



March 11, 2016

Colorado Legislative Delegation

Re: Trails/recreation based legislation Proposals

Dear Sirs:

The above Organizations are contacting your office with regard to the various legislative proposals before both Houses of Congress that are addressing recreational usage of public lands. In this letter we identify several specific pieces of legislation relative to particular issues and we are providing this correspondence to address general concepts that could be supported by these Organizations. This list is in no way intended to be a complete list of all legislative proposals but rather simply assist your offices in researching and understanding these landscape level concerns. There are many facets of these legislative proposals that seek to improve recreational usage of public lands, limited funding for land managers and various process related issues. The Organizations believe these are meritorious goals but must also express some concern over the manner these issues are addressed.

Prior to addressing the specific concerns our Organizations have regarding the various recreational legislation proposals, we believe a brief summary of each Organization is needed. The Colorado Off-Highway Vehicle Coalition ("COHVCO") is a grassroots advocacy organization of approximately 2,500 members seeking to represent, assist, educate, and empower all OHV recreationists in the protection and promotion of off-highway motorized recreation throughout Colorado. COHVCO is an environmental organization that advocates and promotes the responsible use and conservation of our public lands and natural resources to preserve their aesthetic and recreational qualities for future generations.

The Trail Preservation Alliance ("TPA") is a 100 percent volunteer organization whose intention is to be a viable partner, working with the United States Forest Service (USFS) and the Bureau of Land Management (BLM) to preserve the sport of trail riding. The TPA acts as an advocate of the sport and takes the necessary action to insure that the USFS and BLM allocate to trail riding a fair and equitable percentage of access to public lands.

CSA was founded in 1970 to unite winter motorized recreationists across the state to enjoy their passion. CSA currently has 2,500 members. CSA has also become the voice of organized snowmobiling seeking to advance, promote and preserve the sport of snowmobiling through work with Federal and state land management agencies and local, state and federal legislators telling the truth about our sport.

ORBA is a national not-for-profit trade association of motorized off-road related businesses formed to promote and preserve off-road recreation in an environmentally responsible manner and appreciates the opportunity to provide comments on this issue.

1. All users and permittees must be treated the same under any legislation.

The Organizations are aware that several proposals address burdens of the Permit process on outfitter/guides. The Organizations submit that issues encountered by outfitter /guides are seen by many user groups and all users should be addressed equally rather than providing a preference to any one user group over others. The Organizations are involved with a wide range of activities that are addressed in the permit process, such as winter grooming of routes, numerous educational rides and events throughout the year and summer trail maintenance efforts undertaken in partnership with Federal land managers.

The Organizations agree with the various Proposals addressing outfitter/guide permits, that the permit process is highly inconsistent, slow, expensive and burdensome. Generally the Organizations submit that there needs to be far more effective coarse/fine filter approach in permitting process and more specifically the new guidelines from BLM on permits are too open ended in terms of application and allow far too much discretion to line officers in the issuance of permits. This results in a process that is horribly inconsistent and difficult for the public to understand and utilize and results in a significant barrier to the recreational utilizations of public lands. Several specific concerns on permitting include:

- a. Long timelines required to obtain permits are major prohibitions- many groups and users that barely meet a few of the strict permit requirements are simply not able to determine the need 180 days in advance to obtain a permit for their event; resolution of this issue might be obtained with a more efficient coarse/fine filter approach to the permitting process;

- b. Cost recovery authority related to permits for specific events is no longer cost recovery for that event but has become a revenue source for land managers; Often there is no basis for costs asserted to be necessary and costs associated with permits that have been active for extended periods of time have significantly increased;
- c. Many non-commercial activities are lumped into commercial activities- a group of friends or family or small club outing should not be required to obtain a permit and conduct a full scale review of the outing at significant cost and delay to them; Permit issues such as this are when the impropriety of the current permit process become immediately apparent;
- d. Small events that occur relying primarily on existing resources on public lands should not need a permit or move forward with minimal analysis: Recently we encountered a dual sport motorcycle ride occurring on county roads crossing a small portion of BLM lands that was unexpectedly required to obtain an expensive permit they would have had to apply for months previously or face prosecution; this is becoming far too common an issue where groups of only a few vehicles are now expected to have permits
- e. There has to be a single permit issued for a project or event by all land managers; often there is no lead agency relative to permits and applicant may have permit from one land manager and another land managers steps in at the last second requires a permit from them as well; these issues are made more complex by service first principals and the patchwork of land management that is in place in some areas.

2. Volunteer group liability must be addressed.

The Organizations are very concerned with issues surrounding the liability of volunteer groups performing projects in partnership with land managers and submit groups must be protected as well as individuals from liability arising from partnerships on public lands. These liability concerns greatly expand when the local volunteer group is funding a project with third party grant funds. places a lot of burden on volunteers who are partnering with agencies on grants etc - required to obtain insurance and possible rider for projects

Insurance issues for volunteer groups are made more complex by the fact that certificates of completion for a particular project are impossible to obtain from land managers. This results in volunteer organizations being unable to obtain liability insurance the year following successful completion of a project can become difficult or impossible without a certificate of completion as many insurance companies will only release a project specific rider with a certificate of completion. Without this document, the insurer has no proof that the project has been

completed satisfactorily and accepted by the land manager. The Organizations submit that Rep Chabot legislation (HR 2290) on this issue would be a major step forward.

