# CALIFORNIA OFF-ROAD VEHICLE ASSOCIATION

Volume 23 Issue 8

March 2011

# CORVA CALIFORNIA OFF-ROAD VEHICLE ASSOCIATION WWW.COTVA.OTG

Fair Ruling Finally Issued from the 9th U.S. Circuit Court of Appeals

On January 14, 2011, a legal ruling issued by the 9th U.S. Circuit Court of Appeals overturned a rule unique to the 9th Circuit Court. This rule barred private parties, as well as local and state governments from intervening on legal cases involving challenges to federal land management agencies based on the National Environmental Policy Act, or NEPA.

Lawsuits based on alleged violation of NEPA are a favorite ploy for environmental organizations seeking to limit motorized access to both BLM and Forest Service land. Before this ruling, only the federal agencies themselves were legally allowed to fight these allegations. This meant that all outside interests, from private land owners, local cities and counties, and recreation interests to ranchers with long-time grazing rights, had no one representing their interests or speaking for them during the proceedings. Conversely, often two, three or more environmental organizations would "gang up" together as plaintiffs, while only the federal agencies stood on the alone as defendants. Private parties who stood much to lose could only stand by the sidelines when attorneys for the federal agencies neglected to argue points critical to the their interests.

A unanimous decision by the entire court overturned the previous decision that created the rule. The court decided the rule unfairly targeted NEPA lawsuits and acknowledged that private parties had legally "protectable" rights that were in contention in these lawsuits. Writing for the court, Justice Barry Silverman said the rule; "ignores our traditionally liberal policy in favor of intervention" and "fails to recognize" the fact that private parties can show a "protectable right".

Paul Turke, a leading pro-access supporter who argues cases on behalf of off-road recreation around the country, argued this case on behalf of numerous off-road organizations, including our partners at BlueRibbon Coalition. We are grateful to his hard work on this issue, as it will ease the way for more legal representation of off-road interests in the 9 western states represented by the 9th U.S. District Court of Appeals.

## PLEASE JOIN CORVA AND CLORV IN SACRAMENTO ON APRIL 11TH



CLORV OHV ADVOCATES LEGISLATIVE EVENT •Don't miss the annual California League of Off Road Voters (CLORV) Lobby Day Event in Sacramento. •Presentations by OHV Leadership and Agencies •A variety of informative OHV Advocate Workshops •Walk the Halls and meet Assembly and Senate representatives. •Network with Advocates from OHV Associations.

Do you want to keep OHV Access to our Public Land?

PLAN TO ATTEND! APRIL 11, 2011 GET THE 411 ON OHV

JOIN US SUNDAY! Pre-Lobby Day Workshop Sunday afternoon 3-5 VAGABOND MOTEL – OLD TOWN SACRAMENTO 909 Third St Sacramento, CA 95814 (916) 446-1481 Mention CLORV LOBBY DAY for Rate \$74.00 per night WHERE: California State Association of Counties Conference Center 1020 11<sup>th</sup> Street, 2<sup>nd</sup> Floor, Sacramento, CA 95814 <u>RESERVATIONS</u>: Send name(s) along with your email plus address, telephone number and organization by <u>April 1, 2011</u>. Email: robertawoods55@gmail.com FAX: (805) 526-4574 Mail: CLORV OHV LOBBY DAY 2011 4346 E Los Angeles Avenue Simi Valley, CA 93063

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# WHAT IS CORVA?

The California Off-Road Vehicle Association (CORVA) is a varied group of outdoor recreationalists who are extremely active in promoting the positive aspects of vehicular access on public lands and protecting that right.

The group is composed of the owners of "Green Sticker" vehicles such as ATV's, motorcycles, 3-wheelers, trail bikes, and dune buggies, as well as "street legal" 4x4 vehicles, dual sport motorcycles, baja and desert racers.

The main purpose of CORVA is to have fun! We also work with the land managers for responsible off-highway vehicular access and recreation opportunities. Secondarily, we educate our membership on the constantly changing rules and regulations and promote conservation, clean-up and trail maintenance projects.

We participate in lobbying activities in both Sacramento and Washington DC. We work closely with the State Department of Parks and Recreation providing input to the Off-Highway Motor Vehicle Recreation (OHMVR) program from the users' standpoint. We provide a valuable resource to land managers in the form of dedicated OHV enthusiasts who believe in using our public lands responsibly.

