

USFS Analysis of ORVs Coming Up

By Charlie Raymond

The USFS is currently involved with a multi-year process of implementing a new rule for managing off-road vehicles (ORVs) on national forests. The end result is supposed to be closure of all areas of national forests to ORVs except for a sustainable system of designated routes and possibly limited open areas. With determined enforcement, this change in policy will be a great improvement over the presently ambiguous situation often interpreted to be that everywhere is open to ORVs unless explicitly closed. The guidelines for the new ORV rule apply nationally, but the actual designation of routes open to ORVs will be based on local public input and decisions by district rangers.

Locally, the Wenatchee National Forest (WNF) held public meetings in June and July, 2006 to request public input by September, 2006. (See the articles in *Alpine*, 2006 Issues 1 and 2.) Recommendations from the FS about what routes/areas to designate as open to ORVs are to be based on an analysis of the present condition of the trail system and the public input. This next and critical step is called "Travel



Looking northward along the divide between Jolly Mountain and S. F. Paris Creek – Hawkins Mountain in the background.

area close by the Alpine Lakes, including south of US-2, west of US 97, and north of I-90. Within this zone, most of the trails now designated as open to motorcycles and areas of general ORV activity lie in the southeastern part, between the Kachess River and Lake on the west and the North Fork of the Teanaway River to the east.

Problems from ORVs in this area are not new to ALPS, and earlier alarms from ALPS motivated the FS to take local actions. These actions included temporary closure to motorcycles in some cases, rerouting or reconstructing trails in places such as Domerie Pk., Sasse Mt. and Jolly Mt., as well as refraining from opening wider areas to motorcycles

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Analysis" by the FS, and is starting now. It is hoped that recommendations will be available to the public for on-the-ground investigation by summer 2007.

ALPS, along with other like-minded organizations, responded to the request for input with general concerns about ORV impacts on resources and recreation opportunities as well as many site-specific problems caused by ORVs. ALPS' specific input focused on the

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CHARLIE RAYMOND

Critical Wild Sky Inholding Purchased

by Rick McGuire

The Wilderness Land Trust (WLT) has succeeded in purchasing the most critical inholding in the proposed Wild Sky Wilderness. The inholding is an old patented mining claim of 113 acres in the hanging valley of Bitter Creek, a tributary of the North Fork Skykomish about five miles northeast of and upstream from Index.

WLT's mission is to secure inholdings in wilderness areas and transfer them to public ownership, thus eliminating the threats that such pieces of private property pose to the integrity of the wilderness areas in which they are located. WLT has been active in protecting wilderness areas in many states, and has extended its activities in the Cascades to include the proposed Wild Sky Wilderness. WLT has previously purchased other important inholdings at Trouble-

some Creek and Trout Creek within the Wild Sky proposal.

WLT's acquisition of the Bitter Creek property is especially significant because of its low elevation and critical location. The Bitter Creek inholding includes an area of relatively flat land with road access, which was at high risk from residential development. That portion of the parcel is located on a flat benchland, very unusual for the Cascades, directly below the spectacular waterfall-draped west wall and cirque of Gunn Peak, and overlooking the impressively forested North Fork Skykomish river valley. It is also next to a series of interesting, south-facing cliff-top "balconies" with views east to the Gunn cirque, the North Fork valley below, and Mount Index and Mount Persis to the south. There is an unusual forest of lodgepole and western white pine growing on the balconies, known to locals as "the

Pine Forest." It is one of the most interesting and attractive places in the entire Wild Sky country. The inholding is a piece of prime real estate, which with its road access could easily have become a wealthy person's private retreat. WLT's acquisition of it is a remarkable coup.

WLT does not plan to hold the property long-term, but plans to sell it to the Forest Service when funds become available, thus allowing WLT to put its resources into acquiring inholdings elsewhere. If the Wild Sky bill is enacted, the Bitter Creek inholding would be a priority acquisition for the Forest Service. ALPS and other conservation groups will be working to secure funding to transfer the land so it can become part of the Wild Sky Wilderness. ALPS wishes to acknowledge the work of WLT and its Washington director Bill Pope in acquiring this very important place. ■

Fish & Wildlife Service Grants More \$ for Connectivity Land Targeted in Snoqualmie Pass Area

In September, the US Fish & Wildlife Service granted the Washington State Department of Transportation \$3.9 million to buy land in the Snoqualmie Pass area. The purchase will provide more habitat connections in order to help mitigate the planned expansion of I-90 from Hyak to the Kachess River.

