

**Statement of
Deputy Alan Franzoy
Dona Ana County Sheriff's Department**

**House Resources Committee
Subcommittee on National Parks, Forests and Public Lands**

**Oversight Hearing on
"The Impacts of Unmanaged Off-Road Vehicles on Federal Land"
March 13, 2008**

Mr. Chairman and members of the committee, my name is Alan Franzoy. I have spent the past nine and a half years as a law enforcement officer in New Mexico. I serve as a Deputy Sheriff in Doña Ana County in southern New Mexico, assigned to Community Policing. I am a member of the Bomb Squad and a D.A.R.E. Instructor. I'm also a Special Deputy United States Marshal with the Southwest Investigative Fugitive Team. For the past two years I served as the Chairman of New Mexico's Off Highway Vehicle (OHV) Safety Board and I continue to work as a law enforcement ATV Instructor and a volunteer Hunter Education Instructor.

I want to thank you for the opportunity to join you today to tell you about a problem that is spinning out of control on public lands throughout America, a problem that needs urgent action from Congress – or else more people are going to be injured or killed, more of our public lands will be destroyed, and more conflicts between users will arise, leading to more dangerous and deadly situations for everyone.

As a law enforcement officer and off-road vehicle (ORV) rider and driver myself, I know a lot of responsible ORV riders. But I've seen first hand that an outlaw contingent of ORV riders are destroying our land and endangering private property, livestock, wildlife, and other public land users.

My Sheriff and my fellow officers urge this committee to take action so we have more effective ORV management from federal land agencies by giving outlaw riders a real deterrent. Without it, the bottom line is that natural resource damage and increasing user conflict will be the norm on America's public lands.

The problem

Dona Ana County is located in south-central New Mexico and contains 3,804 square miles. We share approximately 45 miles of border with Mexico. Approximately 1.1 million acres of our county are managed by the Bureau of Land Management. That is approximately 44% of our county.

Over the course of my career I've seen accidents, damage to private property and natural resources, conflicts between users, and damage to archeological and historical sites. During times when young people are out of school (weekends and vacation days) up to fifteen to twenty percent of our calls for service involve reckless and irresponsible ORV riders. There are only two BLM law enforcement officers in all of Southern New Mexico, responsible for millions of acres of land. The total amount of land that BLM manages in New Mexico is just over 26 million acres. An offender's likelihood of being held accountable for their actions is very slim. The lack of enforcement on BLM land promotes the outlaw mindset for the small minority of irresponsible and disrespectful ORV users in believing that they can do whatever they want to do without accountability to anyone for their actions. Unfortunately, most of the time they are right!

On the West Mesa area southwest of Las Cruces, ORV abuse has created a spider web network of illegal trails in an archeologically sensitive area. ORV riders invade this area every weekend, riding anywhere they please. The only thing that hinders their movement in this area is cactus and mesquite, and sometimes even those spiny barricades are no protection against the machines. There is absolutely no protection of the remnants of our prehistoric settlers of the Rio Grande Valley in this BLM area that are driven over by illegal ORV riders every weekend without fear of prosecution.

The Doña Ana Mountains are suffering the same fate. Irresponsible ORV riders can be found in many areas of the Doña Ana's each weekend, regardless if there is a road or trail in the area. Without any law enforcement presence, ORV riders drive off-road whenever and wherever they please. The erosion and destruction left by this abuse can be seen on the mountains from almost anywhere on Interstate 25 as travelers drive from Las Cruces to Albuquerque. This area is covered by thin layers of rock, and will never recover from this abuse. These scars of misuse will be visible in this area until the end of time.

The lack of a secure border contributes more than it's share of ORV abuse in Doña Ana County. In the Las Uvas Mountains, a current BLM Wilderness Study Area, four-wheel drive trails are used by illegal alien and drug smugglers to circumvent Border Patrol checkpoints on Interstate 25, NM 185, and Interstate 10. During a three-month period during 2005, a road through White Gap became so clogged with eleven abandoned load vehicles in a rough quarter mile stretch, both on and off of the road, that responsible users, including ranchers, law enforcement officers, and recreational users were denied passage through that area, causing users to make an eighty mile one-way trip to access the White Gap area from NM 26. Lacking any BLM patrol in the area during the three months, Deputy Sheriffs and Border Patrolmen worked with local wrecking yards to remove the vehicles and debris from the area.

ORV accidents are common on public lands where there is no enforcement of law. A sixteen-year old girl left her home one afternoon for a ride on her ATV. She had told her parents she didn't like to wear a helmet since it messed up her hair. When she didn't return for approximately six hours they went looking for her. They found her body on BLM land adjacent to the neighborhood where they lived. She died from head injuries she sustained when she overturned her ATV.

