

Statement of  
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On Behalf of Rangers for Responsible Recreation and  
Public Employees for Environmental Responsibility  
Before the  
Subcommittee on National Parks, Forests, and Public Lands  
Natural Resource Committee  
United States House of Representatives  
Hearing on  
The Impacts of Unmanaged Off Road Vehicles on Federal Land  
March 13, 2008

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

Thank you for the opportunity to present our views on the impacts of Off-Road Vehicles (ORV's) on public lands. I am Jack Gregory, currently retired from the U.S. Forest Service (FS). In my last 10 years of over 36 years of service with the agency, I provided management and direction for the largest law enforcement (LE) program within the FS, serving as the Special Agent in Charge for the Southern Region, with approximately 200 LE employees and an \$18 million budget.

In the Southern Region, LE problems associated with ORV use are substantial. Today, I am speaking for myself, my former colleagues, and for Rangers for Responsible Recreation, a network of former federal, state and local rangers and land managers organized by Public Employees for Environmental Responsibility, otherwise known as PEER.

My message is simply this: Our public lands are in serious trouble. Irresponsible off-roading has become such a menace that it is now the single greatest threat to American landscapes.

Before recommending solutions, I would like to make three points: 1) the ORV problem is getting steadily worse, with no end in sight; 2) the ORV problem is not just "a few bad apples" -- we are suffering from a major breakdown in attitude from sadly, a high

percentage of off-roaders; and 3) route designation without effective enforcement simply will not work and, when done poorly, significantly aggravates problems.

My first point is that we are not close to getting a handle on ORV problems and, if anything, we are headed in the wrong direction. Already, on many national forests, ORV's are the top LE problem. The story is the same on other federal lands. Figures from the U.S. Bureau of Land Management (BLM), for example, indicate that ORV incidents are not only the biggest drain on LE Rangers' resources but, nationally and in the Western U.S., generate more LE citations than all other criminal activity combined.

In preparation for my testimony, I recently contacted a number of my former colleagues currently working in FS LE, who deal with ORV users every day. Here is some of their perspective:

One National Forest Patrol Captain said:

"The damage to the forest floor here is huge. I would estimate that 75% of the Forest has some kind of ORV created trail. In recent years the Forest has been inundated with ORV's."

Another National Forest Law Enforcement Patrol Captain wrote:

"ORV problems are probably number 1 on this Forest in terms of volume of violations. Every corner of the Forest shows the impact of vehicles being operated off-road. With declining budgets our road conditions are deteriorating and the large-tire vehicles are tearing up what is left of many FS roads."

ORV-generated LE problems range from minor offenses to serious life threatening incidents. For example, last Easter weekend at Little Sahara Recreation Area in Utah, the situation spun out of control. A gathering of approximately 1,000 ORV enthusiasts terrorized many of the 35,000 visitors to this popular BLM recreation spot. By the end of the weekend, there were:

- More than 37 injuries, including a state Highway Patrol officer;
- More than 300 arrests or citations were issued; and
- More than 50 officers had to be summoned to the scene from state, federal and local law LE agencies to assist.

Inebriated gangs of ORV riders surrounded family campsites. According to BLM's official incident report:

"Officers were faced with near riot conditions on two separate nights involving approximately 1,000 people which required all available officers and over 5 hours to mitigate the situation... Groups of partiers were blocking an area and forcing women to bare their breasts in order to leave, along with numerous incidents of unwanted fondling of women. When LE officers took action, the crowd became unruly, throwing objects at the officers."

Serious problems extend beyond assaults. In tinder-dry forests, the red hot mufflers of ORV's can set off deadly forest fires. A National Forest Patrol Captain wrote to me:

"Just this past week, we had a 2700 acre fire and used a road as a containment line. The road was so badly damaged from previous ORV activity that access was hampered. We had to post Law Enforcement Officers (LEO's) at either end to close the road because of the continuous traffic from jeeps and 4x4 trucks that came to play in the mud in spite of the fire. In a separate fire last week we had over 1,000 acres burn and it forced the evacuation of an entire neighborhood adjacent to NF land. The cause - illegal ORV operation on the NF; 2 juveniles on an ORV, riding on a FS horse trail when the ORV caught fire...Fact is Jack, we are down to 10 LEO's here covering 1.8 million acres, 3,000 miles of forest roads, and 17 Wilderness areas, all with ORV problems. And we are overwhelmed with it."

