

Our current regulatory systems and educational programs are not protecting children from tragic ATV deaths and injuries. The Committee on Energy and Natural Resources should take a leadership role on this issue and ensure the safety of children on public lands by supporting thecommon-sense measures recommended by the American Academy of Pediatrics. We appreciate this opportunity to submit testimony for the hearing record.

STATEMENT OF MIKE BEAGLE, CHAIRMAN, BACK COUNTRY HUNTERS AND ANGLERS, EAGLE POINT, OR

Backcountry Hunters & Anglers is a national organization of outdoor enthusiasts who prize the tradition, challenge and solitude of America's backcountry. Founded around an Oregon campfire, we now have members in 43 states. BHA is a 501c3 nonprofit organization that works to conserve big, natural habitat and healthy rivers and streams. We work so our kids and grandkids are free to enjoy the high-quality hunting and fishing we cherish.

We believe in access for all, yet understand that healthy wildlife habitat, rivers and streams are the foundation supporting the American pastimes of hunting and fishing. We believe there is a place for off-highway vehicle routes on public lands, but that greater controls and better enforcement are necessary in the face of growing humanpopulation and ever-more-powerful machines. In order to protect the future of hunting and fishing traditions we treasure, we want to protect large areas of public land completely separate from the noise, disturbance and pollution that comes with off-highway vehicles.

Our members—and many other Americans—are seriously impacted byirresponsible and excessive use of off road vehicles. Agency statistics show that motorized users are very much in the minority on public lands, yet they impact areas orders of magnitude larger than folks on foot or horse.

The latest National Forest Visitor Monitoring Report shows that only 5.6 % of visitors to National Forests go there to use an OHV. BLM reports they estimate only 9% of their visitors are there primarily to use an OHV.

The irony is that OHV users spoil hunting opportunity for themselves as well as for any quiet user within a mile or more of their noise. Extensive research over decades has established beyond dispute that OHVs impact a wide variety of wildlife and displace game animals. In addition, the use of motor vehicles shatters the quiet sense of solitudethat traditional sportsmen seek.

Recent studies in the Madison Range in Montana show that hunters on OHVs drive elk from public land and onto private land, while hunters accessing similar areas on foot did not displace elk. The end result was public game driven off public land and onto private ranch land where average hunters are locked out.

All of our members tell a familiar story - working hard and playing by the rules, only to have illegal or inappropriate riders on OHVs shatter their experience, scare away the wildlife and damage the habitat. It's happening all across the country, over and over again.

Several of our members are retired federal land managers. They feel strongly that irresponsible use of OHVs is out of control largely because of lack of agency direction, resolve and fortitude. Too many units of the BLM and Forest Service are hand wringing instead of acting. The Forest Service is working slowly to complete travel management planning but is neglecting authorities they already have (such as the Executive Orders) to implement emergency closures against off-route travel now.

We support reasonable controls to protect the water, forests and rangelands that are owned by all Americans. We support swift and effective enforcement of lawbreakers. We support meaningful penalties, such as confiscating machines and taking away huntingand fishing privileges of lawbreakers. Specifically we ask Congress to:

- direct the Agencies to aggressively accelerate controls, within the rules and resources they now have, of Off Highway Vehicles.
- secure necessary funding of OHV controls and enforcement on all public lands.
- investigate opening the Recreation Trail Program funds to for OHV management and Law enforcement.

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- direct the Forest Service and BLM to declare large portions of America's forests, canyons and public land as completely off limits to the noise, disturbance and pollution of off-road vehicles, while providing some designated OHV routes where they will notharm public resources or damage the experience of others.

STATEMENT OF ERIC HAMBURG, LOS ANGELES, CA

I am a property owner and part time resident of Wonder Valley, California who is greatly concerned and personally affected by the impact of abusive and illegal Off Road Vehicle (ORV) use. I have visited the Morongo Basin in San Bernardino, California frequently over the past thirty five years and have been fortunate enough to own my home, where I plan to retire, in Wonder Valley since 2002. By profession I have been engaged in computer technology as a Chief Information Officer in a large law firm and most currently as a technology consultant.

Illegal and abusive ORV use is a on-going and persistent problem for me and my neighbors. While many ORV riders are respectful of property rights, and of the law, there unfortunately are a significant number of riders who feel they can ride with impunity. Despite posting "no trespassing" signs on our land and working to pass effective legislation (particularly San Bernardino County Ordinance 3973, enacted in 2006 and unanimously reaffirmed by the County Board of Supervisors in August 2007) we still experience willful illegal riding. We also experience continual harassment from some members of the ORV riding community including personal attacks on their websites. Such harassment includes what amount to stalking of individuals and our private property.

Illegal ORV riding and riders cause 1) damage to the fragile desert ecosystem, 2) trespassing, noise and dust and 3) harassment of citizens who are only trying to protect their rights to live in peace and enjoy the beauty of the desert

In my opinion, the solution to this problem lies in enforcing and strengthening existing laws as well as providing more resources to local law enforcement to implement laws in the vast area that they need to cover. The penalties for infractions should be increased, particularly for repeat offenders. Law enforcement personnel also need to be trained on the importance of enforcing these laws and their performance must be assessed based on the effectiveness of their enforcement efforts.

Additionally manufactures and sellers of ORVs should be obligated through legislation to assure people purchasing their products are educated on safe and responsible riding. Local retailers should be obligated to inform their customers where riding is legal and where it is not.

Thank you for inviting the public to testify on these important issues. It is encouraging to see that your committee is taking leadership to look into these problems. I hope that you will take my comments and proposed solutions into account and translate them into effective legislation that can be effectively enforced not only in mylocal area but in the many areas across the country that are adversely affected by illegal and abusive ORV use.

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