We are active at all levels of the land management public process with both the BLM and USFS. We do this by commenting on many environmental documents on issues that affect us.

We coordinate with other multiple use organizations such as snowmobiles to horse enthusiasts to protect multiple use rights that we both share. Only together can we fight the extremists. We are,

"Dedicated to protecting our lands for the people, not from the people."

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# **PRESIDENT'S MESSAGE** By Jim Woods

So just when you are ready to celebrate a victory we again have been attacked by the State of California. Let me explain. On January 28, 2011 Judge Illston issued her remedy for the lawsuit brought by the Center for Biological Diversity and other environmental groups against the West Mojave Plan. This was a long awaited ruling that follows the judge's findings that the BLM did not adhere to the "minimization criteria" in designating motorized routes during the planning process. We are still analyzing this complex order but most importantly the Judge CLOSED NO TRAILS. Did you hear me? No New Closures! This is due to all the hard work groups like Friends of Jawbone and other volunteer groups have spent signing, fencing and educating the public. We as a group changed the future by working together, being pro-active and showing we can successfully work with the agencies to manage our land. Credit also needs to be given for all the attorneys involved and their hard work and faith in our efforts to protect our right to access public land. No one did this alone. It was an effort by many and a victory for all. Don't take me wrong. We're not done with this issue but it is nice to have a victory on this very complex issue. Please read the land use report for more details and my hats off to all involved.

Now on the down side. Just as we had thought - the State of California is looking for ways to steal our Green Sticker Trust Funds to help balance the California State budget. This is not a loan. They wanted to take five million dollars to protect the non-motorized State Parks that will be closed from illegal OHV abuse. A very severe way to protect parks that have no OHV activity at this time. A budget already made to protect parks that are not closed yet? I have a better idea. How about if California gives State Parks Off Road Division the job of managing these parks. They do great with the SVRA's they manage. It seems like a great business plan. But we all know it is just a way for the State to justify taking the money we need to manage our public lands. On Feb 10th CORVA as well as others from the AMA District 36 and District 37, Cal4Wheel Drive Club, Blue Ribbon Coalition were at the hearing and surprised the legislative budget committee #3 with our unity. The issue was postponed but this is not the end of the story. The budget will change many times and CORVA will do our best to be sure you are represented in these important discussions.

I attended the King of the Hammers Race in Johnson Valley in early February and I have nothing but praise for the promoter, volunteers and agencies at this event. With the new SRP process that was put into place after the tragic MDR accident in the BLM California Desert District, requirements for an event of this size are enormous. The event was well managed; the spectators stayed away from the course and followed all the rules. Other than a little wind and lots of lake dust everyone had a great, safe time. This is an event that will shape events in the future and we could not have had a better example of how an event should be run.

I hope to see you at our Family Fun Run event on March 19th at the Hungry Valley SVRA and also at the OHV Lobby Day in Sacramento on April 11th. As has been shown, together we can make a difference. Please come!

P.S. Congratulations to Tony Pellegrino, owner of GenRight Off Road and a CORVA Associate member for his amazing 2nd Place finish at the King of the Hammers event.



# **CORVA Land Use Resources and Public Policy Report**

**By Bruce Whitcher** 

#### **CORVA VP of Land Resources and Public Policy**

#### WEMO Lawsuit Remedy Ordered

On January 28, 2011 Judge Illston issued her remedy for the lawsuit brought by the Center for Biological Diversity and other environmental groups against the West Mojave Plan. This was a long awaited decision that stems from the judge's finding that the BLM did not adhere to the "minimization criteria" in designating motorized routes in the WEMO Plan. CORVA is still analyzing this complex order, but a few items stand out.

Most important, no closures were ordered.

The BLM will:

• Have three years, until 2014, to complete a supplemental analysis of routes that complies with the minimization criteria, has an adequate range of alternatives, and complies with NEPA.

• Establish New Areas of Critical Environmental Concern and adjust Area of Critical Environmental Concern Boundaries

Amend CDCA Plan Multiple-Use Classes

• Establish Mojave Ground Squirrel Wildlife Habitat Management Area

- Approve Regional Public Land Health Standards and Guidelines
- Control Motorized Vehicle Stopping, Parking and Vehicular Camping in DWMAs

• Delete Barstow to Vegas Race Course

On the basis that the route designation plan was improperly adopted, the agency will delay the adoption of:

- 1. The Motorized Vehicle Access Network in the Rand Mountains/Fremont Valley Management Plan;
- 2. The Motorized Vehicle Access Network in the Afton Canyon Natural Area;

3. A "connector route" in the Stoddard Valley to Johnson Valley Corridor.

The Court rejected the plaintiff's request that all routes be limited to street legal vehicles

The routes R5 and the R50 were remanded to BLM under a separate decision by the IBLA, a three judge panel, and the Court refused to intervene in this matter. We are assuming the BLM will address these routes and send revised planning documents back to the IBLA for further consideration of these routes.

