



August 3, 2017

Senator Ron Wyden
221 Dirksen Office Building
Washington DC 20510

Congressman Rob Bishop
123 Canon Office Building
Washington DC 20515

RE: Recreation Not Red Tape Act

Dear Senator Wyden and Congressman Bishop;

Please accept this correspondence as the input of the Organizations identified above with regard to the Recreation Not Red Tape Act ("RNR"). The Organizations welcome the bipartisan discussion exploring a legislative resolution to some of the issues and challenges facing recreational users of federal public lands. We believe that this unique opportunity must be leveraged in order to develop a cost effective management structure that provides an efficient process to advance recreational opportunities on public lands.

The Organizations have spent decades working with federal land managers and federal legislators on many of the challenges addressed in the RNR. Our efforts have ranged from partnering with local clubs to obtain permits for not-for-profit events, to partnering with land managers to develop and implement hundreds of site specific projects at a variety of levels, to management of landscape level travel management issues such as the Desert Renewable Energy Conservation Plan and expansions of the 29 Palms Marine Base in southern California. The Organizations have had a wide range of results from these partner efforts and we are seeking to highlight efforts that have been effective in these comments in the hope of avoiding the pitfalls of our prior partnership efforts moving forward.

Prior to addressing the specific concerns our Organizations have regarding the RNR, 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.

Colorado Snowmobile Association ("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.

The Off-Road Business Association ("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.

The Idaho Recreation Council ("IRC") is a recognized, statewide, collaboration of Idaho recreation enthusiasts and others that will identify and work together on recreation issues in cooperation with land managers, legislators and the public to ensure a positive future for responsible outdoor recreation access for everyone, now and into the future.

One Voice is a non-profit national association committed to promoting the rights of motorized enthusiasts; improve advocacy in keeping public and private lands open for responsible recreation through strong leadership, advocacy, and collaboration. One Voice provides a unified voice for motorized recreation through a national platform that represents the diverse off-highway vehicle (OHV) community. For purposes of this correspondence TPA, COHVCO, CSA, ORBA, IRC and One Voice will be referred to as "The Organizations". The Organizations would like to provide input on the six following issues:

1. While the Organizations submit any legislative efforts to streamline the recreational permitting process is a step forward, there are many challenges to obtaining recreational

permits that are not resolved in the RNR. Our Organizations have been working with Congressman LaMalfa's Office in the development of the Guides and Outfitters ("GO") Act (HR 289) which addresses the wider range of permitting challenges that our Organizations have faced in the permitting process. Some of the issues addressed in the GO Act include:

- a. Clearly identifying that previous environmental analysis developed for permits should remain the basis for the issuance of categorical exclusions for the event unless there is a significant change in the event;
- b. Clearly identifying that costs associated with the event operation, such as lodging outside federal lands or food provided to participants is a deductible expense when calculating revenue from events for permitting applications;
- c. Providing a 3% cap of the adjusted gross revenue of the event cap on permit costs; and
- d. Explicitly providing a waiver of cost recovery provisions under specific conditions.

We have asked that the scope of the GO Act be expanded to cover joint permits between USFS/BLM and other agencies such as DOD or Bureau of Reclamation as we obtain many permits for events that are issued in conjunction with the smaller federal land management agencies.

2. The RNR requires the development of an economics/labor report which may have significant overlap with the economic analysis and reporting required under the REC act (Public Law 114–249) which was passed in December of 2016. Given the limited nature of current federal budgets for land management agencies, and the high levels of information that can only be sourced from the federal land managers regarding recreational activity on federal lands, the Organizations must question the value of a second report with such a high level of possible overlap.

3. While the RNR addresses immunity for volunteers in title four, the immunity provisions still fail to include a limitation on organizational liability for volunteer groups that are working on stewardship projects on public lands. With the expansion of partnerships as a resource tool for federal land managers, NPO will be expanding partnership projects with land managers and they should be clearly protected in these situations. This liability is a huge concern for the Organizations as we are aware of several state level partners who have been sued in these situations. Several of these Organizations were defended under insurance that was in place but the Organizations failed to survive the lawsuit. Often these defenses are undertaken without clear language in the policy and the Organizations are concerned that at some point this type of coverage will not be provided to the not for profit partners.

In Colorado, we are aware of several clubs that have undertaken stewardship projects on trails on federal public lands and after consulting in detail with their general liability insurer, were either entirely dropped from future coverage renewals or were provided with quotes that were entirely out of reach for the club. Many of these quotes exceeded \$10,000 per year for the club as insurers were treating the project in a manner similar to construction of a major interstate highway rather than repair of a trail on federal public lands. While clubs can cover small insurance requirements, these are volunteer organizations with limited resources to cover insurance.

Another club undertook annual stewardship projects, ranging from periodic trail maintenance to the purchase of maintenance equipment in partnership with land managers after obtaining grants from the State OHV program. This club was obtaining project specific insurance riders on their general liability insurance policy for each stewardship project. Issues subsequently arose when sufficient documentation regarding the land managers acceptance of the completed projects could not be obtained despite the projects being completed according to the project specifications. Staff for these acceptance reviews was simply not available. After several of these riders could not be satisfied, the insurer was forced to cancel any further insurance coverage based on the perception that liability was resulting to the club due to failure to perform projects in a manner acceptable to land managers. This simply was not the case but without documentation this conflict was difficult to resolve. With the expansion of club immunity to these types of projects would avoid these challenges to partners.

