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Subject: Scoping Comments on RMPs for Western Oregon
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Bureau of Land Management
Western Oregon RMP
P.O. Box 2965
Portland, OR 97208
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Subject: Scoping Comments on RMPs for Western Oregon

Thank you for the opportunity to comment on the scoping process for the RMP for Western Oregon. My comments will be primarily focused on BLM's Medford/Ashland Planning District area including but not limited to special emphasis on OHV recreation areas. The BLM only acknowledges what they call "substantive" comments which is vague at best. We would like to clarify that we are only providing scoping comments for this RMP in specific areas, with regard to BLM, that we have firsthand knowledge in and they are not only substantive but if acknowledged appropriately they will also have great value for both the BLM and public they serve. We sincerely request the recommendations included in this document be considered.

The current RMP provides a tremendous opportunity for the BLM to address, in a proactive fashion, rapidly growing and relatively unmanaged OHV use on public lands throughout western Oregon. More important is the need to clearly define the criteria for determining whether or not an area is suitable to be designated as OHV Emphasis/Trails Areas and a meaningful process established where the surrounding communities are notified early, in advance of any planning decisions and can have their concerns heard on the record and have them addressed.

It is well known fact that OHV use is not compatible with most other forms of recreation with the occasional exception of mountain biking (depending on the geography and size of the area) and maybe snow mobile riding that is utilized when OHVs are not. Describing trails as "shared use" in an OHV area is absurd and is used as a tool to make the concept sound more palatable as well as to meet the requirements for certain grant funds.

More weight should be given to those forms of recreation that can share the same areas without negatively impacting each other or those who live near the area and to the types of recreation that do the least amount of damage to the environment and watersheds. Example: hiking and equestrian or mountain biking and equestrian (as done on Chapel Hill in Grants Pass).

Any area established for OHV use is now substantially unusable to the majority of users of our public lands for obvious reasons of safety and quality of the recreating experience. Thoughtful, public involved discussions need to happen prior to any such designation of an OHV area.

One of the most critical elements the BLM needs to address is "meaningful notification" prior to designating areas for any type of recreation. This should include direct mail to; all residents that could be affected by this decision due to noise, traffic, increased risk of fire, impact to quality of life, impact to property value; all recreational groups/clubs – equestrian, mountain biking, hiking, birding, hunting, fishing, OHV etc.; to all other state and federal agencies that are involved in that area – ODF, ODFW, DEQ.; to local city and county political and law enforcement officials – Sheriff's Dept., City Councils, County Commissioners etc.. In addition, notification should also be posted in ALL the newspapers serving the area/s in questions.

These types of decisions affect all those listed above financially and or personally in one way or another and should not be taken lightly. Sadly, in our experiences with the Medford District BLM, the processes that should be taken very seriously tend to be viewed more as a formality and nothing more. So long as it "appears" there is public participation and it can be spun that way on the web site and in the media it eliminates the need to actually go through that process in a meaningful way. Examples: Johns Peak/Timber Mountain OHV Emphasis Area during the 1995 decision; for numerous related meetings; most recently with the Conflict Management process as listed on the BLM website for the Medford District. The BLM web site describes an open informative process where the public is engaged and involved and this is not even close to being true – the facts are far less flattering as described in the Background portion of these comments.

In designating an area for recreation the BLM is supposed to consider environmental, riparian and wildlife issues but there is little or no consideration for the public or to protect the surrounding neighborhoods and communities from the impacts of such a decision other than "to minimize conflicts" which is vague and meaningless - this needs to change. Potentially impacted communities should be notified and involved before any decisions are made, not after. Example: Johns Peak/Timber Mt. 1995 OHV designation in the Western Oregon Plan for BLM.

The process by which BLM established some of the existing OHV Emphasis areas in the 1995 RMPs appears highly questionable, as many of the RMPs did not include maps or legal descriptions nor did the Environmental Impact Statement that accompanied each RMP adequately address the consequences of their designation. The John's Peak/Timber Mountain OHV area is one such example. The designation of this 16,250-acre OHV Emphasis Area in the 1995 Medford RMP occurred without broad public knowledge, dialogue or debate, despite the fact that numerous private lands and residential communities are included within, or border the boundary of the proposed OHV Emphasis Area.

Today, a majority of the citizens of Jacksonville and residents/landowners of numerous surrounding communities, whose lands border or who are included in the proposed John's Peak/Timber Mt. OHV area, have expressed significant opposition and concern about ongoing OHV use in the John's Peak/Timber Mt. area, and the adverse effects it is currently having or will have on their quality of life, property values, the tourism-related economy of Jacksonville as well as the impacts to wildlife habitat and environmentally

sensitive Salmon spawning areas in 303d listed streams.

The entire proposed Johns Peak/Timber Mt. OHV Emphasis Area is in a highly volatile region designated by the Oregon Dept. of Forestry as an "Extreme Fire Danger Area" with special considerations under legislative bill SB360. It has a long, well documented (1960's) fire history and since 2000 the local communities have been actively and aggressively working to reduce the fire threat by establishing community fire plans, the nationally known Applegate Fire Plan and also the Foothills Creek Fire & Emergency Plan and Birdseye Creek Fire Plan that include numerous communities surrounding Johns Peak/Timber Mt.. These communities have organized resources list, created email trees for educational materials and notifications and reduced ladder fuels and by implementing forest property management in partnership with the Oregon Dept. of Forestry, OSU Extension and Seven Basins Watershed Council. These concerns are very real to those of us who live here, these are our homes, our lives, and the BLM should consider have considerations and criteria implemented so as not to undermine hard earned community partnerships and efforts for the common good.

The following provides a little of the background and experiences with the Medford District BLM and which have demonstrated to our communities the need for the BLM to make some serious changes to the RMP processes and policies and the need for a monitoring system to ensure changes are implemented as directed in a timely way. Our recommendations for the RMP are listed after the background information below.