The money comes from USF&WS's HCP (Habitat Conservation Program) fund. The state and other groups will have to provide a local match. Part of the match would come from the value of the new wildlife crossings the Washington DOT plans to build for this project.

The Cascade Conservation Partnership also committed \$50,000 to the match.

Negotiations with the prospective landowners are expected to be very sensitive, so the target parcels are not being identified at this time.

Another \$2.5 million was awarded to acquire lands around Swamp Lake, just north of the Lake Kachess interchange. The Trust for Public Land is involved in those transactions.

Congress will not approve the FY07 Interior Appropriations bill until after the elections. Two areas of interest to ALPS members are up

for grabs, with competing proposals in the two chambers. The Senate has \$978,000 for Stampede Pass and the House has \$1.5 million for the Carbon River. Conservationists are urging the Conference Committee to include both in the final bill.

With its big turnover, there is hope that the next Congress will be more willing to fund critically needed acquisitions. Washington's own Norm Dicks will chair the Appropriations Subcommittee for Interior & Related Agencies, which will be the first to vote on these funds. ■

Court of Appeals Deals ALPS a Setback on Forest Practices Causing Adverse Cumulative Impacts

By Mike Pierson

On October 10, 2006, the Washington Court of Appeals for Division Two dealt ALPS and other advocates for responsible forestry a setback. In *Alpine Lakes v. Forest Practices Board*, No. 33676-6, the Court of Appeals affirmed the Washington State Forest Practices Board's denial of ALPS' petition for a rule that would ensure review of forest practices such as road-building and logging that have potentially significant cumulative impacts on the environment. Specifically, the court held that neither the 1974 Forest Practices Act nor the State Environmental Policy Act (SEPA) obligated the Forest Practices Board to add a so-called "catch-all" provision to its list of forest practices requiring SEPA review. Instead, the Court of Appeals ruled that the Forest Practices Board has the sole discretion to determine whether forest practices require review under SEPA. The Court of Appeals also rejected a linked ALPS appeal of a Department of Ecology rulemaking amendment that had the effect of preventing SEPA review of certain related forest practices proposals.

ALPS was joined as petitioner by Friends of the Loomis Forest, Kettle Range Conservation Group, The Mountaineers, Northwest Ecosystem Alliance, Peninsula Neighborhood Association, Seattle Audubon Society, Washington Environmental Council, Washington Wilderness Coalition, and Whidbey Environmental Action Network.

ALPS and the other petitioners are represented by Peter Goldman and Paul Kampmeier of the Washington Forest Law Center. ALPS' attorneys have filed a motion for re-

consideration of the Forest Practices Board appeal, and the court has directed the State to file a response. If ALPS' motion for reconsideration is denied, ALPS and the other petitioners can request review by the Washington Supreme Court.

The new Court of Appeals decision has serious consequences for legal and policy advocacy before the Forest Practices Board and Washington's Department of Natural Resources, and for efforts to protect against the adverse cumulative environmental impacts of multiple, related forest practices. The ruling also makes more difficult advocacy that seeks the adoption of rules requiring upland wildlife landscape planning and watershed analysis.

Under the 1974 Forest Practices Act and SEPA, SEPA review is triggered only for a very limited list of forest practices that the Forest Practices Board deems to have the requisite potential for substantial environmental impacts. The existing, limited list consists only of specific types of forest practices, such as those occurring on steep slopes, in wetlands, or within a specific distance of a federally-listed species, but does not require DNR to look beyond the four corners of a specific forest practices application to determine whether the application, together with past, present, or future related forest practices, has the potential for an adverse cumulative impact on the environment.

