



California Four Wheel Drive Association, Inc.

Over 55 years advocating for recreation

March 1, 2017

Honorable Robert M. Hertzberg, Chair
Senate Natural Resources and Water Committee
California State Capitol, Room 4038
Sacramento, CA 95814

Re: **SB 249 (Allen) Oppose**

The Honorable Robert M. Hertzberg, Chair:

The California 4 Wheel Drive Association (C4WDA) and its members stand in opposition to Senate Bill 249. C4WDA members have been involved with legislation dealing with the California Off-Highway Motor Vehicle Recreation (OHMVR) Program since the passage of the original Chappie-Z'berg OHV Act of 1971. We have worked collaboratively with all stakeholders of OHV recreation beginning with the original bill and subsequent sunset renewal bills over the past 46 years.

The California Off-Highway Motor Vehicle Recreation (OHMVR) Program has been in existence since 1971 when legislators Eugene Chappie, an off-road enthusiast, and Edwin Z'Berg, a conservationist, collaborated to create a national model providing for a statewide system of managed OHV recreational opportunities and motorized access to non-motorized recreation by means of a robust grant program, designated and managed OHV trails on public lands, and a series of State Vehicular Recreation Areas (SVRAs).

The OHMVR Program assures that quality recreational opportunities remain available for future generations by providing for maintenance, education, conservation, and enforcement that balance OHMVR recreation impact with programs that monitor, conserve and protect cultural and natural resources.

In 1982, the OHMVR Program was restructured and the OHMVR Division, OHMVR Commission and a program sunset were created. The program has only grown stronger over the past 35 years and it now includes nine SVRAs and an annual \$30M grants and cooperative assistance program that facilitates off-highway motor vehicle recreation on federal lands as well as on county and city land throughout California.

Managed by the Department of Parks and Recreation OHMVR Division and Commission, the current CA OHMVR program is often cited as the national Gold Standard in modern environmentally-sound motorized recreation.

At a public meeting in Sacramento on July 19, 2016, California Department of Parks and Recreation Director Mangat stated: "This OHV program is the national model. It's not just the great program in the State of California, it is the national model, and we recognize that."

The OHMVR Division has administered this program for the last 35 years using its team of highly-skilled environmental scientists, law enforcement officers, recreation planners, trail specialists, and grant administrators to partner with federal land agencies, county sheriffs, conservation groups, and OHV organizations in providing California residents and tourists from throughout the world with access to world-class motorized and non-motorized outdoor recreation opportunities on public lands. The OHMVR Program is completely self-funded and does not rely on any General Fund support.

C4WDA views the proposed legislation (SB 249) as a very punitive bill that ignores the exceptional value this program has delivered to California in ensuring that quality OHV recreation opportunities exist in this state and are managed and controlled in a manner that emphasizes environmental sustainability and protection as well as public safety and local government engagement. The current bill language can best be described as punitive and destructive to what has become a nationally acclaimed success story for delivering quality recreational opportunities while maintaining the strictest environmental standards.

Proposed legislation SB-249 drifts from the original intent of the program and would lead to its ultimate demise. The proposed legislation contains many fallacies and misguided priorities.

One such example is:

SEC. 11. Section 5090.35 of the Public Resources Code is amended to read:

5090.35. (a) The protection of public safety, the appropriate utilization of lands, and the conservation of ~~land~~ natural and cultural resources are of the highest priority in the management of the state vehicular recreation ~~areas; and, accordingly,~~ areas. Accordingly, the division shall ~~promptly repair and continuously maintain areas and trails, anticipate and prevent accelerated and unnatural erosion, and restore lands damaged by erosion to the extent possible.~~ take steps necessary to prevent damage to natural and cultural resources in these areas. When damage occurs in a state vehicular recreation area that is inconsistent with natural and cultural resources protection plans, the division shall promptly close the area. That area shall remain closed until it is repaired and restored and effective adaptive management measures are implemented to prevent repeated or continuous damage. The area shall be permanently closed if repeated or continuous damage cannot be prevented.

The remainder of SEC. 11 discusses "soils standards" and places a burden on the Division to establish a "generic and measurable soil conservation standard and update that standard at least every five years".

Herein lies a disparity of purpose laying the groundwork for mission creep and further dilution of original legislative intent of the OHMVR Program.

There is a glaring fallacy with this proposed intent. The word “generic” implies a singular item with uniformity. In reality, “generic”, in terms of a “soils standard” is impossible to define as the soils are subject to change due to natural forces (wind and water erosion) as well as vehicle traffic and, even foot traffic. And, different soils types have different characteristics when subjected to impact forces.

With respect to “mission creep”, this burdens the Division with developing and maintaining a “soils expert” where that is not within the authorized mission of the Division nor the parent Department of Parks and Recreation. The Division is utilizing Soil Conservation Guidelines and Standards as guidance to determine when maintenance activities should occur. Those maintenance activities are integral with managing the trails and areas in a sustainable manner.

The current Soil Conservation Guidelines and Standards are based on 1991 standards published by Soil Conservation Service, a former federal agency charged with developing such guidance to establish agricultural practices that reduced soils erosion potential as a result of wind and water impacts on plowed agricultural fields.

Those standards have been incorporated by other federal and state agencies as baseline guidance for best management practices in a variety of fields ranging from agriculture to construction to road and trail building.

Current law does not preclude, in fact, current law encourages, implementation of best management practices and adaptive management concepts to provide quality OHV recreation opportunities as primary mission of the program in a sustainable manner for future generations. This has been achieved and the program is meeting original intent.

Proposed changes to SEC. 11. Section 5090.35 of the Public Resources Code are detrimental to the best management practices currently employed to achieve the original legislative intent of the OHMVR Program.

Efforts to change the original intent reflect punitive action that would be detrimental to the future of the program. Those are not best management practices that contribute to an environmentally sustainable OHV program. Current law does not preclude implementation of best management practices within an adaptive management philosophy. In fact, the original intent mandated that approach.

The “mission creep” is further compounded by the inclusion of the following section in the proposed legislation.

SEC. 12. Section 5090.39 is added to the Public Resources Code, to read:

5090.39. (a) The director shall assemble a science advisory team to advise and assist the department and the division in meeting the natural and cultural resource conservation purposes of this chapter. At the request of the director, the science advisory team shall

convene to identify, develop, and prioritize pertinent subjects for investigation and review, compile the best readily available and applicable scientific information, and describe the gaps in that information, if any.

Under current law, the basic functions ascribed to the "science advisory team" are duplicative of the functions of the OHMVR Commission. This is compounded by other sections of the proposed legislation that emasculate the oversight principles of the commission and the direct management oversight of the Deputy Director in managing the OHMVR Program within the bounds of the law.

The proposed duplicative structure is costly and cumbersome to implement. And, the proposed legislation language appears to assign primacy of management decisions to an "advisory team" (*At the request of the director, the science advisory team shall convene...*) that is not in tune with daily management of the program.

Senator Allen, we would welcome an opportunity to meet with you and/or your staff to discuss these and other objections to your proposed legislation. Efforts to change the original intent reflect punitive action that would be detrimental to the future of the program. The proposed changes are not best management practices that contribute to an environmentally sustainable OHV program.

Sincerely,



John Stewart
Resources Consultant
California 4 Wheel Drive Association