The Court also ordered the following:

(1) The BLM should provide the Court with a plan for signing all open routes in the WEMO. This is already in progress.

(2) The BLM shall update maps to include accurate route information. This is already in process.

(3) The BLM shall provide a monitoring plan to determine (a) compliance with route closures and (b) whether new illegal routes are being created.

(4) The BLM shall monitor (a)air quality in and around open areas, (b) status of the Mojave fringe-toed lizard and its habitat, and (c) riparian areas

(5) The BLM must provide a plan for maintenance of the open route network and installation of informational kiosks at all major OHV access points.

(6) Provide the Court and the parties with a plan for additional enforcement.

(7) Provide quarterly reports indicating the BLM's progress.

The court denied the plaintiff's request for closure of Juniper Flats, Wonder Valley, and Edwards Bowl, all located within the jurisdiction of the BLM's Barstow Field Office.

#### **BLM Special Recreation Permits Update**

Most of you are aware that in the wake of the horrendous accident in Johnson Valley last year the BLM has imposed significant restrictions on the issuance of event permits in the desert. For example, events that require more than 50 hours of staff time to prepare will be issued on a "cost recovery" basis, there will be "blackout dates" on major holiday weekends when no events can be held, and no more than one Field Office can allow events on any given weekend. The process does not distinguish between competitive and non-competitive events and apply equally to a professional truck race or a local club's poker run. Although these are not necessarily new requirements they will make it far more difficult to hold both competitive and non-competitive events.

 During the comment process CORVA submitted comments pointing out the severe and in many cases unnecessary limitations

 Continued on next page

#### **Desert Renewable Energy Projects**

Many of you have heard about the intense competition between various interests to reserve parts of the California desert for renewable energy development and protection of endangered species. Some of these areas are "limited use" BLM lands that have long been open for public access via motorized routes of travel. CORVA has been involved in discussion related to the future use of California's desert public lands and has spoken out to help keep our areas open.

CORVA representatives have attended stakeholder meetings held that will result in the Desert Renewable Energy Conservation Plan (DRECP). This plan will affect virtually the entire California Desert Conservation Area including all the areas traditionally used for OHV recreation. It is important to understand that the actual DRECP document will be written by the consultants under the oversight of four government agences: CA Energy Commission, CA DFG, BLM, & USFWS. Recreation interests have been underrepresented making it critical that CORVA attends these meetings.

#### The Obama Administration's Great Outdoors Initiative

As many of you have heard, President Obama convened the White House Conference on the Great Outdoors (AGO) in April. The deadline for the final AGO report was November 15th. There are rumors that the AGO report is now complete; and that the Administration was finally able to come to closure on the recommendations. Public release of the AGO findings are now scheduled for mid-February. This is one to watch.

#### Senator Feinstein Reintroduces Desert Protection Act, Senator Boxer Seeks More Wilderness

This week, the state's two Democratic senators set the stage by introducing wilderness- related bills. Their overall prospects are unclear, but their ambitions are undeniable. "I've still got one million acres to go," Sen. Barbara Boxer said of her wilderness aspirations Wednesday, adding that "wilderness is all over the state."

In Tehama and Shasta counties, for instance, Boxer wants to designate a 17,869-acre Sacramento River National Recreation Area. East of the Salinas Valley, Boxer calls for upgrading the Pinnacles National Monument into a new national park. In the Sacramento-San Joaquin Delta, Sen. Dianne Feinstein wants creation of a national heritage area to attract federal funding.

And in the vast Mojave Desert, Feinstein wants to designate a 941,000-acre Mojave Trails National Monument.

Feinstein's Mojave Trails bill, for instance, would effectively block major wind and solar energy projects planned in the proposed monument region. This could force environmentalists to choose between supporting alternative energy and protecting public lands. One proposed desert project called for a solar panel farm covering eight square miles of public land.

