



File Code: 1950/7710

Date: May 23, 2013

Courtney Smith  
Transportation Planner  
Inyo County Dept of Public Works  
PO Drawer Q  
Independence, CA 93526

Dear Mr. Smith:

I appreciate the chance to review the Inyo County "Adventure Trail System" (ATS) proposal for combined use routes. Thank you for extending our response time, as we have been hard-pressed to review in a timely and meaningful way. While I support having a well thought out, integrated and connected system of routes in this area, there are many complicating and potentially significant issues related to the ATS. I want to ensure thorough and thoughtful comment to these proposals, despite my staff's limited availability.

I have attached a table that includes route-specific comments, but want to emphasize some general concerns which we have pointed to in the past during our meetings with you and in two prior letters regarding the ATS program. Some of the issues have potential to be disruptive to this process, so I again suggest that Inyo County and the Forest Service work to resolve them soon. My letter of February 17, 2012 outlines eight points of concern in greater detail, and I believe these issues remain. The three greatest concerns affecting the Forest Service by the ATS proposals are:

### **1. Jurisdiction of Roads on National Forest System (NFS) Lands**

Forest Service Manual (FSM) 7700 provides guidance about jurisdiction of transportation facilities on National Forest System (NFS) lands. FSM 2732, 2733 and 2709 also contain references to other agreements and Special Uses that may affect control of transportation facilities. The only circumstance in which such legal rights to control or regulate use of a Forest transportation facility can be transferred from the Forest Service is through authorities derived from title, easement, agreement or similar instrument.

My staff has reviewed our records and found very limited reference to any documentation for maintenance responsibilities, jurisdiction or rights of way on the routes proposed. Without formal documents in place, it is impossible to determine the scope and scale of various responsibilities for each party. Initial discussions with our legal counsel make it clear that without valid instruments in place, Inyo County does not have authority to designate roads (even those historically maintained by the County) for combined use. This being an undertaking of Inyo County, it is imperative that any documentation related to Rights of Way be provided by the County prior to designation. This also ties into concerns regarding legal responsibility and liability described in Item 2.



## **2. Indemnification**

In Assembly Bill 628, the State of California is specifically indemnified against claims and losses related to losses and injuries resulting from off-highway vehicle use on designated combined use routes. Considering the difficulty in determining jurisdictional status of each route, and since the ATS designation is not an action taken by the Forest Service, it is critical that similar indemnification language be incorporated into any of the designations of routes on NFS lands.

## **3. Monitoring/Maintenance**

I have previously expressed concern about our limited capacity to take on additional monitoring specific to ATS related use and impacts. Since the County will already be required to provide a monitoring program and report as part of AB-628, I propose a monitoring program that is mutually agreed on, and which ensures the County is collecting sufficient scientific and objective measurements to adequately monitor both Forest Service destinations and designated combined-use routes.

It is likely that highlighting and advertising the ATS may increase use to destination Forest Service routes and destinations; while this may or may not have notable effects on resources or roads, there may be a need to mitigate effects on both. The monitoring referenced above should help identify such needs. I foresee the need for an agreement with Inyo County for assistance financially or for on the ground assistance with route maintenance and restoration of damage resulting from increased off-route travel.

The above comments regarding jurisdiction, indemnification and monitoring/maintenance apply to all segments in attached Table 1 in addition to route specific observations.

As I've offered previously, I encourage you to coordinate with Marty Hornick or Diana Pietrasanta regarding this project as it moves forward.

