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#### NEW ORBA BOARD MEMBERS

ORBA Board and staff welcome the following new board members:

Greg Adler, President of Trans-american Auto Parts Wholesale, 4 Wheel Parts Wholesalers, ProComp Suspensions

Don Emde, of Don Emde Publications, MIC BoD, AMA National BoD

Steve Myers, Toyota of Escondido and owner of International Racing Consultants

Congratulations gentlemen, and thank you for agreeing to serve!

#### NEW CHIEF FOR USFS

Agriculture Secretary Tom Vilsack today announced that Tom Tidwell will serve as the new Chief for the U.S. Forest Service.

"Tom Tidwell's 32 years of experience in our forests and impressive track record of collaboration and problem-solving will help us tackle the great challenges ahead," said Vilsack.

Tidwell has spent 32 years with the Forest Service in a variety of positions. He began his Forest Service career on the Boise National Forest, and has since worked in eight different national forests, across three regions. He has worked at all levels of the agency in a variety of positions, including District Ranger, Forest Supervisor, and Legislative Affairs Specialist in the Washington Office.

Tidwell's field experience includes working from the rural areas of Nevada and Idaho all the way to the urban forests in California and the Wasatch-Cache National Forest

in Utah, where he served as Forest Supervisor during the 2002 Winter Olympics. He also has extensive fire experience, beginning as a fire-fighter, and accumulating nineteen years as an agency administrator responsible for fire suppression decisions.

"We thank Gail Kimbell for her leadership and deep commitment to protecting our nation's forests," Vilsack added.

#### ROADLESS DECISION STANDS

A federal judge has denied the government's request that he reconsider or limit his 2008 decision to Wyoming after tossing the 2001 roadless rule nationwide—a decision that conflicts with a California federal judge's decision upholding the rule.

Judge Clarence Brimmer of the U.S. District Court for the District of Wyoming also denied a motion by environmental groups to suspend his decision striking down the Clinton-era roadless rule while appeals continue. The roadless rule originally granted blanket protection to about 58 million acres nationwide but has been mired in legal battles.

The groups had already appealed to the 10th U.S. Circuit Court of Appeals, but those proceedings had been delayed while Brimmer considered the government's request, they said. While Brimmer's ruling was not a victory for environmental groups, they welcomed it, saying that the matter can now move forward in the appeals court.

Conservationists will be encouraging the Obama administration to appeal. An Agriculture Department spokesman did not return calls for comment by deadline.

Saying the Forest Service faces a "Hobbesian choice" over which of the two opposite court rulings to disobey on the roadless area conservation rule, the Bush administration last year asked both Brimmer and California Magistrate Judge Elizabeth Laporte to suspend their injunctions because the service faces contempt of court no matter what it does.

Brimmer threw out the roadless rule in 2003, Laporte reinstated it in 2006, and Brimmer tossed it again last year.

Laporte responded by ruling in December that that the roadless rule applies to 10 Western states for now—New Mexico and the nine states covered by the 9th U.S. Circuit Court of Appeals—while lawsuits continue through the appeals process. But Brimmer this week refused to stay his injunction nationwide or at least outside of Wyoming pending resolution of the legal issues, saying limiting the scope to Wyoming would be "illogical."

"The Rule was enacted and enforced on a nationwide basis," he wrote. "It was not tailored to address the forests of each state as separate entities. It would make little sense, then, to tailor the remedy by limiting the injunction to the State of Wyoming. If the Rule is illegal, as this Court has found it to be, then it is illegal nationwide."

Brimmer also dismissed the conflict of his decision with Laporte's and the assertion that it puts forest rangers on the ground in an untenable position.

"While the Court appreciates the reality of the situation faced by those working for the forest service, it cannot, in good conscience, limit its injunction," he wrote. "The 2001 Roadless Rule is no more or less legal in Wyoming than it is in the Ninth Circuit or New Mexico."

Brimmer also rejected the environmental groups' request that he stay his injunction to avoid potentially irreparable injury such as oil and gas development in roadless areas while appeals are pending. Brimmer said the forests have numerous protections other than the roadless rule.

The groups seem "to assert that as soon as the Roadless Rule is lifted, a free-for-all will ensue resulting in the obliteration of our nation's forests," Brimmer wrote. "This is simply not the case. Conversely, every day the Roadless Rule remains in effect is a day that our forests are at risk."