BACKGROUND INFORMATION

Many of the communities in and around Johns Peak/Timber Mt. first found out about this BLM Medford District OHV Emphasis Plan purely by accident in 2002. Residents subsequently made requests to BLM Medford District Mgmt. to review this decision as there had been no maps, definitions or public notice but were told by BLM Management that it was too late it was "a done deal" and it was now beyond the acceptable time to be able to object. We are still unclear as to how anyone could have objected when there was no notice and no way of knowing it was happening - the public process was literally bypassed. Also the 1995 RMP said it was for snow mobile use not OHVs which now the BLM says is a typo? We then asked the BLM to hold public meetings where people could give public testimony on the record, the BLM declined repeatedly. A handful of concerned residents then made flyers and spent their weekends driving around to put them on resident mailboxes all at their own expense to inform the surrounding areas about the OHV plan.

To date there has never been any notification to potentially impacted residents by BLM regarding the proposed Johns Peak/Timber Mt. OHV Area, or for the WOPR, or any related RMPs or even for the BLM conflict management process for this OHV area even though it was requested.

After discovery of this BLM OHV plan many residents signed up with the BLM (including myself) to be notified on any items related to Johns Peak/Timber Mt. and to date none of us has ever received a

notification by mail, email or phone call despite numerous related BLM meetings and processes. Also the public has never been allowed to give public testimony for the record at any of the BLM meetings on this issue. The BLM held presentation meetings (again not meaningfully noticed) and gave the public 5 choices and all included making it an OHV Emphasis Area.

When there are related meetings the BLM publishes a tiny blurb in a Medford newspaper or in a government publication and calls it good even though they have been repeatedly asked to include it in all appropriate newspapers because most residents are served by other newspapers - 6 in total around the Johns Peak/Timber Mt. region - the Rogue River Press, the Applegate, the Gold Hill Nugget, the Jacksonville Review, the Grants Pass Courier and some take the Medford Tribune.

Residents have invested 1000's of hours over the last 10 years writing letters, organizing a petition with 1,300 signatures of property owners around Johns Peak/Timber Mt.(all registered voters), attending community and agency meetings, driving up to Salem to attend State Parks ATV fund meetings and recently spent 6 months in conflict management efforts (still ongoing since Jan 2012) with the Medford BLM District management. To date the BLM has basically ignored the strong opposition to their OHV proposal for Johns Peak/Timber Mt. even from county commissioners and still the BLM dismisses them all and the impacts on the public as unwarranted, all for the convenience and desires of a single special interest group with ATV fund benefits.

Despite the impacts to the environment and sensitive watersheds, the ongoing resident/OHV conflicts (noise, trespassing, dust, increased fire danger, dumping, traffic), the public outcry via calls, letters, petitions etc, the checkerboard public/private ownership (BLM non-contiguous lands combined representing only 32% of the proposed OHV Emphasis Area), the BLM Medford District Mgmt. seems totally unwilling to consider, that this area is not suitable and should be withdrawn from consideration as an OHV Emphasis Area.

The Medford BLM office has continued to promote the Johns Peak/Timber Mt. as an OHV Emphasis Area in an obvious partnership with the Motorcycle Riders Assoc. (MRA) on maps, the internet, and in printed materials all prior to a detailed EIS being completed and meaningful public notification and comment. This has created a litany of ongoing resident/OHV conflicts, the creation and or abduction of trails for OHV use, driving out all other non-motorized users (equestrian, hunters, hikers etc.). A local resident recently discovered the BLM website went so far as to provide a map tool on the OHV Recreation page for Johns Peak/Timber Mt. that directed OHV riders to use Foothills Creek Road as an access point and even included a photo of where to turn off Hwy. 99 however, per the BLM, Foothills Creek Road has no legal public access to BLM lands. When residents called to complain about all the OHV conflicts (before being aware of the BLM web site) we were told by the BLM Medford District Mgmt. "We have no control of who uses public roads. "

Now the BLM says Johns Peak/Timber Mt. needs to be a managed OHV Emphasis Area to mitigate the very increased use and subsequent conflicts the BLM, Motor Riders Association (MRA) and Oregon Parks & Recreation Dept. (OPRD) perpetuated and to the exclusion of all the other non-motorized, historical recreational uses for the area.

Hiking and equestrian trails became OHV trails, hunting season is now over run with OHVs which drive the game out of the area, equestrian riders had terrifying encounters meeting head on with OHVs so they can't use the area anymore. Hiking and bird watching has lost its recreational quality with now muddy deeply rutted trails and OHVs flying around corners, and property owners dealing with the never ending trespassing OHV riders who often leave behind broken fences, torn out gates, leaving trash. The Oregon Dept. of Forestry said they even use their No Fires Allowed signs to start their fires and Forest Capital Partners (the largest land owner in the area) said they have had to replace 200 gates due to OHV riders tearing them down. All this promotion has created a maylay of

conflicts and all in advance of a detailed EIS and meaningful notification to surrounding impacted communities.

The partnership between the BLM and MRA also extends to the Oregon Parks and Recreation Dept. (OPRD) who is also promoting Johns Peak/Timber Mt. as an established OHV area which it is not. It should be noted that the very man who was a BLM employee in 1995 and instrumental in designating the Johns Peak/Timber Mt. as an OHV area in BLMs Western Oregon Plan is also the very same man who now works for the OR State Park & Recreation Dept. and is directly tasked with managing the well-endowed ATV Fund directly benefiting the OHV groups. Another questionable conflict of interest.

BLM's CONFLICT MANAGEMENT PROCESS

In December 2011 we were contacted by the BLM conflict management team moderator to join them as one of the Resident Representatives to work out the issues with the proposed Johns Peak/Timber Mt. OHV area. We declined as the area was not suitable for an OHV Emphasis Area and that the BLM was unwilling to look at more suitable options. We were assured that in this process ALL topics would be on the table for discussion and that all the surrounding potentially impacted communities would be notified via mail of this process and we even discussed details on how that could and should be done.