Sincerely,

/s/ Edward E. Armenta  
EDWARD E. ARMENTA  
Forest Supervisor

cc: Kathy Mick  
Marty Hornick  
Diana J Pietrasanta  
Sarah Birkeland

**Table 1: Inyo NF Route-Specific Comments on Inyo County “Adventure Trails” Combined Use Proposals**

Segment Name	Comments and Observations
Aberdeen #1 Division Creek	<ul style="list-style-type: none"> <li>Proposed segment ends at Forest roads and trails appropriate for Non-Highway Legal vehicles (OHVs). Good OHV opportunities.</li> </ul>
Aberdeen #2 Taboose Creek	<ul style="list-style-type: none"> <li>Proposed segment ends at Forest roads and trails appropriate for OHVs. OHV recreational opportunities and large loops exist.</li> <li>Road leads to a Forest Service trailhead (Taboose Pass Trail). Road is likely to be susceptible to damage from increased use.</li> </ul>
Death Valley Road #1 and #3 Little Cowhorn Valley to Harkless	<ul style="list-style-type: none"> <li>The three DV Road Segments combine to a contiguous mileage exceeding 10 miles.</li> <li>If designation must stay below 10 miles, recommend adding only sections 1 and 3, which will connect Harkless, Papoose, and Little Antelope Roads.</li> <li>The proposed segments 1 &amp; 3 end at and access routes and opportunities appropriate to OHVs.</li> </ul>
Death Valley Road #2 Harkless west to “Soldier Canyon” Road (BLM)	<ul style="list-style-type: none"> <li>The three DV Road Segments combine to a contiguous mileage exceeding 10 miles.</li> <li>As proposed, ends on BLM land at the base of Soldier Cyn Road (FS#09S105). This is problematic for USFS, since Soldier Cyn is a dead-end route, with frequent illegal motorized use attempting to connect to roads to east. USFS recommends changing endpoint approx. 2 miles east along DV Road to 09S103 (NFS land), where complete motorcycle loop is possible, and many more opportunities exist. Note: This is where the Death Valley Road Area map actually shows the route ending – not at Soldier Canyon.</li> </ul>
Independence #1, #2 Mazourka Canyon	<ul style="list-style-type: none"> <li>The two Mazourka Canyon Road Segments combine to a contiguous mileage exceeding 10 miles.</li> <li>The county proposal stops at Santa Rita Flat (FSR #12S104), which is technically legal for OHVs. However, this area has limited OHV recreation opportunities as a final destination and is at high risk for travel off of designated routes. USFS cannot support the Santa Rita Flat as a combined use road terminus.</li> <li>Vehicles looping through Santa Rita Flat will likely travel the “Pops Gulch” route back to Mazourka Road, where it would be illegal for OHVs to travel in either direction.</li> <li>County records show (and field survey confirms) that Inyo Co maintains Mazourka Cyn road to Badger Flat. At that point, many miles of USFS OHV roads and trails continue into the Inyo Mtns and on to Harkless and Papoose Flats. It is likely that OHVs will continue up Mazourka Cyn Road in either case, but will neither be legal or managed (no signage, etc). Recommend extending the Mazourka proposal to end of County maintenance at Badger Flat, if this length is allowed.</li> </ul>
Independence #3, #4, #5, #6 Foothill Road	<ul style="list-style-type: none"> <li>There is a discrepancy between USFS and Inyo Co records regarding exact endpoint of county maintenance.</li> <li>Assuming the discrepancy can be resolved, it appears that adjacent FSR #13S07 is suitable for OHV use and leads to appropriate OHV Recreation.</li> </ul>
Big Pine #2 and #3 McMurry Mdws	<ul style="list-style-type: none"> <li>There is a discrepancy between USFS and Inyo Co records regarding exact endpoint of county maintenance. Historically, Inyo Co has maintained Road #09S03 beyond the jct with #33E320.</li> <li>Assuming the discrepancy can be resolved, it appears that adjacent FS Trail #33E301 is suitable for OHV use and leads to appropriate OHV Recreation.</li> </ul>