"I think that we must be cautious when we oppose renewable energy projects on federal lands," Republican Sen. Lisa Murkowski of Alaska said last year.

Feinstein this week countered that the proposed wind and solar projects could be relocated, in order to protect what she describes as the "beauty of the massive valleys, pristine dry lakes and rugged mountains."

Boxer said Wednesday that her California state director, former Fresno City Councilman Tom Bohigian, is still evaluating the desert monument legislation.

More generally, many Republicans now controlling the House voice skepticism about expanding the federal reach.

"It's something I will look with a critical eye at," Rep. Jeff Denham, R-Atwater, said Wednesday." At a time of fiscal crisis, we should be looking at selling properties, not buying them." Denham serves on the House Natural Resources Committee, whose chairman, Republican Rep. Doc Hastings of Washington, stressed Wednesday that "federal policies that block access to our resources are making us more reliant on foreign resources that cost American jobs."

The various California environmental bills could take several routes to the White House. Lawmakers can slip individual provisions into larger, unrelated bills.

Last year's omnibus bill ultimately failed. Reviving the proposal will resurrect opposition from conservatives such as Rep. Devin Nunes, R-Visalia, who denounced the national heritage proposal as "another layer of government." Lawmakers can also promote wilderness bills as standalone measures. This works if the bill enjoys bipartisan local support.

Similar bills have been introduced since 2006. Though a Senate committee finally passed it last Congress, this year's version will confront a profoundly skeptical House. "It gets harder and harder," Boxer said of California wilderness bills in general, "because all the easy ones have been done."

#### Salazar Order Draws Opposition

Designation of "wild lands" will be done based input of the public and local communities. It's up to us to see that the BLM makes good on this promise.

Secretarial Order 3310 directs the Bureau of Land Management (BLM), based on the input of the public and local communities through its existing land management planning process, to designate appropriate areas with wilderness characteristics under its jurisdiction as "Wild Lands" and to manage them to protect their wilderness values.

"The new Wild Lands policy affirms the BLM's authorities under the law - and our responsibility to the American people - to protect the wilderness characteristics of the lands we oversee as part of our multiple use mission," said BLM Director Bob Abbey.

Secretary Salazar's new "wild lands policy" is drawing fire from many western members of Congress. Forty-eight House members and eight Senators wrote to the Secretary on January 28th requesting that he withdraw his Secretarial Order 3310.

#### **Forest Service Planning Regulations Due for Completion**

The U.S. Forest Service is continuing the process of revising their regulations that govern how the agency prepares Forest Plans. Known as the "Planning Rule," these regulations will be the driving force behind how the agency prepares Land Use Plans. Using input they will finalize the proposed rule and draft environmental impact statement with the intent of publishing the proposed rule and DEIS in December 2010. This final rule has not yet been announced.

#### Clear Creek Management Area Decision to be Announced in May-June 2011

The future of Clear Creek is seen by all as a precedent-setting national issue that will have repercussions for the future of OHV recreation for years to come. The preferred alternative identified by BLM was disappointing because it excluded motorcycles from the CCMA and allowed only limited access to the area based on claims of health hazard due to asbestos. The latest information we've received indicates that:

• Energy-related proposals in the Mojave are taking priority in Washington

- BLM has submitted a proposal similar to alternative E in draft RMP with additional routes which are not yet defined. A draft of the final resource management plan is not publicly available.
- There will be no dry season closures.

• No off road vehicles (dirt bikes) are to be allowed in CCMA.

Once the Record of Decision has been announced objections may be filed. CORVA plans to join with other interested groups in filing objections.

### Friends of Jawbone Hosts Law Enforcement Officers Summit

Cantil, California - The Friends of Jawbone hosted a meeting with law enforcement agencies in conjunction with BLM, California Parks OHMVR Division and Field Representatives for both Kern County's First District Supervisor Jon McQuiston and Second District Supervisor Zack Scrivner. The outcome of this meeting is a Joint Task Force of the various agencies, including California City Police Department, Ridgecrest Police Department, Kern County Sheriff's Office, The American Motorcycle Association (AMA) and private landowners. This group will be conducting law enforcement activities on the multiple large holidays that attract so many OHV riders to the area.