New Mexico's public lands are magnets to residents of the densely-populated Rio Grande Valley, including Las Cruces and El Paso. Without visible enforcement of existing laws, Doña Ana County desert areas between these two large cities are party areas for young people. These large parties, many times with hundreds of participants, are also opportunistic times for a variety of criminal activity beginning with underage drinking and drug abuse all the way to violent rapes and murders. Many of the attendants of these parties drive into the public land "party areas" with ORVs', adding abuse of the land to their long lists of crimes. These public land "party areas" are easily located by the amount and type of trash left scattered about, the vehicle trails created during the night, and the abandoned fire pits. While BLM and the Sheriff's Office are working together to solve this issue, BLM has extremely limited resources to offer to assist with law enforcement activity to curb these dangerous and destructive activities on our public land.

Working with Federal Agencies

Because much of the land in our county is managed by the BLM, cooperation and coordination between our offices is essential to addressing this problem. This is happening at this time. The main problems I see with BLM is their lack of law enforcement and enforced designated routes. There is also an officer safety issue. With only two BLM law enforcement officers trying to enforce the law for almost 600,000 acres, much of it rugged terrain containing violent criminals such as poachers, drug smugglers, human smugglers, murderers, car thieves and the like, it is an extremely dangerous situation. Throw in the large numbers of recreational users, responsible and irresponsible, using public lands and it is a crime scene waiting to happen. Doña Ana County Deputies deal with these issues weekly if not daily.

Strategies that can work

There are solutions to this growing problem but it will require Congressional leadership and cooperation among federal, state, and local agencies and communities to make it happen.

1. As I mentioned previously, BLM needs a system of designated routes that can be enforced. It only takes a couple of passes with an ORV to make a new "trail" in the desert. Without enforcement, new "trails" spring up every weekend without concern for erosion, the land, or the law. There is a current law prohibiting off-road riding but without enforcement a law is less than a suggestion.

Our National Forests are suffering from the same problem. The Lincoln National Forest has had a travel management plan for fifteen years without enforcement. The Santa Fe National Forest around Red River has been decimated by ORV abuse to the point that it may never recover from the erosion and destruction.

2. Educate and involve the public. How many people even know about public lands, much less the agencies that manage them? Community policing strategies have

worked in communities throughout the world, and will work for Federal agencies also. Citizen's Academies that will educate the public about BLM and USFS missions through hands-on learning will help to create partnerships. Create strong partnerships with all users, instilling a strong sense of "ownership" and responsibility with all users of public lands.

3. Enact tougher deterrents. We need to weed out outlaw riders and send a message that their behavior cannot continue. When they are caught at all, the minimum penalties are not tough enough to prevent the same behavior in the future. In fact, many of the outlaw riders in my area are repeat offenders. Congress should consider tougher penalties for abusive riding. When you are caught poaching, you lose your hunting license, your guns, and your vehicle. Perhaps the same principle should apply to abusive riding by seizing the vehicles of repeat offenders.
4. Create an efficient law enforcement unit. Make sure that they receive specialized training to be more effective, i.e. backcountry patrol, apprehending ORV's without pursuits, saturation patrols, partnering with other law enforcement agencies, etc. Make sure that you have enough officers working in an area to create the attitude that if someone breaks the law he will probably be arrested and punished for his offense. Give them the equipment they need to make a difference. Establish a "Crimestoppers" Program for law-abiding and concerned users to report abusive riding. I have heard the claims that we would need an army to adequately improve enforcement on our public lands. While more officers are certainly needed, applying some of the strategies I've just outlined can have a measurable impact as well.
5. Support the BLMs' restoration programs such as "Restore New Mexico", emphasizing erosion and watershed issues.

Congress's leadership is needed. In closing, I applaud the committee's leadership for drawing attention to this worsening problem. Federal agencies need to make ORV management a priority and Congress's involvement is essential. Funding must be dedicated to this problem and used effectively through partnerships with local agencies.

While we can work to solve this problem, we cannot allow the current situation to continue or get worse. Conflicts between users and abusers are growing, endangering lives of people. As a result of the abuse of ORV's, erosion and destruction is taking its toll on our precious public lands. If we do nothing I don't know what will be left for my five month old granddaughter, Cadence. When she is old enough to go hiking, horseback riding, or OHV riding with me in the deserts and forests of New Mexico, what will I be able to show her? Will her heritage include the beauty of America she deserves, or will we have allowed our homeland to be ravaged into an ugly wasteland? We need to work together to make a difference.