Over the years, ALPS and other environmental groups have sought in various ways to protect sensitive natural areas against adverse cumulative effects. There have been some successes, as in the 1990's when ALPS obtained a victory in preventing logging-re-

lated road-building in the pristine Scatter Creek area. For a time, an administrative rule promulgated by the Department of Ecology aided efforts to force review of the environmental impacts of separate but related activities. Unfortunately, the Department of Ecology amended its rules under pressure. In the recently decided case, the Court of Appeals also rejected an ALPS challenge related to the withdrawal of the former rule. ALPS and other conservation groups have continued to have to deal with inadequate protections against cumulative impacts resulting from forest practices.

Accordingly, in January 2003 the Washington Forest Law Center filed an extensive Petition for Rule-making before the Forest Practices Board on behalf of ALPS and its fellow conservation groups. Supported by extensive legal briefing, scientific declarations, and on-the-ground examples of multiple, related, environmentally-destructive forest practices, the groups argued that the board had a legal duty to adopt a cumulative effects trigger of some sort and that the board's existing forest practice rules improperly failed to provide for SEPA review of separate but related forest practices having potential cumulative environmental impacts. The board denied the petition. ALPS appealed to the Thurston County Superior Court, which affirmed the Forest Practices Board's decision. That decision, along with the superior court's rejection of ALPS' appeal of the Department of Ecology's rulemaking amendment, resulted in the appeal just decided by the Court of Appeals.

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Roadless Areas and the Courts ... Stay Tuned



ART DAY

Critters really live here.

by Don Parks

Wilderness advocates owe a tip of the hat to top Forest Service officials who, in the early 1970s, put in place RARE: the Roadless Area Review and Evaluation. That massive inventory effort began the process of inventorying and evaluating some 1,600 roadless areas on the national forests. Nothing in the Wilderness Act or any other law mandated this program; it was an agency initiative under their general authority.

Of course, they did not call this program, which was completed in 1973, "RARE-I"—they had no idea they'd be doing a second attempt. That came in 1977, as an initiative of the agency and the Carter administration to deal with the accelerating citizen challenges to the errors in the RARE-I inventory and in how the agency handled the roadless areas they intended to make available for logging and other development. RARE-II was an even more massive inventorying effort, but ultimately, a judge in California ruled that the evaluation of each roadless area through the RARE-II computerized

procedures did not measure up as adequate site-specific review under NEPA. The decision was strongly affirmed by the 9th Circuit Court of Appeals.

During the 1980s, Congress enacted—and President Ronald Reagan signed—statewide wilderness designation laws for 31 states, including the Washington Wilderness Act of 1984. Considerable roadless land became statutory wilderness through these laws, but other land was "released" for potential development.

In the 1990 forest plan Final EIS's that dealt with the Alpine Lakes Region, the Wenatchee National Forest updated its roadless area inventory. However, the Mt Baker Snoqualmie National Forest ignored the roadless issue and documented the existence of no roadless areas in the west side of the Region. The stage was then set for the Roadless Area Conservation Rule adopted by the Clinton administration in the final days of his term. This action gave strong protection to all of the 58 million acres of roadless areas inventoried in RARE-II.

"Strong" protection, but not statutory protection of the kind afforded by congressional designation under the 1964 Wilderness Act. Our wilderness movement learned long ago, through bitter experience, that protection based solely on administrative action is inherently inadequate: too readily changed whenever the agency, or a new and unsympathetic administration, comes along.

The Clinton roadless rule came under immediate attack from the Bush administration. When the first lawsuit challenging Bush's suspension of the rule came up

for a hearing in the 9th Circuit, in Seattle, no one from the Executive Branch was even in the courtroom to take notes, let alone to defend the legality of the rule that the Bush administration was determined to reverse. Citizen groups won that suit, but opponents of the rule soon won a case against the rule in Wyoming. Into this judicial stalemate, the Bush administration adopted its own new rule, offering governors the opportunity to petition the Federal government with their own State plans for the future of each roadless area—on Federal land. They were not pleased when many governors, of both parties (including Governor Gregoire) petitioned for protection of all the roadless lands in their states.