Significant LE problems occur when ORV use directly interferes with the enjoyment of other forest users. Visitation to National Parks, Forests and BLM lands includes a wide range of activities. Many visitors enjoy sight-seeing, bird watching, hiking, fishing, and hunting. The problem is when there is conflict of use. Here is what this National Forest Patrol Captain said about how ORV's can effect hunting:

"All winter we got complaints from hunters who had (to deal with) ORV's in areas where they were trying to hunt. Many had walked back into areas to get away from everyone and here comes 5 ATVs. It was almost weekly that someone was calling."

Here is what a National Forest LEO stated about conflicts between ORV's and Hunters:

"Many ORV riders are uninformed about the state and federal laws regarding ORV use and are mostly ignorant to the fact that other things happen in the forest, especially hunting and how they impact hunting. We have some weekends that are especially significant to our hunters; those being - a special youth hunt for deer (it is the weekend before the main season), a youth turkey hunt (the weekend before

the main season), and of course opening weekend of each of the big game and turkey season. We receive multiple daily complaints from hunters and hunting camps about ORV's dusting them out, riding off-road, disturbing the hunting and reckless driving on forest roads. We have attempted to educate people about "sharing the land" and being respectful of other people by planning trips around these times but the response has been negative to say the least."

Compounding the problem, in most cases, ORV riders in the forests have firearms and many have alcohol. A Supervisory Special Agent spoke to me about how ORV's have become a driving force for a host of other problems:

"Imagine a wheel with legal ORV use as the small hub. The spokes that form the wheel and the wheel itself represent the illegal use and their negative effects proceeding outward from it. And once that wheel starts to spin...it becomes near impossible to stop it given our current number of officers to serve as a 'brake.'"

To put this problem in a national perspective, Rangers for Responsible Recreation surveyed FS and BLM LE Rangers in the five-state Southwest region about ORV issues last fall. The results were unambiguous:

- More than nine out of ten (91%) of respondent rangers agreed that "off-road vehicles present a significant LE problem in my jurisdiction";
- More than half (53%) felt "off-road vehicle problems in my jurisdiction are out of control"; and
- Nearly three out of four (74%) said that off-road abuses "are worse than they were five years ago."

In the essay portion of that survey, a FS LEO conveyed the scope of impacts by noting:

"The numbers of off road vehicles on public lands, especially national forests, are creating resource damage at an alarming rate."

The second and related point here is that the ORV problem is not as has been portrayed by some rider groups; where just "a few bad apples" are the ones causing these problems. I am certainly not trying to demonize ORV riders. In fact, many of the Rangers for Responsible Recreation are themselves ORV enthusiasts. Rather, there is unfortunately a "don't give a damn" attitude among a high percentage of off-roaders that result in resource damage, unnecessary accidents and other bad side effects. In the PEER Survey, one BLM LE Ranger wrote bluntly:

"User attitudes are atrocious. They (ORV's) are the single biggest destruction on public lands these days, far worse than grazing or energy development."

One of my former colleagues wrote me:

"Most of our (ORV) accidents can be attributed to speed, alcohol, or operator with little/no experience on the machine. We have multiple fatalities each year from riders striking a fixed object."

He also elaborated on how widespread user indifference is to the forest rules:

"Not all damage is by radical behavior, some is by repetition, as folks ride the same user created trails until it becomes an accepted 'trail'... If we could reach 70% compliance with ORV regulations, I would call it a success, as the situation we now have hampers enforcement efforts, I would say we have less than a 25% compliance rate with closure orders."

Another National Forest LEO stated:

"On my Forest we have had 7 airlifted in the last 10 months from ORV accidents. Two factors caused all of these accidents, too fast or too steep. The too steep occurs when they get off the legal riding areas and climb hills, powerlines, creek banks, etc. Too fast occurs whenever. We had one ORV accident where an ORV hit a deer crossing the road. How fast do you have to be going on an ORV to hit a moving deer, kill the deer instantly and eject the rider? The driver spent 3 months in the hospital. We had another get on a neighbor's ATV and rip down the road, hit a bank, overturn and paralyze himself from the neck down. The list goes on and on."

A National Forest Law Enforcement Patrol Captain explained the enforcement challenge this way:

"I would dare say that ORV's are the number one complaint from the public and the number one resource damage problem we face. By their very nature, it is very hard to exclude them by physical barriers. One of the biggest problems is that they have such a network of illegal trails all over the NF, it is almost impossible to combat them.... With the proximity to metropolitan areas and the influx of people moving into these rural areas adjacent to NF lands, the problem is increasing. ORV's are driving directly out of their backyard onto NF land and are virtually undetectable until a complaint comes in."

