May 3, 2018

The Honorable Steve Glazer

California State Senate Position: Oppose

State Capitol Building

Sacramento, CA 05829 Location: Senate Appropriations Committee

**Re: SB 1316 (Glazer) Off-highway vehicular recreation: Carnegie State Vehicular Recreation Area: Alameda-Tesla Expansion Area (As Amended April 30, 2018)**

Dear Senator Glazer:

The Off Road Vehicle Legislative Coalition is comprised of several statewide or regional organizations of OHV enthusiasts.

Our coalition has reviewed SB 1316 and strongly opposes this bill that would deny opportunities for motorized recreation enthusiasts. The land in question was purchased using funds from the Off Highway Vehicle Trust Fund, with an agreement as to the ultimate purpose of the land signed by all adjacent landowners. No opposition was posed to the purchase of this land, referred to in SB 1316 as the Alameda-Tesla Expansion Area. In fact, from the date of purchase this land has been a part of the Carnegie State Vehicular Recreation Area and has been ably managed by the Off Highway Motor Vehicle Recreation Division of State Parks for approximately 20 years.

No opposition was noted at the time of purchase of the parcel, or in subsequent years. The land in question has extensive issues including piles of mine tailings from previous extraction activities on the site.

As prices for real estate have increased in areas surrounding the Bay Area, adjacent landowners realized they would profit more from the eventual sale of their holdings should they be successful in removing the existing state park. There have been numerous attempts and lawsuits aimed at achieving the goal of divesting this land from state control, and SB 1316 is another attempt promoted by these landowners.

The intended use for the land in question is misrepresented in SB 1316. Review of the general plan for the site shows the expansion property is slated to become a multiple use park including trails of varying difficulty, remote camping access, picnic areas, and includes significant buffer zone designations. The proposed layout for the park showcases family opportunities and allows access for individuals with physical limitations. In contrast, the language in SB 1316 would seek to encourage activities that would exclude individuals. The state has rightly determined that Carnegie State Vehicular Recreation Area should encourage use by all types of recreation enthusiasts who seek a respite from nearby urban and suburban communities.

Last year, the legislative widely supported and passed SB 249, which created a series of environmental activities, monitoring and review for all land managed by the Off Highway Motorized Recreation Division of State Parks. These environmental criteria go far beyond what any local county or city is mandated or can afford to provide. For conservation reasons alone, the Carnegie State Vehicle Recreation Area should be left in the control of State Parks and benefit from the funding, manpower and knowledge only the state can bring to this site. SB 1316 further suggests State Parks take a loss on their investment in order to divest itself of this property to an entity that would struggle to provide conservation measures and environmental protections that the state is already implementing.

SB 1316 would set a dangerous precedent by encouraging local landowners who object to the location of any state park, preserve or beach to push legislation to privatize that specific location. State parks should remain for the benefit of all Californians, not just a select few.

Please contact our legislative advocate, Kathryn Lynch, at (916) 443-0202 or lynch@lynchlobby.com, with any questions.

Sincerely,

Ed Stovin

Treasurer

cc: Ms. Graciela Castillo-Krings, Deputy Legislative Secretary, Governor’s Office

 Ms. Narisha Bonakdar, Consultant, Senate Appropriations Committee

 Ms. Rocel Bettencourt, Consultant, Senate Republican Caucus

 Ms. Kathryn Lynch, Legislative Advocate

 Off Road Vehicle Legislative Coalition

**8352.3.**

(a) Subject to Sections 8352 and 8352.1, and except as otherwise provided in subdivision (b), all moneys deposited to the credit of the Motor Vehicle Fuel Account attributable to the distribution of motor vehicle fuel for use or used in propelling an aircraft in the state shall be transferred to the Aeronautics Account in the State Transportation Fund, for allocation as follows:

(1) To pay the pro rata cost of the Controller and the board under subdivisions (b), (c), and (d) of Section 8352.1.

(2) To pay for the support of the Department of Transportation, for the administration of the State Aeronautics Act (Division 9 (commencing with Section 21001) of the Public Utilities Code).

(3) Remaining balance to be available for expenditures in accordance with Section 21602 and Article 4 (commencing with Section 21680) of Chapter 4 of Part 1 of Division 9 of the Public Utilities Code.