Most recently, a federal judge in California has ruled that the Bush rule is illegal, due to fundamental conflicts with the Endangered Species Act. At the time of this writing, the Forest Service and the political appointees currently in charge are scrambling to sort out the situation—but continuing to receive State petitions under its general authorities. As the judicial situation for roadless areas gets even more complex, three conclusions are inescapable:

- First, the fate of national forest roadless areas is destined to be a football, tossed back and forth in both the Judicial and Executive Branches. This may well be a never-ending contest.

- Second, most roadless lands are relatively safe, simply because there is no real threat of development. After all, these roadless areas remain roadless in the 21st century less because of Federal programs or rules, than for lack of serious resource conflicts.

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Roadless Areas and the Courts ... Stay Tuned

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• Third, whatever the fate of the Roadless Rule (any roadless rule), roadless areas themselves have become a political fact-of-life. As the Forest Service begins revision of forest plans in Washington State, they are required – by unambiguous statutory law – to reconsider the option of recommending wilderness designation for these lands. That requirement lies in the “release language” in those 1980s statewide wilderness laws, including the one for Washington.

And here is some good news: the Forest Service has been taking seriously this legal obligation to consider recommending Wilderness Act protection for each roadless area. In decisions already finalized for many national forests, the Bush administration has recommended almost three million acres of new wilderness protection for roadless areas. While local citizen groups have disagreements about the boundaries of many of these recommended new wilderness areas—and the failure to recommend others—the fact that this administration is choosing to approve wilderness recommendations is something to cheer. And something to work for, as we seek to lift key roadless lands out of the never-ending judicial and Executive Branch debates, instead getting them securely protected as wilderness—the “gold standard” of Federal land protection. This opportunity sits squarely in front of us with the Wenatchee-Okanogan National Forest forest plan update that is now in work. The new political backdrop as a result of the election of 2006 may also provide further opportunities for permanent protection for roadless lands. Stay tuned!

ALPINE

USFS Analysis of ORVs Coming Up



CHARLIE RAYMOND

Pending trouble on the Boulder – De Roux Trail.

Continued from page 1

in the eastern part of the Teanaway drainage. This summer we pulled together such earlier information with new observations from hikes on most of the trails to provide a snapshot of the present conditions on trails and outline implications for the FS “Travel Analysis”. In addition to the above, we highlighted a number of serious problems on the Boulder-De Roux, Jolly Creek, Johnson Medra, and Corral Creek Trails. The FS is well aware of most of the big trouble spots. It has started rerouting and reconstructing in some of these places and has proposals for work on others with funds from the Washington State Nonhighway and Off-Road Vehicles Activities grants program. More importantly, we identified many other segments of trails that are already emerging as problems or are susceptible to disturbance. These places are bound to degrade with even modest increases in ORV use. Thus, we are concerned that the present FS pattern of responding to local problems with trail en-

gineering solutions will ultimately spread the damage resulting in yet larger problems. Cross-country riding near trailheads in the backcountry, as well as incursions of motorcycles onto many trails closed to ORVs, brings up the inescapable question of how the new ORV Rule will be effectively enforced after it goes into effect. We will be discussing these and a multitude of other issues with the WNF and especially the Cle Elum Ranger District as they proceed with their travel analysis.

In addition to finding some satisfaction in the possibility of helping the FS head in a good direction with their ORV analysis, we had great fun reintroducing ourselves to the expansive views from the long, high ridges and the intimate river pools in the Teanaway. Even though many trails are open to motorcycles, most of this extraordinary landscape retains a wilderness character, and the trails (and trailheads) are often much less busy than in the nearby Alpine Lakes Wilderness.

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Fire Strikes in the Upper Cle Elum Valley



The Polallie Fire making its way up Davis Peak

By Art Day and John Villa

Before dawn on Labor Day of this year, dry lightning that followed a dry summer ignited fires in the mountains west and north of Salmon la Sac. Helicopter patrols quickly spotted several outbreaks, and incident teams were formed to monitor and/or control them.

Two fires in the Alpine Lakes Wilderness, near lakes Terence and Michael, were of little concern due to the rocky terrain and consumed only a few trees before burning themselves out. Red Mountain, outside the wilderness, experienced a fire of a few acres that was fought immediately and controlled within a few days. The most significant fire by far was one that started on the eastern crest of Polallie Ridge and moved rapidly east from there.