In January, prior to the first meeting, we received an email from the BLM's conflict mgmt.. team stating the BLM would only allow 2 representatives for all the residents (despite there being numerous impacted communities surrounding the area) so we called the team moderator who confirmed that no notifications would be mailed out by the BLM to inform surrounding residents about this process, also there would be no discussion allowed regarding potential other suitable locations and if we withdrew from attending then the BLM would now appoint someone to represent our communities – he said these were the BLM's decisions. We were now left with 13 days to have the communities vote on who should represent them but we had no way to affectively notify them. Our area in part was notified via our fire planning email tree but most communities still have no idea this is going on and that they are being represented by people they don't know and they do not have a voice of their own.

Basically we were blackmailed into this participating in this process which has turned out to be nothing but a vehicle to make it appear the BLM is doing their due diligence by working with the public but it has been all about what the MRA wants and the BLM in lock step with them on every topic of discussion.

At the very first BLM conflict management meeting for the proposed Johns Peak/Timber Mt. OHV area in January 2012 we all made data requests for maps of all the proposed, existing, closed or proposed for closure BLM trails and roads as well as granitic soil overlays, riparian overlays, endangered species overlays, etc.as well as proof to substantiate their claims of 30 years of "historic" OHV use as listed in the BLM web site. At each monthly meeting we continued to ask for these items to no avail. It has taken 5 months for the BLM to provide a single legible map with a semi-accurate legend and informed there was no data to substantiate the 30 year historical OHV use claim but it is still listed on the web site.

At the June conflict mgmt. meeting BLM shows up with a computer gal in their employ who quickly demonstrates they not only have maps but a \$26,000.00 software program enabling them to utilize any of 50 to 100 detailed overlays already existing in their database relating to this area. In this meeting the members representing the MRA announced they don't actually represent the MRA and therefore have no authority, apparently they are just avid OHV riders who just happen to be MRA Members however one of their attending alternates was the president of the club.

This BLM process is failing because the BLM has refused to demonstrate a willingness to consider other more appropriate areas for an OHV Emphasis Area as well as to notify the surrounding communities or meet data requests for critical site specific data they had in their possession and could have easily provided. They say they allow public comment after the meetings are over but then the BLM hired conflict mgmt.. team takes those comments as well as our own and "summarizes" them into their own words. Our comments and suggestions have been marginalized at every meeting. The entire process seems to be to determine what would make a "quality" OHV experience for riders. Why have a conflict management process that refuses to address the actual conflict?

It has been clearly demonstrated that the BLM and MRA have had private meetings (even during the conflict management process), concocted a plan and are working together to carry it out. The BLM also withheld time sensitive information about this RMP process now taking place and in fact announced at the April BLM conflict management meeting that the RMP for Western Oregon was not only out for public comment but it had been out for over a month even though the court decision to vacate the previous RMP had only come out a few days prior to the meeting. It seems fairly obvious after spending months meeting on this subject that the RMP directly relating to it would be of interest and the need of the public to be able to comment in a timely manner would be paramount but clearly that is not the case – it is simply more of the same tactics in play and this needs to be changed or investigated.

Also during the June meeting it came out that the MRA had been doing the BLM's roads and trails inventory work for this area. This is clearly a conflict of interest and negates any value of the data they have provided. Additionally we have learned the MRA is acquiring lands to be used as "access points" for the proposed OHV Emphasis Area but to our knowledge nothing has been designated by the BLM but it seems the MRA has information the rest of us do not.

RMP RECOMMENDATIONS

The Need to Change One Size Fits All Criteria

There must be a change in the One Size Fits All approach by BLM and their criteria for determining if an area is suitable for particular type of recreation and this is especially true for OHV areas. The Rogue Valley for example has widely varying micro climates from one canyon to the next with each one having its own unique characteristics. Some areas (like ours) are what southern folk would call a Hollar as you hear sounds over great distances. There are differences in wildlife habitat and fish spawning, stream water temperatures and soil types that differ from one creek area to the next. Some are in the natural progression area for residential growth example: along a highway corridor and between two major cities – these areas historically fill in with residential bedroom neighborhoods. The BLM must start considering these factors before making decisions that will have devastating impacts on communities, wildlife habitat and watersheds and create never ending conflicts.

Assessment Needed of the Difference between Sounds and Noise

One of the more serious issues relating to and impacting all of these groups are OHV areas and the noise they create. There is a very distinct difference between noise and sound and how the BLM defines this needs to be carefully assessed with consideration to the

one size does not fit all issue.

Noise pollution is unwanted human-created sound that has the effect of being annoying, distracting, painful, or physically harmful. People exposed to noise pollution suffer from hearing loss, sleep deprivation, chronic fatigue, anxiety, hostility, depression and hypertension. World Health Organization, National Institutes of Health, United Nations and numerous scientific and medical publications recognize noise pollution and its deleterious effects.

Noise pollution is unwanted human-created sound that disrupts the environment. The dominant form of noise pollution is from transportation sources, principally motor vehicles, referred to as **environmental noise**. The word *noise* comes from the Latin word *nausea* meaning seasickness.

Noise from recreational off-highway vehicles (OHV) is becoming a serious problem in rural areas. ATVs, also known as quads or four wheelers, have increased in popularity and are joining the traditional two wheeled dirt motorcycles for off-road riding.

The noise from ATV machines is quite different from that of the traditional dirt bike. The ATVs have large bore, four stroke engines that produce a loud throaty growl that will carry further due to the lower frequencies involved. The traditional two stroke engines on dirt bikes have gotten larger and, while they have higher frequencies, they still can propagate the sound for a mile or more. The noise produced by these vehicles is particularly disturbing due to the wide variations in frequency and volume.

Recreational off-road vehicles are generally not required to be registered and the control of the noise they emit is absent in most communities. However, there is a growing awareness that operation of these machines can seriously degrade the quality of life of those within earshot of the noise.

The wonderful rural sounds of the wind in the trees, bird songs, bubbling creeks, kids playing and the occasional dog barking is not remotely similar to the never ending buzz of OHV's – 2 or 4 stroke engines. **The criteria of measuring and using sound decibels of 85 or less must change.** One is the soothing sounds of nature and the other is the noise from engines X 100's of machines.