Mostly informational, the group is getting the word out about the designated trails, the laws about staying on those trails and consequences of making your own trail. "We want riders to safely enjoy the OHV experience in our area," states Karen Sanders of the Friends of Jawbone organization. "We want them to have fun, enjoy their lands, but do so in a responsible manner. If not, we could lose the privilege of riding on the designated trails. Especially in the Jawbone Canyon/Dove Springs area there are trails that cut through private property where there is an agreement with the landowner to do so, but if OHVers are not following trails, the landowner can and will shut down those riding areas. It really is a private property issue in this area."

The Joint Task Force will start by setting up a DUI checkpoint scheduled for the President's Day Weekend. There will be maps distributed and information given. It is tailored for the public who ride in Jawbone/Dove Springs, the Rands and the El Pasos areas. Patrols will also be increased during this time for safety and infractions. Remember it is illegal to drink and drive any type of motorized vehicle, including off-road vehicles.

Friends of Jawbone is a non-profit public benefit corporation dedicated to the promotion of outdoor recreation in the Jawbone Canyon area. Formed in 1998, Friends of Jawbone supports and develops projects to improve, protect and maintain existing trails and to promote understanding, education and cooperation between all users of public lands.



Diana Mead, Corresponding Secretary 925-689-3696 meadfamily@astound.net

Randy Penick Editor 408-866-1581 ebhtnews@att.net

Suggested Items: First Aid Kit, Tow Strap, Spare Tire Fire Extinguisher

Off-Roaders In Action, March 2011

# Educational News VP-Education, Ed Waldheim

## **OHV Grant Application Process**

This is the time that every agency in California comes to the table with the OHMVR Division (Off Highway Motor Vehicle Recreation) to discuss grants.

The famous California Green Sticker program now produces almost \$89 million dollars statewide. With \$27.1 million of that is set aside for "Grants and Cooperative Agreements" in which the OHV program opens up bidding for application of Grants. This bidding includes the BLM, Forest Service, cities and counties, and nonprofit organizations.

The money is allocated as follows:

\$1.3 million is reserved for Education and Safety, \$5.2 million for Law Enforcement, \$13 million for Operations and Maintenance, and \$7.6 million for Restoration.

You may wonder why this is important. Well it just so happens that March 7, 2011 is the due date for preliminary applications. Anyone applying for a grant can get extra points for having an open house and soliciting comments suggestions, or ideas on what grants the applying agencies should apply for. You can have a role in this if you are willing to take the time to send a letter or email to the area at which you recreate or simply the OHV Division. (<u>OHVInfo@parks.ca.gov</u>, attention Sixto Fernandez).

All these comments and discussions must be done prior to the Preliminary Application submission on 3/7/2011. Time is running out so please do it today! On April 2, 2011, the final applications are sent. From then you will have 30 days to make comments on what was submitted. All these comments can be done online through the OHV Division.

Now is the time for you to get involved. Send me an e-mail at: <u>edwaldheim@aol.com</u> or to Sixto Fernandez at: <u>sfernandez@parks.ca.gov</u> with any questions you may have.

Remember, you can make a difference!

### **CORVA NEEDS YOUR HELP!**

Here are the main projects that CORVA is involved with at this time. Please cut this form out and mail with your donation to: CORVA

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#### **REPORT NOW AVAILABLE HERE**

http://ohv.parks.ca.gov/pages/1140/files/ohmvr %202011%20report%20-%20final-web.pdf

**Off-Highway Motor Vehicle Recreation Commission** 

#### PROGRAM REPORT



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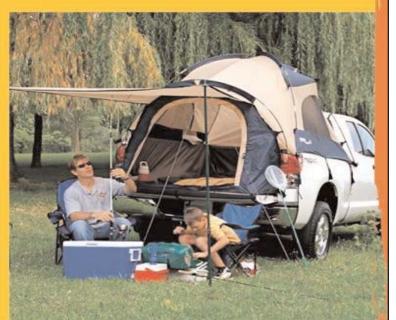
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To help us out and make a donation please see page 8

Thanks

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#### March:

3/19	Annual CORVA Family Fun Run Hungry Valley State OHV Park Save the date!!! More info on page 5.
April: 4-10/11	Annual OHV Lobby Day @ Sacramento Save the date!!!
4-30 May:	Annual Moose Anderson Days @ Jawbone Canyon.
5-10	Annual El Mirage Spring Cleanup.
June: 6-11	Annual Operation Super Canyon Sweep. Cleanup in the San Gabriel Canyon area.

For more info please contact Barry at: <u>BHWetherby@aol.com</u>

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