4. The Organizations must question the value of the entire National Recreation System to be created under the RNR. While we welcomed the specific reference to motorized usage in the RNR, the Organizations concerns involve the basic method of identification and inclusion of lands in the expanded NRA system. The basic process for NRA in the RNR very closely resembles the WSA/RARE inventory process performed by the BLM and USFS in the 1970's through 1980's. After completion of the inventory, areas found suitable were to be designated by Congress and areas found unsuitable were to be released. This model has proven to be less than effective and in most cases has just created mountain of residual paperwork and planning in areas that were subject to the inventory as a result of the management and designation remaining unresolved by Congress. The Organizations submit there must be a better way to inventory and advance recreation on federal public lands.

In addition to the Organizations concerns regarding the inventory process for the NRA, the Organizations must express concern over the future of existing NRA. There are numerous NRA that are currently identified throughout the country and each NRA has an area specific management plan in place which balances a wide range of specific factors in the area. Given the diversity of issues and challenges addressed in these site specific plans, the Organizations

must believe there is conflict between existing plans and the criteria identified in the RNR. The Organizations submit that additional planning for these areas would provide minimal benefits to the recreational users of these NRA when compared to the plans currently in place. The Organizations believe there must be extensive discussions in the development of the RNR to address how these conflicts would be resolved.

5. The RNR also provides for a 3 year period (pg. 31) to create a management plan for an NRA. It has been the Organizations experience that developing any landscape level planning document and associated Environmental Impact Statement within 3 years is simply unrealistic. It has been the Organizations experience that often an Environmental Assessment cannot be completed for significantly smaller planning areas within 3 years. Imposition of an unrealistically short planning deadline for landscape level planning will result in plans that are not targeting development of high quality planning document but rather seek to comply with the tight planning deadlines in any Legislation. This will result in lower quality plans that rapidly lose value for the planning area.

6. The Organizations must also question the priority trail maintenance proposal and believe there are many more factors to be balanced in the identification of priority trails for maintenance. Given the large number of routes that are not being maintained to acceptable standards, the Organizations must question the value of only identifying 9 to 15 trails nationally that are to receive elevated maintenance. It has been the Organizations experience that land managers in small planning areas can easily identify 9 to 15 trails on their district that need heavy levels of maintenance. The Organizations must question the value of identifying a national list of priority trails for maintenance, as the limited resources of land managers will be not fully utilized for maintaining trails at the local level but will be directed to developing the national list.

The Organizations submit that numerous additional factors must be balanced in the identification of priority trails for maintenance. One additional factor should include leveraging of resources available from partners for the maintenance of the route now and for the foreseeable future. The Organizations submit that the long term financial sustainability of any priority routes that are identified must be reviewed, as maintaining a trail in the short term that has no additional sources to insure the long term usage of the route simply makes little sense. Insuring the long term financial sustainability must be addressed in any review process to insure that resources directed to a priority route or area in the short term are not lost in the long term for many of the same factors that might have placed the route on the list in the beginning.

When identifying priority maintenance routes the basic sustainability of the route must be addressed as many routes simply are not in ideal locations for maintenance. Often routes are

in locations for reasons other than the recreational usage of the area, such as routes in creek beds and routes that have been placed due to historical usage of the areas by pack animals and wildlife. Identifying priority trails for maintenance should not omit questions such as: "Is the route in a sustainable location?" or "Does the route make sense from a cost/benefit analysis?".

The definition of what a "substantial increase" in maintenance must also be defined in the RNR in order to insure the long term success of the program. A poor definition of substantial increase in maintenance could create a shockingly low threshold of success for a trail maintenance project as maintenance may never been done in the area or has been poorly documented for a variety of reasons. The RNR must provide some type of definable and identifiable metric for the success of any maintenance that may be undertaken.

Conclusion.

The Organizations welcome the bipartisan discussion regarding how to elevate the importance of recreation on federal public lands and how to streamline recreational management moving forward. The Organizations would request that the RNR address:

- the numerous challenges in the permitting process that remain hurdles to permit applicants in the current version of the RNR;
- address the overly narrow scope of liability protection to Organizations that are becoming more and more important to land managers;
- several provisions of the RNR appear to duplicate efforts of land managers already in motion and this repetition must be avoided;
- The Organizations further submit that rather than repeating the failed inventory process that has plagued WSA/RARE inventory process;
- the RNR should develop a more efficient and streamlined inventory process that is flexible enough to allow existing NRA plans to move forward and identify planning opportunities that will benefit recreational usage on public lands. The Organizations are concerned the RNR in its current form would create significant amounts of new paperwork and red tape rather than streamlining any portion of the process;
- seek to develop a method for local land managers to address the priority trails on their districts to allow limited resources to be most effectively applied on the ground rather than being lost in developing a national list; and
- provide a wide range of factors to be developed and balanced in the localized priority trail review.

If you have questions please feel free to contact either Scott Jones, Esq. at 508 Ashford Drive, Longmont, CO 80504. His phone is (518)281-5810 and his email is scott.jones46@yahoo.com or 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 .

Respectfully Submitted,



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COHVCO Authorized Representative;
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Authorized Representative of One
Voice



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