Highest and Best Use For Our Tax Dollars

There should be an assessment of impacts to property values from OHV Emphasis Areas and a method of fair and just compensation to impacted property owners.

There should be a review of how lands for OHV use are acquired. Recently it came to our attention that the MRA acquired land from the State Parks ATV Fund and purchased lands then handed them over to the BLM to manage for OHV use. Again, there was no notice to the public about this sale and its planned uses and this must change. The BLM functions on funds from all of our hard earned tax dollars and not only is the public paying for the lands to be acquired for OHV use by way of the Oregon Gas Tax every time we buy a gallon of gas but now we get to pay via BLM to develop it into an OHV area and we get to pay to fight against it too. This is not the highest and best use for our tax dollars on a state or federal level and the BLM seriously needs to review these policies and make some changes.

Criteria recommendations for OHV Areas

Any area under consideration as an OHV area should meet the following criteria:

- 1) Be in an area that is not surrounded by residential communities and checkerboard ownership.
- 2) It be large enough in size (30,000 contiguous acres) so that (as needed) areas could be closed for restoration and resting of the land. Perhaps a partnership with National Forest lands.
- 3) It provides overnight camping so as to provide for tourists to come with their toy haulers and make a vacation out of it and benefiting the local economy.
- 4) In an area where the increased traffic from an access road does not diminish the rural quiet lifestyle for residents who live on that access road.
- 5) Is far enough away from residential communities so OHV noise does not affect their quality of life or reduce property values.
- 6) In an area where when a fire starts it will not burn down or threaten residential communities.
- 7) Is not in an environmentally sensitive area (303d listed streams, endangered flora and fauna).

- 8) Environmental monitoring would take place to make sure those areas are closed and that restoration process is carried out ideally with financial support from the ATV fund.
- 9) That a restoration plan and timeline is set up prior to use starting.
- 10) There is adequate on the ground law enforcement to provide a safe environment.
- 11) Is not located in the path of natural residential growth.
- 12) That if funds for law enforcement are reduced the OHV areas are closed to maintain manageable enforcement and safety.
- 13) That no promotion or OHV designation of any kind take place without first providing the public with meaningful notice in all area newspapers and or by direct mail.
- 14) All OHVs have a legible easy to read license and permitting process for the riders and for the OHV vehicle – like we all have to do to drive a vehicle on the street.
- 15) Penalties & fines that have teeth to weed out the bad eggs of the OHV crowd and limited access area in order to have effective law enforcement.
- 16) Financial compensation for damages to property owners from ATV Funds & Permit fees.
- 17) Equal weight be given to communities, the environment and wildlife.
- 18) A checks and balances system for resident complaints. After a give number (5) the area is temporarily closed, if it continues after being opened with a “not to exceed” number it is closed permanently. All resident complaints get documented for the record whether or not a citation is issued. Complaints carry the same weight as citations.
- 19) That it will not prove a burden on local city and counties roads and or law enforcement personnel diminishing services to tax payers and tantamount to imposing an unfunded mandate.

Transportation Management of Off Road Vehicles

All-terrain vehicles, dirt bikes, dune buggies and other OHVs increasingly threaten public lands. Numerous scientific studies demonstrate that OHV use causes significant soil erosion, destroys vegetation, fills streams with sediment, spreads invasive weeds, and harms wildlife. A bibliographic database referencing over 10,000 citations documenting OHV impacts can be found at:

<http://www.wildlandscpr.org/databases/bibliographicdatabase.htm>

The increased popularity of OHVs has coincided with technological advances that have enabled these machines to penetrate deeper into the backcountry and pristine areas of our public lands, often at great expense to the landscape. As such, OHVs represent one of the fastest growing threats to the ecological integrity and function of our public lands because of their ability to pollute air and water, drive animals away from feeding and nesting areas, tear ruts and ditches into the landscape, reduce the complexity and ecological function of riparian areas, spread invasive weeds and, in portions of southwestern Oregon, serve as a vector for the spread of a fatal root disease (*Phytophthora lateralis*) that affects Port Orford Cedar.

OHVs now represent one of the greatest threats to the ecological health and integrity of wild and scenic public lands—a greater threat in many places than mining or livestock grazing. The scale and extent of environmental impact associated with OHV use is tremendous and disproportionate to the relatively small number of people who chose this form of recreational pursuit. Most reports estimate that fewer than five percent of recreationists use OHVs. Yet OHV use continues to be relatively unmanaged and unregulated on almost two-thirds of the 2.5 million acres of BLM public lands in western Oregon while only 2 percent of these lands are closed outright to motorized uses. The current laissez faire approach to OHV management must change if the BLM in western Oregon hopes to be viewed by the public as a capable steward of the public lands.

Climatic and geomorphic factors in western Oregon combine to exacerbate the negative impacts of OHV use. The current RMP for the BLM's Eugene District states the following about the severity of unregulated OHV use:

Due to the steepness of the terrain, unstable soils, and high rainfall common to the region, unregulated cross-country motor vehicle operation may result in unnecessary soil erosion and create a likelihood of inadvertent negative impacts to critical wildlife habitat or sensitive plant communities.¹

¹ Record of Decision and Resource Management Plan, Appendix F, June 1995. U.S. Department of the Interior, Bureau of Land Management, Eugene District Office.

² Statewide Comprehensive Outdoor Recreation Plan, January 2003 (page 8-5). Oregon Parks and Recreation Department.

³ Statewide Comprehensive Outdoor Recreation Plan (SCORP), January 2003, page 8-5. Oregon Parks and Recreation Department.