Without the ability to enforce ORV rules and regulations, it is unlikely that off-roader behavior will change. As one of my former colleagues pointed out:

"The Forest may have as many as 1000 ORV's per weekend and they go wherever they want. With 8 Enforcement Officers we deal with what we can catch, but with 1.86 million acres, chances are slim that the riding public will even see an Officer, let alone be contacted in the back country."

Part of this irresponsible mindset is due to manufacturer advertising that promotes the thrill of speeding, ripping up and down hills, and tearing through streams. Mechanized thrill-seeking in national forests simply means more and more damage to the forests. One National Forest Patrol Captain said:

"The problem for the future includes, wildlife disturbance, bigger ORV's with tires that chew up the ground, people riding in water like they see in the ORV advertisements and the newer UTV ( mules) that will need to be on the roads instead of the woods because of clearance and hauling 2-3 family members."

Another argues that agencies like the FS should do a better job of rider education:

"I think more than anything else, it has a lot to do with the culture that rides and to a large extent they are ignorant to the laws and the impacts they are having. I think the FS has done a poor job on education and outreach to spread the message about the use of ORV's on NF land."

But the FS has no budget for ORV rider education. In fact, it is arguable that the FS has a manageable budget for LE operations. Despite a rising tide of assaults, accidents, and LE incidents related to ORV usage, the FS LE budget is shrinking:

- The FS LE program has lost one-third of its total patrol force since 1993; Down from 984 uniformed LEO's and Criminal Investigators in FY 1993 to a total of 660 in FY 2006.
- The FS spends less than 2% of its total budget on law enforcement.
- This translates into one position for every 291,000 acres of forestland or one for every 733,000 visitors each year. ...the lowest LE presence of any of the agencies.

Incredibly, just last month, FS Chief Abigail Kimbell, in her House testimony on the agency's FY 2009 Budget, actually called for a \$17 million decrease in LE operations over what the agency had in FY 2008. Given these dynamics, it unlikely that the FS can finance the sort of public education campaign needed to shape the attitudes of ORV riders, particularly younger riders, or provide for the number of on-the-ground LEO's to police this activity.

The third point I would like to make is that ORV route designation without effective enforcement simply will not work.

Thus far, FS and BLM travel planning efforts have been a mixed blessing. While the agencies are moving from millions of acres that have been open for off-roading toward designated route systems, they are still keeping open large, unmanageable, and damaging route systems available for ORV use. Route designation will not work without enforcement and there are not currently enough LE Rangers on the ground in any agency to police this activity. As two senior level LE Managers working the Southern Region stated:

“. . . each Forest is closed unless designated by map. . . . Our maps suck. Hard for the folks to understand.”

“Many FS ORV areas were originally established without much thought or science as to effects on the land. Over the years, they have become de-facto official areas and the FS is now afraid to close them due to user backlash. And these same areas will likely be permitted on the new Travel Maps because of ‘past use.’ In a typical area that this open to ORV’s, we need 3 LEO’s just to patrol it, let alone trying to deal with activity on areas that are closed. Some of these areas are impossible to monitor and patrol at all. With manpower and budgets the way they are, we can’t even patrol regular roads...let alone open ORV areas. ”

Another National Forest LEO wrote me:

“I worked in a region where, because of the population densities, ORV planning and proper LE has been underway on some of the units. Even on those units (where good planning, route designation, and effective field implementation has occurred), we still need help.”

Even when agencies designate ORV trails to follow, riders often branch-off from the approved route or corridor. As that happens, an entire network of unauthorized trails and roads start to develop very quickly with devastating effects to the ecosystem.

Another drawback is that FS designated routes often do not address ORV issues on state and county roads running through the national forests. Compounding this is that in some areas, there is virtually no ORV enforcement by state and local police jurisdictions on these roads, which is a major problem. If the other agencies around NF’s are not

enforcing their own ORV laws on county roads and state highways, it makes our job in the forests that much tougher.