(b) Commencing July 1, 2012, the revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 and Section 7361.1 and otherwise to be deposited in the Aeronautics Account pursuant to subdivision (a) shall instead be transferred to the General Fund. The revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 and Section 7361.1 that were deposited in the Aeronautics Account in the 2010–11 and 2011–12 fiscal years shall be transferred to the General Fund.

*(Amended by Stats. 2012, Ch. 32, Sec. 30. (SB 1006) Effective June 27, 2012.)*

**8352.4.**

(a) Subject to Sections 8352 and 8352.1, and except as otherwise provided in subdivision (b), there shall be transferred from the money deposited to the credit of the Motor Vehicle Fuel Account to the Harbors and Watercraft Revolving Fund, for expenditure in accordance with Division 1 (commencing with Section 30) of the Harbors and Navigation Code, the sum of six million six hundred thousand dollars ($6,600,000) per annum, representing the amount of money in the Motor Vehicle Fuel Account attributable to taxes imposed on distributions of motor vehicle fuel used or usable in propelling vessels. The actual amount shall be calculated using the annual reports of registered boats prepared by the Department of Motor Vehicles for the United States Coast Guard and the formula and method of the December 1972 report prepared for this purpose and submitted to the Legislature on December 26, 1972, by the Director of Transportation. If the amount transferred during each fiscal year is in excess of the calculated amount, the excess shall be retransferred from the Harbors and Watercraft Revolving Fund to the Motor Vehicle Fuel Account. If the amount transferred is less than the amount calculated, the difference shall be transferred from the Motor Vehicle Fuel Account to the Harbors and Watercraft Revolving Fund. No adjustment shall be made if the computed difference is less than fifty thousand dollars ($50,000), and the amount shall be adjusted to reflect any temporary or permanent increase or decrease that may be made in the rate under the Motor Vehicle Fuel Tax Law. Payments pursuant to this section shall be made prior to payments pursuant to Section 8352.2.

(b) (1) Commencing July 1, 2012, the revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 and otherwise to be deposited in the Harbors and Watercraft Revolving Fund pursuant to subdivision (a) shall instead be transferred to the General Fund.

(2) Commencing November 1, 2017, the revenues attributable to the taxes imposed pursuant to subdivision (c) of Section 7360, any adjustment pursuant to subdivision (d) of Section 7360, and Section 7361.2, and otherwise to be deposited in the Harbors and Watercraft Revolving Fund pursuant to subdivision (a), shall instead be transferred to the State Parks and Recreation Fund to be used for state parks, off-highway vehicle programs, or boating programs.

*(Amended by Stats. 2017, Ch. 5, Sec. 28. (SB 1) Effective April 28, 2017.)*

**8352.5.**

(a) (1) Subject to Sections 8352 and 8352.1, and except as otherwise provided in paragraph (1) of subdivision (b), there shall be transferred from the money deposited to the credit of the Motor Vehicle Fuel Account to the Department of Food and Agriculture Fund, during the second quarter of each fiscal year, an amount equal to the estimate contained in the most recent report prepared pursuant to this section.

(2) The amounts are not subject to Section 6357 with respect to the collection of sales and use taxes thereon, and represent the portion of receipts in the Motor Vehicle Fuel Account during a calendar year that were attributable to agricultural off-highway use of motor vehicle fuel which is subject to refund pursuant to Section 8101, less gross refunds allowed by the Controller during the fiscal year ending June 30 following the calendar year to persons entitled to refunds for agricultural off-highway use pursuant to Section 8101. Payments pursuant to this section shall be made prior to payments pursuant to Section 8352.2.

(b) (1) Commencing July 1, 2012, the revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 and otherwise to be deposited in the Department of Food and Agriculture Fund pursuant to subdivision (a) shall instead be transferred to the General Fund.

(2) Commencing November 1, 2017, the revenues attributable to the taxes imposed pursuant to subdivision (c) of Section 7360, as adjusted pursuant to subdivision (d) of Section 7360, and Section 7361.2 shall be deposited in the Department of Food and Agriculture Fund.

(c) On or before September 30, 2012, and on or before September 30 of each even-numbered year thereafter, the Director of Transportation and the Director of Food and Agriculture shall jointly prepare, or cause to be prepared, a report setting forth the current estimate of the amount of money in the Motor Vehicle Fuel Account attributable to agricultural off-highway use of motor vehicle fuel, which is subject to refund pursuant to Section 8101 less gross refunds allowed by the Controller to persons entitled to refunds for agricultural off-highway use pursuant to Section 8101; and they shall submit a copy of the report to the Legislature.