The factors of steep slope, unstable soils and high rainfall are common among public lands throughout western Oregon and, therefore, the concern over adverse impacts from OHV use applies equally across most public lands within the BLM's Salem, Roseburg, Coos Bay, and Medford districts, and the Klamath Falls Resource Area. On a statewide basis, concern over damaging cross-country OHV use has been echoed by the Oregon Parks and Recreation Department who noted, in the 2003 *Statewide Comprehensive Outdoor Recreation Plan (SCORP)*, that "recreation providers report that cross-country (OHV) travel is damaging the state's natural resource base (emphasis added)"² Thus, throughout Oregon, state and federal agencies have expressed alarm about the serious consequences of unregulated OHV use on public lands.

The determination of explicit and meaningful criteria for determining where OHV use is appropriate must be a critical aspect of the RMP revisions. No scientific or legal basis exists for the BLM to continue allowing indiscriminate and cross-country OHV travel. The agency's own records demonstrate that OHV use must be confined to appropriate routes in order to avoid unlawful environmental degradation. What should be obvious, however, is recognition of the fact that cross-country OHV travel

and the invariable proliferation of user-created routes is especially damaging to public lands and waters and must be stopped.

OHV use also causes adverse impacts on the recreational experiences of almost every other user of public lands. There are significant safety concerns regarding OHV use, as well as conflicts with other public land visitors who seek a quiet and non-motorized public lands experience. OHV conflicts with hunters, hikers, and other non-motorized recreationists are well documented and in rare instances is OHV use compatible with these other uses. An Oregon Department of Parks and Recreation report, in summarizing public response to a series of statewide questionnaires, underscored the incompatibility of OHV uses with other, non-motorized uses when it reported that:

There is concern that (OHV) riding areas be thoroughly separated from hikers, kayakers, campers, cyclists and other human-powered users of public lands and that environmental impacts be closely monitored and managed.³

The challenge for the BLM, therefore, is to identify locations where OHV use will not result in adverse impact to resources while ensuring that conflicts with non-motorized human uses, including adjacent

private landowners, are minimized. This exercise should consider the fact that non-motorized users of the public lands typically outnumber OHV users by a ratio of at least 10:1, while the disproportionately large sphere of influence (i.e., extent of noise, air pollution) and distances traveled by many OHVs in a single day exacerbate their environmental impact and the perception of motorized uses as a dominant presence on the landscape.

Although the negative impact of OHV use can be minimized in some areas through appropriate management, the relatively unregulated use of these machines is wreaking havoc on America's public lands. Consequently, OHV use must be thoughtfully planned and closely monitored by BLM staff to ensure that its harmful impacts do not adversely affect public land resources. The BLM as a whole, however, has exhibited a poor track record with respect to implementing these two prerequisites of sound OHV management.

In conclusion, the increase in popularity and sales of all-terrain vehicles and technological advances in their handling, torque, and horsepower has enabled more people and their machines to penetrate deeper into the backcountry. What currently may be considered inaccessible terrain may, in the near future, be accessible by motorized (or perhaps kinetic) vehicles. The BLM must rise to meet this challenge and begin to proactively and appropriately address them in the current RMP revisions. The Oregon Parks and Recreation Department, for example, recently has recognized this emerging challenge and stated that:

Technology offers both new problems and potential solutions as new recreational equipment is invented...Motorized and mechanized devices will continue to improve, making our land and water areas more accessible and vulnerable.⁴

³ Statewide Comprehensive Outdoor Recreation Plan (SCORP), January 2003, page 8-5. Oregon Parks and Recreation Department.

⁴ SCORP, page 4-8

⁵ 43 C.F.R. § 1601.0-5(f); 43 U.S.C. §1732(d)(2)(a)

⁶ 43 C.F.R. §8342.1

⁷ 43 C.F.R. §8342.2

⁸ 43 C.F.R. § 8342.1

BLM Policies are Unambiguous: Damage from OHV Use is Unacceptable

The Federal Land Policy and Management Act (FLPMA) requires the BLM to minimize adverse impacts on the natural, environmental, scientific, cultural, and other resources and values (including fish and wildlife habitat) of the public lands and make planning decisions accordingly.⁵ This directive includes by definition the BLM's efforts to designate both areas and individual roads and trails for OHV use. The BLM further is required by FLPMA to "take any action necessary to prevent unnecessary or undue degradation of the lands" and to prevent "permanent impairment of the productivity of the land and the quality of the environment." Executive Order No. 11644 (1972) (as amended by Executive Order No. 11989 (1977)), required that BLM promulgate regulations that direct the agency to "designate all public lands as either open, limited or closed to off road vehicles."⁶

BLM is required to make such designations in its RMP process, with full public participation⁷. In making designations, BLM is obligated by both the Executive Orders and its regulations⁸ to ensure that OHV areas and trails 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 OHV use and other existing or proposed recreational uses of the same or neighboring public lands and to ensure compatibility with populated areas, taking into account noise and other factors; and
- outside officially designated wilderness areas or primitive areas and in natural areas only if BLM determines that OHV use will not adversely affect their natural, esthetic, scenic, or other values for which such areas are established.

These regulations are unambiguous in directing that BLM is to allow OHV use only where it does not endanger or interfere with the other resources and users of the public lands. Unfortunately, the required approach is rarely adhered to during the land use planning process and BLM planners instead either accept without scrutiny or assume as legitimate numerous user-created routes without assessing them through the filters of these regulations. By doing so, the BLM puts itself at great risk of legal challenge and promotes a system of OHV routes that are neither sustainable nor consistent with the BLM's legal mandate under FLPMA.

BLM's regulations also require that the agency must annually monitor OHV use and its impacts. If it is determined that OHVs "are causing or will cause considerable adverse effects upon soil, vegetation, wildlife, wildlife habitat, cultural resources, historical resources, threatened and endangered species, wilderness suitability, other authorized uses, or other resources" the BLM must immediately close those areas or trails to OHV use "until the adverse effects are eliminated and measures implemented to prevent recurrence."⁹ While these regulations represent a powerful tool that allows the BLM to respond immediately to damage caused by OHV use, rarely are they invoked by the agency while the requirement to perform annual monitoring of OHV use remains largely ignored.