3. Economics in the Federal Planning Process

The Organizations vigorously assert that the economic impacts of planning decisions must be accurately and meaningfully addressed in the planning process. The Organizations have been involved in several major planning efforts where recreational activity has been valued at between \$10 and \$12 per day for users who must travel more than 50 miles to get to the planning area. Single employers within the planning area employed more people in recreationally related activities than land managers asserted resulted from all activity in the planning area. This often is not enough to cover gas necessary to travel to the planning area. Despite the facial problems with this analysis land managers vigorously fought the concerns when they were raised by both the Organizations and numerous local government representatives. The Organizations submit that difficult to balance multiple uses when primary leverage is exceptionally limited. This must be avoided.

The Organizations submit that the Secretary of Commerce should be included in the development of any economic analysis in the planning process. This is the Secretary of Commerce's expertise and would provide a check on the agency analysis of economic impacts. Sens. Shaheen/Gardner (S 2219) provides a good summary of the role the Secretary of Commerce should play in the economic analysis of usage of public lands.

4. Congressional powers should not be altered.

The Organizations vigorously submit that administrative creation of National Recreation Areas("NCA")/ National Conservation Area ("NCA") or similar type designations simply is not acceptable. These types of designations are a Congressional designation and should remain under Congressional authority and control. The Organizations are very concerned that NRA/NCA type designations could become another basis for closure of areas to the public.

The mere creation of NRA/NCA areas could trigger heightened permit requirements for all uses in these areas. These are major concerns that should be avoided for the reasons previously identified in this correspondence.

The Organizations are also very concerned that the relationship of existing NRA created by Congress to new administratively created NRA areas is not clearly and specifically addressed. The Organizations are also concerned that the relationship between any new designations and existing SRMA and ERMA designations in local Resource Management Plans simply is never discussed. The Organizations see this as a major concern as SRMA/ERMA designations are one of the few ways that recreation can be addressed in local planning.

5a. Any new Legislation must place a minimal burden on agencies.

The Organizations vigorously assert that any recreational legislation that is proposed must pass a cost benefit analysis from the agency perspective. As an example, the Organizations are aware that several proposals have allowed outfitter/guides to offset permit or fee costs with volunteer hours. The Organizations submit that while this proposal may appear beneficial, the burden on the agencies in terms of cost would be significant as volunteers need to be managed and projects need to be inspected. These are issues where the Organizations have already encountered conflicts as previously outlined in this correspondence. The Organizations are also concerned that the decline in revenues from the permitting process would further erode funding for projects on the ground.

The Organizations are also very aware that more planning documents do not resolve issues on the ground and often place additional stress on partners to land managers. Coordination of additional planning is often difficult to reconcile with more local planning efforts and attempts to reconcile these efforts often direct limited resources of partners and land managers away from on the ground projects.

5b. Review of priority trail maintenance areas is a concern

The Organizations welcome the review of the trail maintenance situation and vigorously assert that the dispersed road and trail network is a critical component of all recreational activity. All trails and roads are valuable to the people that use them. The Organizations believe basic maintenance of all routes is a major hurdle for land managers and those using these routes. The Organizations submit that identifying priorities for construction and maintenance often reflects the priorities of a small user group as public input is often difficult and does not reflect funding available to address both construction and long term maintenance of these routes. The Organizations are also concerned that when priority trails are identified that the value or concern over other trails is diminished. This is not acceptable and planning should address the fact that for many users there is an exceptionally finite amount of resources.

The Organizations submit that identification of priority areas could be a major administrative burden to land managers and maintenance issues can severely fluctuate by region, visitation and partner funding. Colorado has one of the largest trail programs in the Country and provides \$6-7 million a year to federal land managers to maintain trails. Other states simply do not have this level of partnerships. Any identification of priority trails should leverage outside funds for the project and not place additional burden on them. While we appreciate efforts to this effect in several states, the Organizations are not aware of additional funding being found to implement these trail priorities. This is a problem.

The Organizations submit that any review of trail priorities must include level of public usage of trail. Low level usage trails should not be priority maintenance projects. Another factor that should be looked at in any priority management process is if the project ripe in terms of NEPA.

If you have questions please feel free to contact either Fred Wiley, ORBA's Executive Director at 1701 Westwind Drive #108, Bakersfield, CA. Mr. Wiley phone is 661-323-1464 and his email is fwiley@orba.biz. You may also contact Scott Jones, Esq. at 508 Ashford Drive, Longmont, CO 80504. His phone is (518)281-5810 and his email is scott.jones46@yahoo.com.

Respectfully Submitted,



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