Even if agency ORV route planning makes sense in downtown offices and public meeting rooms, there must also be a well funded on-the-ground monitoring and enforcement component. This is where the FS has failed time after time. Once plans are drawn up and implemented, there is not adequate funding for field resources to police this activity where it's actually occurring. Throughout my years of working for the FS, I witnessed the development of many good plans, but a failure to provide the field resources to properly execute them. It is unfortunate that the FS is long on "plans" and seemingly good intentions, but very short on effective field implementation, particularly with providing necessary LE resources for dealing with serious problems.

Congress and Federal land management agencies must take the lead to get a better handle on the thousands of irresponsible users who are continuing to destroy important archaeological, riparian, botanical, and wildlife habitat resources, not to mention the large number of injuries and deaths attributed to ORV use. The following was copied this week from a popular ORV web-site under the "Directions" section for ORVers. It provides information about how to drive ORV's in an "approved" National Forest location known as the Tellico ORV Area. This area is within one of the best networks of wild trout waters for native trout species in the Southeast and, until the development of the ORV area, was known for its pristine qualities as a place to "get away" from other busy visitor use areas.

"Ultra low gears are not needed here and sometimes hurt more than they help, as wheel spin is required to clean the tires and heat up the rubber in hopes that they will stick to the wet rocks. You will see a lot of local rigs here with 300 horsepower and tires in the 40"+ range. These big rigs (locally called hybrids or cab trucks) are what keep our trails interesting. When they 'hammer down' they tend to move large quantities of rock and dirt, so the trails are in a constant state of change. Therefore, the 'line' that worked for you on your last trip, may not be the correct approach the next time out. That's what makes this place such a hoot to ride....it's always changing! . . . Known as 'Hard Rock' going up and 'Slick Rock' coming down, either way, this trail provides plenty of excitement. The approach to the rock runs right up a creek bed with lots of big, loose muddy boulders that get shifted around each time someone goes up. Steering linkage damage and tires coming off the rim

happen quite frequently here. There is no getting around Hard Rock, so when you reach this point on Trail 9 you are committed. The rock has a very smooth surface, is about two stories tall, and has a natural spring at the base to ensure that it's always muddy and wet. . . .This is a favorite place for the locals to gather and watch the show and rollovers are quite common."

In other words, off-roaders are being advised to ride right in the middle of a hydrological sensitive area to increase the thrill value. It is not uncommon for FS LE personnel to write numerous ORV citations on the weekends in this area. Recently an LEO wrote over 125 violation notices and seized over 300 containers of alcohol during one shift. Also on the aforementioned website is the "Tread Lightly; Leaving a Good Impression" logo that the FS promotes to ORV manufacturers. The notion that the above driving directions could somehow coexist with the "Tread Lightly" theme, particularly in this ecologically sensitive location, cuts against rationality.

Congress should evaluate both BLM and FS on-going travel planning by reviewing several of their current proposals involving ORV management scenarios. PEER and the Rangers for Responsible Recreation believe these efforts could clearly be improved if the agencies better complied with Executive Orders, regulations, and policies. Federal agencies are often willing to go the extra mile in placating and appeasing the ORV community, even in the face of logic and common sense. For example, illegal immigrants and drug smugglers are entering the United States through BLM's Imperial Sand Dunes Recreation Area, which shares a common international boarder with Mexico. To quote a recent Los Angeles Times article:

([http://www.latimes.com/news/local/la-me-dunes2mar02\\_0,4925540.story?page=1](http://www.latimes.com/news/local/la-me-dunes2mar02_0,4925540.story?page=1)) these individuals:

"shoot across the border in souped-up vehicles loaded with illegal immigrants and drugs and elude U.S. Border Patrol agents by playing the part of dune enthusiasts: wearing helmets and decorating their bikes and all-terrain vehicles with decals and flags. The cat-and-mouse game turned deadly recently when a suspected smuggler driving a Hummer ran over an agent and fled back across the border over the dunes. The agent's death focused attention on the federal government's enforcement strategy in this remote corner of the border."

The obvious solution to the problem would be to close this portion of the area to all OHV's and then patrol it for incursions. That would affect approximately 7,842 acres, which is less than 10% of the 80,000 acres that would still be open to off-roaders. It appears that not even the death of a federal agent, simply trying to do his job, gets the attention of our public land ORV managers. PEER believes that Border security should certainly trump the off-road industry. But it's not clear that's the case with this administration.