⁹ 43 C.F.R. §8341.2

¹⁰ Only the Coos Bay and Roseburg districts contain no lands classified as Open to cross-country travel, while only 80 acres of lands in the Eugene District are classified as such.

¹¹ The only exceptions are the Coos Bay and Medford districts, which do not have lands designated as Limited to Existing Roads and Trails.

Despite Strong Regulations, OHV Use Remains Largely Unrestricted and Unmanaged in Western Oregon

OHV use on BLM public lands in western Oregon is largely unregulated. Despite the known adverse and significant impacts caused by unmanaged OHV use, and despite unambiguous regulations that require BLM to allow OHV use only in areas and along routes that minimize resource impacts and user conflicts, an alarming 26 percent of public lands (or 655,000 acres) in western Oregon is designated in the BLM's 1995 RMPs as "Open" to cross-country OHV travel.¹⁰ OHV use is designated in the current BLM RMPs as "Limited to *Existing* Roads and Trails" throughout 38 percent (or 964,690 acres) of public lands in western Oregon¹¹ and "Limited to *Designated* Roads and Trails" throughout an additional 34 percent (or 849,411 acres).

The latter statistics gives the appearance that OHV use is restricted in some fashion on over 1.8 million acres of public lands. That appearance is far from reality on the ground. For the most part, the BLM has yet to inventory and document what roads and trails existed in 1995 nor has the BLM created and distributed maps or posted signs to inform the public about where riding is acceptable in areas designated as "Limited to *Existing* Roads and Trails" and "Limited to *Designated* Roads and Trails." This means that the OHV riding public (with some exceptions) does not know where riding is acceptable on over 1.8 million acres of BLM public lands in western Oregon. As a result, BLM law enforcement

remains in an untenable position to enforce rider compliance throughout almost 72 percent of the planning area in western Oregon.

The practical effect of lands currently designated as "Open" to cross-country OHV travel, coupled with the BLM's failure to inventory and document "existing roads and trails," means that OHV use is relatively unmanaged on almost 98 percent of public lands within the planning area. Yet only 2 percent (58,283 acres) of BLM lands throughout the planning area are currently designated as "Closed" to OHV use. This unenforceable situation must be corrected in the current RMP revisions.

While problem areas exist in each BLM district, the prolific OHV enforcement challenges and extensive resource damage that typify most BLM lands within the Intermountain West largely are absent in western Oregon. This good fortune is due to a number of factors

that include the fortitude of BLM staff in some districts to eliminate the potential for damaging cross-country travel, coupled with factors outside the agency's control such as the large expanses of mountainous, heavily forested terrain, distance from urban population centers, and the intermingled or checkerboard pattern of land ownership and/or configuration of riparian reserves. When combined, these factors work to preclude OHV riding opportunities over large portions of the current planning area.

Yet problem areas do exist where illegal trail building, mud bogging, and indiscriminate and illegal cross-country travel have scarred the landscape, damaged archaeological sites, and negatively altered ecological and hydrological function. Several such problem areas exist on public lands—and spill over into, and result in, illegal trespass and damage to adjacent private lands—near existing OHV “play areas” where the BLM has failed to properly manage and contain OHV uses. While there seems to be little debate that OHV play areas will continue to have a prominent role among the spectrum of recreational opportunities provided on public lands, the location and type of uses allowed at OHV play areas must be selected with great care and only after thorough public dialogue with all affected interests. Even then, the BLM must exercise extreme diligence and exert a high level of resources toward ensuring that such play areas are managed in a way that minimizes environmental and societal impacts.

The BLM must reform OHV management within the planning area.

Justification: The BLM is required to update OHV area designations within each land use plan revision. The current RMP revisions present an important opportunity for the BLM to get ahead of escalating and increasingly damaging OHV use. Furthermore, the terms of the settlement agreement between the Secretaries of Agriculture and the Interior and the American Forest Resource Council, et. al., to revisit the designation of reserves on O&C lands, and thereby the amount of public lands ultimately available for timber harvest as part of the Matrix Lands, has a direct bearing on OHV opportunities in the planning area. It is well established in the literature that timber harvest activities—and the roads necessary to support such activities—create additional opportunities for OHV travel and related impacts throughout public lands. Consequently, the National Environmental Policy Act (NEPA) and BLM's regulations on implementing the procedural requirements of NEPA direct the BLM to address OHV use within the RMP revisions as an indirect, if not direct, effect of the proposed action.

Ensure that no areas remain “Open” for cross-country motorized travel within the planning area

Justification: “Open” areas permit motorized cross-country travel, which is difficult to monitor and can cause wide-ranging damage to the land. On virtually all public lands, this type of OHV use effectively prevents any other uses both during active use, because there is no safe way to conduct other activities at the same time as unrestricted OHV access, and for the foreseeable future because resources that would support other uses and values (such as vegetation and wildlife habitat) will be diminished or destroyed. U.S. Forest Service spokesperson Dan Jiron recently stated the following with respect to cross-country OHV travel on National Forest lands:

(OHV) users who travel off routes and on unofficial routes cause erosion, damage vegetation and fragile soils, fragment and degrade wetlands and wildlife habitat, spread invasive species and create conflicts among different users of national forests. They also open the way for subsequent visitors to follow in their tracks and repeat the damage.¹²

¹² Off-road rules: Proposed plan would limit off-road recreation, Mark Vanderhoff, Reno Gazette-Journal, July 28, 2004.

¹³ Monitoring and Evaluation of the Land and Resource Management Plan, March 1992, Sam Houston National Forest, Texas.