A decision is expected soon from the 9th Circuit over Laporte's ruling that reinstated the roadless rule.

Last month, the Obama administration announced that it would take a one-year delay on making any long-term decisions on the controversial Clinton-era roadless rule. Instead, the USDA secretary for the next year will have sole power to make decisions on building roads and harvesting timber on nearly all of the areas covered by the 2001 rule. Brimmer's decision will not affect that directive.

#### SMOG CHECKS FOR DUAL SPORT BIKES?

On February 26, 2009 Fran Pavley (D-Agoura Hills) introduced Senate Bill 435 (SB435) which would require all on-road motorcycles model year 2000 and newer to get a biennial smog check. Terry McHale, lobbyist for ORBA and various other OHV groups in the state, met with Senator Pavley to explain how this bill could possibly affect certain dual sport motorcycles. Previous to February 2004 a consumer could convert an off-road motorcycle to a street legal motorcycle by modifying the bike to meet certain on-road standards and filling out the proper paperwork at the local DMV. We are uncertain if these consumer-converted dual sport bikes will pass a smog check because the emission standard for off-road bikes is slightly less stringent than that for on-road bikes.



This bill has passed out of the Senate and into the Assembly on a vote of 22-17. No republicans voted for it and two democrats voted against it. We are being told that the bill will be amended to only require

a visual inspection of on-road motorcycles to verify that the catalytic converter has not been removed. As of this date the amended version of this bill has not been posted on the State's website. We will continue to closely track this piece of legislation and keep you updated with press releases as information becomes available.

#### CALIFORNIA STATE PARK OHV FUNDS AT RISK AGAIN

The State of California is in the midst of a severe budget crisis. Some legislators in the State would like to destroy one of the only programs in the State that is self-funded and does not use any general fund money. In 1971 the Off-Highway Vehicle (OHV) community agreed not to use general fund dollars to operate and maintain their system of recreation areas. Instead, this segment of the recreating public chose a "pay to play" system. The OHV Division of California State Parks is funded exclusively by taxes paid on gasoline used recreating off-highway, OHV registration fees and entrance fees to the State Vehicular Recreation Areas (SVRA's).

The OHV trust fund was already raided earlier this year by the legislature to "lend" the general fund \$90 million that had been set aside for acquiring new properties. Now the OHV community in California is being asked sacrifice even more to the current budget crisis. When will this madness stop? Why undermine one of the only successful and fully self-funded programs in the State? Our representatives are considering stealing the money of hard-working OHV recreating families. The leaders of this state should attempt to emulate the success of the OHV program in order to properly fund other non-OHV State Parks that are in need of operating funds.

ORBA and its partner, AMA District 37, sent out a press release asking people to contact members of the Budget Committee to reconsider taking this money from the OHV community. As a result of this press release, and others like it, the

committee did reconsider and decided not to move OHV money to offset non-OHV park costs. Instead, it has been proposed that there be a \$15 increase in the Motor Vehicle Account (MVA) which, unlike the Vehicle License fee—a personal property tax—is an actual fee. Ultimately, if it is dropped into a trailer bill it will only require a majority vote.

We are hearing it is doubtful that the Republicans in Sacramento will support this new fee. Things are changing quickly and we will continue to fight to protect the money set aside for OHV recreation.

#### RIVERSIDE COUNTY OHV

The County of Riverside has decided *not* to move forward with creating an OHV ordinance to regulate OHV use on private property. You might remember that back in 2004 Riverside County made headlines by proposing an overly restrictive and discriminatory OHV ordinance. Several famous motorcycle racers who own property in the county and use that property for recreational riding joined in the fight to stop the ordinance.

At the time the OHV ordinance was proposed people on both sides of the issue insisted that an Environmental Impact Report (EIR) was necessary before any ordinance could be approved by the County. At this time the county has wisely decided to use the money they were going to spend on the EIR to instead perform the environmental studies required for two of their potential OHV park sites. Not long after the County proposed the OHV ordinance they also formed an OHV Commission whose purpose was to look into potential OHV parks sites within the County. Several potential sites have been identified by the OHV Commission. ORBA applauds Riverside County for their decision to use the funds available for productive purposes instead of following through with adopting an OHV ordinance that singles out one type of activity.

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