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**OHMVR and Parks Transformation:** The primary issue of concern is the OHMVR program. The California State Parks is hosting a series of open house open house meetings to discuss the Department's Organizational Structure Opportunities. The primary focus of the re-organization (transformation) is to bring the OHMVR Division and Boating and Waterways into closer synchronization with Department of Parks and Recreation. A California State Parks Transformation Team has been tasked with "developing and leading State Parks in executing structural and sustainable reforms..." As part of this process a July 2016 memo proposes:

"The Off-Highway Motor Vehicle Recreation Program was established as a division in 1982. More recently, in 2012, the Department of Boating and Waterways was merged with the department. The current organizational structure separates these important recreation services from the rest of the services provided by the department. Visitors would be better served by fully integrating these services into the rest of the department."

The OHMVR Division is successfully providing OHV recreation, both on State Vehicular Recreation Areas and through facilitating motorized access on federal public lands. It is important that these successes continue. There is concern that merging the OHMVR Division with the rest of the department may take the focus off of providing OHV access and may re-direct OHV funds to other efforts.

I attended an open house meeting in Sacramento focused on the OHMVR program. I attended a similar meeting in San Diego focused on the Boating and Waterways program. The San Diego presentation was more polished than previous. There was an underlying theme of concern for ensuring that Boating and Waterways funding was applied to the program and not syphoned off to other uses not connected.

Like OHV, a bulk of Boating and Waterways opportunity occurs outside of DPR/State controlled lands (or water sources).

Grants are a major concern with boating safety/education and law enforcement as important segments.

In listening to the presentation, DPR is beginning to make a distinction between organizational changes they must do to become more efficient and changes that may require legislation. Much of the organizational change is within the financial management and budgeting side of the organization which is within their authority to accomplish.

There is a realization that DPR is top-heavy with people and salary in Sacramento and not addressing service to the public in the field. Consequently, a combination of various DPR Headquarters, Districts and Sectors of some sort will occur.

I did provide some comments and focused on DPR moving from vision to reality. The reality is the people and the wants and expectations when people show up at a beach, boat ramp, camp ground, or OHV park. The key is "follow the money". If people see that their recreation interest is receiving its share and they enjoy their recreation experience, they are happy.

While I believe DPR is putting forth an honest effort, the reality is the next report that is due. At the Sacramento meeting DPR indicated a report would be released this fall. At the San Diego meeting, it was indicated it will not be ready until sometime after the new year.

The OHMVR sunset is a critical step. Either we (OHV) provide legislation or DPR will provide legislation, without our input.

A timeframe of 18 months was mentioned. Basically indicating that changes to DPR will be a Brown legacy project.

The state membership based organizations, under the heading of California Motorized Recreation Council, are meeting to plan a path forward.

**Glamis Legal Victory:** The news release started with this paragraph. "A saga over 15 years in the making has ended well for common sense and dune riding access. The U.S. Ninth Circuit Court of Appeals today rejected appeals from the Center for Biological Diversity (CBD), and upheld the Bureau of Land Management's (BLM) 2013 Imperial Sand Dunes Recreation Area (IS-DRA) management plan. The Plan restored motorized dune vehicle access to most of the IS-DRA areas closed on an "interim" basis in a 2001 settlement agreement. After nearly a decade of study and planning, BLM determined these areas were appropriate for dune vehicle riding."

Yes, this is good news for OHV enthusiasts who have been fighting for 15 years to ride the lofty sand dunes of Glamis. And, as I have an innate curiosity as to how something can become a "win" after all the years, I did a little digging into mundane details behind the decision.

Two interesting points became apparent...

1. The district court held that USFWS is not required to include plant species in incidental take statements, because the ESA does not prohibit incidental "take" of plant species. CBD appealed this ruling, and the Ninth Circuit affirmed the district court's analysis, finding that the ESA is clear that the definition of "take" does not apply to plant species and therefore an incidental take statement is not required.

In short, "take" is "kill, injure, harass, etc" of an endangered species. Within the words of law, "take" applies to animal species, not plant species.

Good point to know for future reference.

2. CBD also challenged the district court's grant of summary judgment to BLM on the sufficiency of BLM's air quality analysis under the National Environmental Policy Act, Clean Air Act, and Administrative Procedure Act. The Ninth Circuit also affirmed the district court's ruling that BLM's analysis complied with all applicable laws, and that a difference of opinion over the methodology is insufficient to defeat an agency's analysis.

Within this finding, the nugget of information is that "difference of opinion" is not a reason to file a lawsuit. The methods and steps to conduct the air quality analysis complied under applicable law. Therefore, the BLM followed a defined process within the letter of the law. That there was a differing opinion did not matter as the prescribed steps were followed.

**Johnson Valley:** The Marine Corps returned the Johnson Valley Shared Use Area to the Bureau of Land Management on August 20th - open for public use. The Combat Center is committed to maintaining positive relationships with our community and thanks community members for supporting its efforts in achieving current and progressive service-level training requirements.

**The next planned use of the Shared Use Area for military training in August 1-30, 2017.** Please see the attached flyer for your use - to post or share with friends or family. As with August 2016 training, the closure period will include the time required to ensure the Shared Use Area is clear of recreation activity prior to training and to confirm the land is clear of hazards prior to reopening for public access. The adjacent Johnson Valley OHV Recreation Area will remain open to the public during Shared Use Area closure.