Undeniably, this statement applies to BLM lands in western Oregon as well. A U.S. Forest Service report from 1992 on the topic of cross-country OHV travel, in an area where cross-country travel has persisted for decades, described a situation similar to that which occurs on BLM lands in western Oregon today. That report stated:

The management problem caused by ‘open cross-country’ use is the basic lack of control. This lack of control causes conflicts in uses, soil and water degradation, wildlife conflicts, safety and protection, and law enforcement... Unfortunately, resources necessary to manage the OHV trails have been limited, and impacts to the resources have been continuing to show conditions that suggest past management practices were not adequate to ensure that off-highway vehicles were controlled to protect the resources, manage safety, and minimize conflicts among uses as required by Executive Order No. 11644.¹³

The sheer number of motorized users today and the increased ability of these machines to cause widespread environmental damage justifies eliminating “Open” area designations established a decade ago in BLM's current RMPs for western Oregon. All remaining “Open” area designations on BLM lands must be revisited in the current RMP revisions and damaging cross-country travel eliminated if the BLM is to manage public lands consistent with FLPMA and the Executive Orders regarding OHV management.

Enact broad OHV closures on lands with sensitive resources

Justification: The BLM must consider broad OHV closures for lands proposed under the different RMP alternatives for varying degrees of protective status. OHV closures should be considered for such lands as riparian and late-successional reserves, wildlife habitat management areas, Areas of Critical Environmental Concern, Wild and Scenic Rivers, Wilderness Study Areas, areas classified as roadless, and citizen-proposed wilderness areas. In most cases, the management strategies that prompt consideration of these varying protective categories would benefit from the prohibition of motorized vehicles.

Allowing motorized travel on anything other than designated routes can cause management conflicts throughout BLM-managed lands and extending onto adjacent lands. For example, private property and other public lands such as National Parks and Monuments rarely allow cross-country travel. Unmanaged OHV use on BLM lands can encourage or exacerbate trespass and unauthorized travel on adjacent lands. In addition, the U.S. Forest Service is currently working to eliminate virtually all cross-country OHV travel.¹⁴ In doing so, the BLM will need to work collaboratively with planners from adjacent national forests to ensure that travel policies are consistent between the agencies and are effectively communicated to riders and the general public.

¹⁴ See 69 Federal Register 42381-42395 (July 15, 2004)

¹⁵ H-1601-1, Appendix C, p. 17

Address “Comprehensive Travel Management”

Justification: As the BLM has recognized and explicitly stated in the current revision to its *Land Use Planning Handbook*: Comprehensive travel management planning should address all resource use aspects (such as recreational, traditional, casual,

agricultural, commercial, and educational) and accompanying modes and conditions of travel on the public lands, not just motorized or off-highway vehicle activities.¹⁵

This definition recognizes that there are multiple users of the public lands, including a wide variety of recreationists, and BLM should take these interests into account when making travel planning decisions. Thus, by broadening the definition of travel management, the BLM wisely has put recreational use of OHVs among the many, and sometimes competing, demands for access to and throughout public lands.

OHVs are one of many recreational uses, but this use presents a high cost to BLM for management, has the potential to damage many other resources and tends to exclude (or at least substantially interfere with and undermine) other recreational uses (such as hunting, fishing, hiking and enjoyment of solitude). Comprehensive Travel Management is a vital part of land use planning that permits BLM to consider protection of the multiple resources, values and uses of the public lands when deciding where, when and how travel should occur. By incorporating concepts of Comprehensive Travel Management as part of the current RMP revisions, BLM can best comply with its duty to protect the variety of values and multiple uses of the public lands through the designation of appropriate travel areas and routes.

Establish Desired Future Conditions (DFCs) for travel management

Justification: A statement of DFCs for travel management should be included in the RMPs and will help the public to understand the BLM's vision for future travel plans and route designation efforts that are to be tiered from the RMP revisions. We encourage BLM to include in the statement of DFCs concepts of landscape health, habitat connectivity, and criteria by which to assess how route networks affect these and other important resources. Such criteria would reflect DFCs for both resource protection and access priorities and should include route density factors for important wildlife species, conservation of visual resources, and habitat management goals.

BLM's inventory of what constitutes an "existing" road or trail must be consistent with decisions rendered in the current RMPs.

Justification: The 1995 RMPs identified almost 1 million acres of BLM public lands where motorized and OHV uses are allowed but where that use was either "Limited to *Existing* Roads and Trails." Yet in most cases, the BLM did not undertake a route inventory as part of the previous RMP processes nor does BLM today have accurate records regarding what routes existed on these lands when the Records of Decisions were approved for these RMPs. The same situation applies in many areas where OHV use currently is designated as "Limited to *Designated* Roads and Trails" and where the BLM has failed to officially designate such roads and trails. BLM staff find themselves in the unenviable position of needing to determine what routes existed and what routes have been added (illegally) since 1995 throughout large portions of the planning area before they can move ahead and official designate routes via the current RMP revisions.

It would be inconsistent with law and policy (and a breach of the public trust) if the BLM did not act to refine its inventory of roads and trails that existed in 1995 and present it to the public as part of the current RMP revisions. However imperfect, a 1995 inventory must be established to serve as the baseline against which new routes constructed since that time can be identified, removed from the 1995 baseline, and appropriately closed and rehabilitated. Given that OHV routes constructed in these areas since 1995 would not have been authorized by the BLM, they must be classified as illegal and could not be considered for use in the current RMP revisions or subsequent travel/route designation plans.

BLM guidance on travel planning (IM No. 2004-005) identifies the importance of carefully scrutinizing the perceived benefits of user-created routes. It directs BLM planners to:

Choose individual roads and trails, rather than using inherited roads and trails. Most existing roads and trails on public lands were created by use over time, rather than planned and constructed for specific activities or needs.¹⁶

¹⁶ Instruction Memorandum No. 2004-005. From the BLM Assistant Director, Renewable Resources and Planning, October 1, 2003.

¹⁷ Comments before the Idaho OHV Recreation and Travel Management Workshop, Boise, April 20, 2005.

The presence and use of user-created routes violates several BLM objectives and strategies for the conservation of aquatic resources, riparian areas, late-successional reserves, etc. Consequently, the BLM could find itself in violation of several of its own policies if it does not provide specific direction on the closure and rehabilitation of user-created routes in the revised RMPs. The BLM's *Western Oregon Districts Transportation Management Plan* (2002), for example, recognized the significant threat posed by user-created OHV routes, and described how such routes were to be addressed. It stated that:

Trails crossing BLM lands must be located, designed, constructed, and maintained to preserve natural, historic, cultural, and scenic values. Unauthorized trails should be identified and appropriate measures taken.