For any chance of success, America needs a strategy to cope with the recent explosion of ORV use and its public safety, ecological, social, and financial consequences. We propose beginning with these three steps:

### **1. Establish Penalties that Deter**

In most locations, today's fines for ORV abuse are inadequate. Some are so low that oftentimes the offender(s) will just view it as a necessary user fee. In many Federal Judicial Districts, agency collateral forfeiture schedules have not been updated for years. When fines for ORV violations are raised, rider compliance is easier to gain. Reckless or "Repeat Offender" off-roading can be deterred by on-site criminal seizure of the offending vehicle(s) in the field, coupled with a criminal asset forfeiture of that vehicle if the offender pays the fine or is adjudicated guilty. These provisions could be accomplished by Federal rulemaking changes to each agency's prohibitions contained in the Code of Federal Regulations. This effective strategy is currently used at the State level with firearms and hunting licenses when offenders are caught violating State game laws. Repeat offenders should face suspension of riding privileges (through time imposed Federal Court "banishments" from public lands), and, when appropriate, imprisonment.

### **2. Properly Fund ORV Enforcement**

Necessary enforcement actions dealing with off-road abuse are taking an ever larger toll on already over-burdened LE Rangers. Congress and state legislatures need to immediately augment their public lands LE budgets. The FS is far less capable today in redeeming traditional land management LE responsibilities than they were 10 years ago. Many

internal and external reports demonstrate that illegal and unchecked use continues to rise as the number of on-the-ground personnel to deal with these problems fall. With regard to ORV's, this is due to agencies failing to place a priority funding emphasis on an activity that is currently responsible for ruined landscapes, demolished wildlife habitats, and destroyed riparian areas. The region where I worked is currently under-funded by approximately 20 LE Officer positions from when I retired in 2006. The proposed budget cuts for LE staffing in the Southern Region will exacerbate an already bad enforcement staffing situation.

### **3. End Hidden Costs to the Taxpayers**

Taxpayers are footing the bill for the damage and havoc caused by reckless off-roaders. As yet, we do not know the full extent of these costs. Mr. Chairman, I am very pleased to hear that you have recently asked the Government Accountability Office to investigate the use and management of ORV's on Federal public lands. This is a critical first step that's needed for Congress to enact common sense solutions to the growing ORV problem. Over time, some areas have been so trashed by ORV's they are in need of significant restoration. Congress should move to ensure that adequate steps are taken to repair the decades of damage to our rivers, cultural sites, wildlife habitat and other ecologically and culturally valuable places. Greater oversight on the companies that manufacture this category of vehicle is needed. When one looks at today's literature or commercials being produced by the companies, it seems they emphasize the vehicles' durability as well as the perceived freedom that riders have to drive anywhere they wish with little thought given to their impacts or safety. It is time to place an added Federal tax on the sale of these vehicles which could be used by land management agencies to offset management and rehabilitation costs related to this type of use.

Congress should not allow more off-road usage than can be monitored and managed. Responsible use of public lands now is a necessity for future generations to enjoy.

I highly recommend that the Members endorse the report entitled "Six Strategies for Success, Effective Enforcement of Off-Road Vehicle Use on Public Lands.", which was published by Wildland CPR, and available for viewing at the following web link:

<http://www.wildlandcpr.org/news/new-report-reveals-solutions-road-vehicle-abuse-public-land> . I also brought several copies with me today if Members are interested. This

report presents a comprehensive review of the current issues associated with ORV's on public lands and then makes a number of very effective recommendations. Its Executive Summary states, in part:

"Over the past two decades, advances in off-road vehicle technology have enabled riders to drive on nearly any type of terrain, up steep slopes, and onto lands that once were accessible only on foot. At the same time, the popularity of off-road vehicle recreation has soared. Together, these forces have overwhelmed the regulatory enforcement efforts of public lands agencies. The results: An extensive network of unauthorized, usercreated routes that criss-cross the landscape and a legacy of damage to environmental and cultural resources. Safety concerns for humans and wildlife and conflicts among motorized and non-motorized recreationists have escalated. Public land management agencies are facing these challenges with inadequate enforcement funding and staff. This leaves them unable to protect the lands under their stewardship, and at a loss to turn around the attitude of lawlessness that is alarmingly common among off-road riders. The common perception among off-road riders is that breaking the rules some of the time is all right, especially if someone else has ridden off-route before and cut a visible trail. This has become a significant public problem because of the destructive capabilities of off-road vehicles."

This is the best statement that I have seen encapsulating the problem. The report also contains a lot of very practical advice that federal land management agencies should be integrating into their approach to this growing problem.

This concludes my statement. I would be pleased to answer any questions that you may have.

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