Segment Name	Comments and Observations
Lone Pine #1 Granite View Dr.	<ul style="list-style-type: none"> <li>• The description for this and any other proposals ending at Granite View Drive (LP #6) are incorrect. The County Road continues to and through the eastern section of the Granite View private property before reaching FSR #16S01, continuing on BLM lands for a mile, then reaching NFS land west of the subdivision. FSR #16S01 dead-ends after approx. ¾ mile on NFS lands, with no loop or links to other roads, and with existing and potential off route travel issues. While this route is legal for OHV use, it is not a suitable OHV recreation destination for a 7.3 mile long Adventure Trails combined use proposal.</li> <li>• Granite View residents have expressed concern with OHV and motorized use in their area, and highlighting this route is likely to exacerbate concerns.</li> <li>• There is a discrepancy between USFS and Inyo Co records regarding County maintenance on the Granite View Road.</li> </ul>
Lone Pine #2, #4, #5, #6 Lone Pine to Various destinations via Tuttle Cr Rd.	<ul style="list-style-type: none"> <li>• Tuttle Creek Road traverses a short section of NFS lands just west of Lone Pine, and there are not specific USFS concerns here. However, there are extensive opportunities for access to BLM routes and lands in this vicinity and along the proposed routes.</li> <li>• LP # 6 shares same issues that LP #1 has with Granite View Road.</li> </ul>
Lone Pine #7 Hogback Road	<ul style="list-style-type: none"> <li>• The proposal ends at junction with Hogback and 15S01 on BLM lands, and then leads to approximately ½ mile of NFS roads. These roads are technically legal for OHV use, but are not a suitable OHV recreation destination. USFS cannot support FSR #15S01 as a combined use road terminus.</li> </ul>
Bishop #9 Bir Road	<ul style="list-style-type: none"> <li>• Endpoint of proposed combined use is unclear on all maps and descriptions.</li> </ul>
Bishop #10 Coyote Valley Road	<ul style="list-style-type: none"> <li>• There is a discrepancy between USFS and Inyo Co records regarding exact endpoint of County maintenance responsibility.</li> <li>• Assuming the discrepancy can be resolved, it appears that the adjacent NFS road is suitable for OHV use and leads to appropriate OHV Recreation opportunities.</li> </ul>
Bishop #16, #11, #14 Silver Canyon	<ul style="list-style-type: none"> <li>• The Silver Canyon Segments combine to a contiguous mileage exceeding 10 miles, and connect directly to Wyman Canyon for contiguous combined use proposal exceeding 25 miles.</li> <li>• Route 6S02G (shown as an OHV trail destination) is less than 0.2 mile long, and is not a suitable OHV Recreation destination.</li> <li>• Routes 6S20Q, 6S02A (and others) lead to the radio repeater site for Silver Peak, which is not a suitable OHV recreation destination.</li> </ul>
Bishop #12, Upper Wyman Canyon	<ul style="list-style-type: none"> <li>• The Wyman Canyon segments combine to a contiguous mileage exceeding 10 miles, and connect directly to Silver Canyon for contiguous combined use proposal exceeding 25 miles.</li> <li>• This segment connects to a substantial OHV road and trail network and many recreational opportunities; however it creates a partial loop that will funnel OHV traffic onto the White Mountain Road 4S01 in Mono County. This road is a well-graded USFS road, not legal to OHV use.</li> <li>• Completing this loop would require coordination between USFS and Inyo Co, and designation of combined use and mixed-use on multiple segments of routes (4S01 in Mono Co, 4S01 in Inyo Co, and 6S01) and the successful designation of 6S02 in the current proposal. This should be considered, and could be done relatively easily.</li> </ul>

Segment Name	Comments and Observations
Bishop #17 Mid Wyman Canyon	<ul style="list-style-type: none"> <li>• The Wyman Canyon segments combine to a contiguous mileage exceeding 10 miles, and connect directly to Silver Canyon for contiguous combined use proposal exceeding 25 miles.</li> <li>• This segment connects to a series of OHV-legal routes not shown on the proposal maps south of Wyman Cyn Rd. One spur (6S104) connects to Wyman Cyn Rd east of the proposed combined use terminus. This could lead to unmanaged illegal use of lower Wyman Cyn, which has not been proposed for combined use. Recommend extending proposal eastward 0.75 mile to 6S104, if this length is allowed.</li> <li>• Lower Wyman Canyon Road will likely receive illegal and unmanaged OHV use, leading through BLM lands (and White Mountain City ACEC) to Hwy 168.</li> </ul>
Bishop #18 Black Canyon	<ul style="list-style-type: none"> <li>• The Black Canyon proposal ends at USFS trail #34E303, which is legal for OHV use, and provides extensive OHV recreation opportunities.</li> </ul>