*(Amended by Stats. 2017, Ch. 5, Sec. 29. (SB 1) Effective April 28, 2017.)*

**8352.6.**

(a) (1) Subject to Section 8352.1, and except as otherwise provided in paragraphs (2) and (3), on the first day of every month, there shall be transferred from moneys deposited to the credit of the Motor Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund created by Section 38225 of the Vehicle Code an amount attributable to taxes imposed upon distributions of motor vehicle fuel used in the operation of motor vehicles off highway and for which a refund has not been claimed. Transfers made pursuant to this section shall be made prior to transfers pursuant to Section 8352.2.

(2) (A) Commencing July 1, 2012, the revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 and otherwise to be deposited in the Off-Highway Vehicle Trust Fund pursuant to paragraph (1) shall instead be transferred to the General Fund.

(B) Commencing November 1, 2017, the revenues attributable to the taxes imposed pursuant to subdivision (c) of Section 7360, any adjustment pursuant to subdivision (d) of Section 7360, and Section 7361.2, and otherwise to be deposited in the Off-Highway Vehicle Trust Fund pursuant to subdivision (a), shall instead be transferred to the State Parks and Recreation Fund to be used for state parks, off-highway vehicle programs, or boating programs.

(3) The Controller shall withhold eight hundred thirty-three thousand dollars ($833,000) from the monthly transfer to the Off-Highway Vehicle Trust Fund pursuant to paragraph (1), and transfer that amount to the General Fund.

(b) The amount transferred to the Off-Highway Vehicle Trust Fund pursuant to paragraph (1) of subdivision (a), as a percentage of the Motor Vehicle Fuel Account, shall be equal to the percentage transferred in the 2006–07 fiscal year. Every five years, starting in the 2013–14 fiscal year, the percentage transferred may be adjusted by the Department of Transportation in cooperation with the Department of Parks and Recreation and the Department of Motor Vehicles. Adjustments shall be based on, but not limited to, the changes in the following factors since the 2006–07 fiscal year or the last adjustment, whichever is more recent:

(1) The number of vehicles registered as off-highway motor vehicles as required by Division 16.5 (commencing with Section 38000) of the Vehicle Code.

(2) The number of registered street-legal vehicles that are anticipated to be used off highway, including four-wheel drive vehicles, all-wheel drive vehicles, and dual-sport motorcycles.

(3) Attendance at the state vehicular recreation areas.

(4) Off-highway recreation use on federal lands as indicated by the United States Forest Service’s National Visitor Use Monitoring and the United States Bureau of Land Management’s Recreation Management Information System.

(c) It is the intent of the Legislature that transfers from the Motor Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund should reflect the full range of motorized vehicle use off highway for both motorized recreation and motorized off-road access to other recreation opportunities. Therefore, the Legislature finds that the fuel tax baseline established in subdivision (b), attributable to off-highway estimates of use as of the 2006–07 fiscal year, accounts for the three categories of vehicles that have been found over the years to be users of fuel for off-highway motorized recreation or motorized access to nonmotorized recreational pursuits. These three categories are registered off-highway motorized vehicles, registered street-legal motorized vehicles used off highway, and unregistered off-highway motorized vehicles.

(d) It is the intent of the Legislature that the off-highway motor vehicle recreational use to be determined by the Department of Transportation pursuant to paragraph (2) of subdivision (b) be that usage by vehicles subject to registration under Division 3 (commencing with Section 4000) of the Vehicle Code, for recreation or the pursuit of recreation on surfaces where the use of vehicles registered under Division 16.5 (commencing with Section 38000) of the Vehicle Code may occur.

(e) In the 2014–15 fiscal year, the Department of Transportation, in consultation with the Department of Parks and Recreation and the Department of Motor Vehicles, shall undertake a study to determine the appropriate adjustment to the amount transferred pursuant to subdivision (b) and to update the estimate of the amount attributable to taxes imposed upon distributions of motor vehicle fuel used in the operation of motor vehicles off highway and for which a refund has not been claimed. The department shall provide a copy of this study to the Legislature no later than January 1, 2016.

*(Amended by Stats. 2017, Ch. 5, Sec. 30. (SB 1) Effective April 28, 2017.)*