User-created OHV routes, by definition, are neither designed nor properly constructed for motorized uses. Therefore, they pose significant conflicts with BLM's obligations under FLPMA, Executive Order No. 11644 and No. 11989 and BLM's matching regulations, as well as numerous other federal mandates. The current RMP revisions must recognize this important distinction by identifying illegal user-created routes as per designations made in the 1995 RMPs.

Do not establish or maintain OHV area designations of "Limited to Existing Roads and Trails"

Justification: The BLM no longer can "pass the buck" to the next generation of BLM planners by designating large expanses of public lands for OHV use via the designation "Limited to Existing Roads and Trails." Such a designation flies in the face of informed decision making, ignores the threat posed by unmanaged OHV use, and inappropriately sets up the OHV riding public to one day witness the closure of many routes that it has come to use and enjoy. Even in cases where BLM conducted an adequate inventory, the "Limited to Existing Roads and Trails" designation is unworkable, unenforceable, and leads to inevitable conflict when other resource values are put at risk by a BLM unable to rise to the task of making difficult decisions, no matter how unambiguous its policy is on the matter. According to Kurt Kotter, BLM Idaho Associate State Director, "Limited to existing roads and trails does not work, it can not be properly enforced."¹⁷ Thus, use of the designation "Limited to Existing Roads and Trails" must not be replicated or carried over into the current RMP revisions.

The RMP revisions must use route density as a quantitative measure for the impact of OHV routes and seek to minimize the density of routes as they apply to important wildlife species and their habitat.

Justification: The BLM's *Western Oregon Districts Transportation Management Plan* (2002) includes objectives for reducing impacts on wildlife habitat that direct BLM planners to consider road density targets in each district's RMP based on the identified needs of wildlife species. For example, it is documented in Oregon that elk use declines in areas adjacent to roads open to motorized vehicles and that as motorized vehicular access increases, the quality and amount of elk habitat are degraded. An open road density of three linear miles of road per square mile of land seriously reduces the value of that area for elk, whereas an open road density of six linear miles per square mile can reduce elk use to near zero.¹⁸ Wildlife and other quantitative thresholds for important variables such as noise, soil loss, sedimentation, must be documented and used to determine appropriate road and trail densities throughout the planning area.

¹⁸ *Hunting and ATVs--Responsibility or Regulation* brochure. Prepared by the USDA Forest Service, Bureau of Land Management, Oregon Dept. of Fish and Wildlife, and Oregon Dept. of Parks and Recreation (2003).

Include alternatives that address a Closed-Unless Posted-Open Policy

Justification: Given the escalating numbers of people who chose to recreate with OHVs and the agency's shrinking budgets for management, maintenance, and enforcement, it would be unreasonable and irresponsible for the BLM to continue with current policies that prohibit OHV travel only where routes are marked as closed. This policy inhibits the BLM's ability to effectively communicate route closures to the public either via the production of up-to-date maps and brochures, the construction of informational kiosks, and regular maintenance of signs indicating route closures. These same policies prevent law enforcement officers from citing riders who venture off established routes where signage indicating a closure has been either vandalized or removed. Instead, the onus should be put on riders (most of which are responsible and would choose to follow the rules) to travel only those routes that are marked as open by BLM to OHV use. This Closed-Unless-Posted-Open policy would also remove the incentive for persons to vandalize and remove closure signs, thereby resulting in significant cost savings to the BLM for the replacement of such signs.

Revisit the appropriateness of existing OHV play area designations.

Justification: The process used by BLM to establish some of its OHV play areas, like the John's Peak OHV area, in the 1995 RMPs was extremely flawed and inconsistent with existing law and policy. This is because: (a) BLM did not properly analyze the environmental and social/economic effects of establishing these OHV play areas; (b) BLM did not include any map of the OHV area's proposed boundaries nor did it provide the public a description of such boundaries; (c) it was inappropriate for the BLM to establish OHV riding in areas intermingled with privately-owned lands and residences; and (d) such designations may be inappropriate and inconsistent with the local character and desired tourism-based economy of nearby communities. As a result of these serious oversights, the BLM must within the current RMP revisions review and fully analyze under NEPA the appropriateness of existing and proposed OHV play area designations.

Include a detailed route closure and restoration schedule.

Justification: The BLM should have a detailed plan for closing and obliterating those roads and routes identified in the RMPs for closure, including all user-created routes not shown in 1995 inventories in areas where OHV travel currently is designated both as "Limited to Existing Roads and Trails" and "Limited to Designated Roads and Trails." The plan for route closure should include a timeline, budget commitment, and restoration strategy for all such excess routes. BLM is obligated not just to identify areas and routes for closure but to actually close those areas and routes once designations are made. Route closures are considered to be implementation decisions (see IM No. 2004-079) and, as a result represent enforceable commitments by the agency to take specific actions.¹⁹ BLM can best fulfill its commitments to closures by detailing in the RMPs its plan in terms of both timing and methodology.

¹⁹ See, BLM Land Use Planning Handbook, H-1601-1, Section IV. *Note:* This distinction and the availability of enforcement was also acknowledged in the recent Supreme Court decision, *Norton v. SUWA*, 124 S.Ct. 2373, 2382-83 (2004).

The Western Oregon RMP revisions represent a golden opportunity for the BLM to establish a travel and recreation system that provides appropriate access to public lands, contributes as needed to the regional transportation system *and* ensures that biodiversity, wildlife habitat condition, and overall watershed condition and function is maintained or improved. The O&C Lands Act, FLPMA, and BLM policies dictate that these outcomes should comprise a primary objective of the current planning effort. We hope that the BLM has come to these same conclusions and intends to address OHV and travel management in a meaningful way in the RMP revisions.

Thank you for your consideration,

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