**Northern Spotted Owl:** On August 25, 2016, the California Fish and Game Commission (Commission) voted unanimously to list the northern spotted owl as a threatened species under the California Endangered Species Act. The owl is already listed as a threatened species under the Federal Endangered Species Act. The Commission's action increased protections for the species by allowing for state and citizen enforcement actions through the California Department of Fish and Wildlife and the state courts.

The STATE listing of the northern spotted owl as an Threatened Species signals a potential problem for designated trails in northern spotted owl habitat. The impact will not be immediate; but, it will be an issue for future consideration during annual travel management reviews or permit applications. Federal agencies are required to consider state species of concern and ESA lists during their planning efforts.

Basically, the California ESA and the Federal ESA are very close. The primary difference is the Federal ESA will allow for "take" of a species in conjunction with a permitted activity. The California ESA does not accommodate for "take" of a listed species.

The issue in question is the California Endangered Species Act and its duplicative application to the Federal Endangered Species. Interestingly, both were basically written by the same individual. However, the greater body of comment in the US Senate tempered some of the more stringent points in the California law that sailed through with little opposition.

The "no take" provision is the biggest and most obvious difference. It is also the point being exploited that affects the snowy plovers at Pismo Dunes.

There are numerous other state-federal conflict issues where a federal-state management agreement has resulted in memorandum of understanding with USFWS priority being the rule applied.

However, within the past couple of years state law has been pushed to subvert federal.

Case in point, the flat tailed horned lizard in Ocotillo Wells SVRA. A state listing of the lizard will insert state ruling as a controlling factor on state lands and a consideration factor on federal and private lands. There is currently no comparable federal ESA listing of the FTHL.

A state listing gives the state a leverage voice in control of private and federal land decisions.

While existing management prescriptions are addressing "maximum" conservation based on existing listing as a federal species, that does not include the "maximum" conservation effort based on a duplicative state listing.

Now, the final ruling will result in a compromise as to what standard will apply. So, politics become the name of the game. And, it now sets the stage where a difference of opinion is now a difference of statute.

In the long term, there are issues to watch and address as they arise.

**Mojave Trails National Monument:** By definition, a national monument preserves the unique natural, historic or cultural heritage of public lands. National monuments are created by Congressional legislative action or by Presidential Proclamation using the Antiquities Act of 1906.

The Mojave Trails National Monument was created by Presidential Proclamation, joining a list of 15 other monuments in the state of California. Spanning 1.6 million acres, more than 350,000 acres of previously congressionally designated Wilderness, the Mojave Trails National Monument is under the administrative oversight of the Bureau of Land Management. They are required to develop a management plan for the monument.

The Proclamation defines the permitted activities that can happen within the monument. In general, the proclamation provides for existing uses and activities and does not limit or prohibit rock hunting. Rock hounders are welcome to continue collecting limited amounts of rocks, minerals, and gemstones in the Monument in accordance with the Bureau of Land Management's rock collecting guidelines.

The current system of designate routes of travel are scheduled to remain open for street-legal vehicles. However, during the planning effort, issues could be addressed that will lead to the closure of some routes to preserve the unique natural, historic or cultural heritage of public lands.

Over the coming months, the Bureau of Land Management will be developing a management plan to help guide the uses and activities that occur in the Monument. Public “Envisioning Sessions” were scheduled for August 30, 31, and September 1.

For their first public outreach, I would grade them a B.

Keep in mind, the BLM is rolling this planning effort out under their new planning rule (dubbed Planning 2.0). I have reservations as to their ability to keep up the pace of public involvement due to potential budget and personnel issues.

They did have employees on hand; however, the employees seemed to wander around the room rather than man a specific station to address questions.

The public outreach efforts are expensive and a big demand on employee time. Can they maintain the level of activity?

For display of information and outline of the steps involved, I would grade them a B.

They did have good concise write-ups about some of the pending issues. However, they did not have an introductory session to provide an initial overview of goals and expectations of the overall planning effort or the expected outcome of the “envisioning session”.

I have known Mike Ahrens, the BLM project manager, for a long time and trust what he says. He is trying to follow the steps as required by law. He is under pressure to complete the project in a timely fashion. No, I don't know what is “timely” vs what is appropriate time to accomplish the necessary analysis.

The current round of envisioning sessions are preliminary “scoping” sessions to establish a base for BLM to move forward with the planning effort. They are pushing to have comments provided on the spot. But, they are willing to accept mailed comments over the next few weeks.

Moving forward, the proclamation is going to be an important reference point. That will spell out allowed activities. The challenge will be to provide interpretations that enhance recreation and avoid interpretations that hamper recreation. The new Planning 2.0 will create some conflicts as it does differ from previous planning rules.

At the end, there will be an “Objection Period” prior to the final signature on the Record of Decision. Based on a recent 9th Circuit Court ruling, as long as BLM conducted their analysis under the steps defined by National Environmental Policy Act, Clean Air Act, and Administrative Procedure Act, the BLM will have adhered to their legal requirement. The 9th Circuit also affirmed that provided BLM's analysis complies with all applicable laws, the difference of opinion over the methodology is insufficient to defeat an agency's analysis.

Overall, BLM has a big project. They are targeting management plan development in less than two years. One of the tasks they are required by proclamation is to develop an advisory/stakeholder committee. This is a learning process for BLM Planning 2.0 for both BLM and the public. This is a planning effort that is constrained by the monument proclamation.