With continued warm, dry weather the Polallie Fire quickly grew to several hundred acres and

jumped the Waptus River before climbing toward the southern ridge of Davis Peak. Insect infestations had also killed or weakened many trees in the path of the fire. While most of the fire was within wilderness, the high risk of spread to adjacent forest, campgrounds, and recreation homes led to a fairly aggressive fire-fighting response.

The team assigned to support this activity was based at the old mill site north of Ronald, and grew from a few dozen to several hundred persons over the next two weeks. ALPS Vice President John Villa was on hand for some of the incident team briefings as an observer, and provided regular e-mail reports to the ALPS board. Additional helicopters were brought in, including a Chinook from the National Guard, to dump water on Davis Peak. Fire lines were cut and protective measures taken for structures near Salmon la Sac and

Paris Creek. The climax of the fire-fighting activity may have been the blasting of a fire line just west of the Davis Peak trail. Initial reports are that it was made to appear fairly natural from a distance (not a line straight down the hill), but more close-up reporting will have to wait until next year, as the trail was closed to hikers and is now snowed in.

The total area of the fire exceeded 900 acres, small by comparison with Washington's big fires of 2006. Still, it appears to have been the largest fire in the Cle Elum valley in fifty years or more. The Wenatchee Forest Plan document lists three large fires on the Cle Elum Ranger District from 1960 – 1985, two of which were caused by logging equipment and one by lightning. Since then, the increase in recreational activity, ORV use, and insect damage are likely going to take the district into a time of increased fire susceptibility. At the same time, the increased amount of development will become a significant factor in how many of these fires are managed. ■



A meeting at a Roslyn park updates the public.

Court of Appeals Deals ALPS a Setback

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In rejecting ALPS' appeal, the Court held that:

- (1) The board has the sole power to determine which forest practices should receive SEPA review;
- (2) The board has the authority, but not the legal duty, to adopt some type of SEPA "catch-all" trigger for cumulative effects;
- (3) The board is required to balance factors like environmental impacts against maintaining a "viable" timber industry when it decides whether to require SEPA review, and in striking this balance must require SEPA review of those forest practices with the potential for a substantial impact on the environment; and,
- (4) The board had struck the required balance in adopting its limited, "closed" list and not including a cumulative impacts rule, and did not act "arbitrarily or capriciously" when it denied ALPS' 2003 petition.

Discussing the Court of Appeals' decision, Washington Forest Practices Law Center Director Peter Goldman commented that "ALPS should be commended for recognizing the significance of the cumulative effects issue and that the central Cascades have repeatedly been the victims of the lack of a cumulative effects rule." Peter noted that ALPS has been a leader in seeking to obtain legal recognition of the reality of how the natural landscape is actually affected by forest practices.

ALPS thanks Peter Goldman and Paul Kampmeier for their contributions to this article and for all their legal work on this matter. ■

Iron Goat Interpretive Site Third and Final Trailhead Opened for Iron Goat Trail

By Jim Chapman

A formal dedication ceremony on October 14 celebrated the opening of the third, and final, trailhead for the Iron Goat Trail. Located at Scenic where the Old Cascade Highway rejoins US 2, it is the only one to provide access to the trail directly from the highway. The others – Martin Creek, opened in 1993, and Wellington, opened in 2000 – require at least a three-mile drive off US 2.

Formally called the Iron Goat Interpretive Site, it features a 1950's era caboose with the colors of the Great Northern Railway, four kiosk panels, and four restrooms. There is plenty of parking. Dignitaries at the dedication included Washington DOT Secretary Doug MacDonald, State Senator Linda Evans Parlette, and King County Councilwoman Kathy Lambert.

The dedication also opened up more than a mile of new trail to the public. People can now walk almost nine miles one-way from Scenic to the long-abandoned railway tunnel at Wellington.

Built almost entirely by members of Volunteers for Outdoor Washington (VOW), the Iron Goat Trail follows practically all the Great Northern Railroad's original route that was abandoned in 1929 with the opening of the current eight-mile tunnel beneath the pass. Coming east from Everett, the tracks reversed direction at Scenic and headed back west to gain elevation. Just past Martin Creek, they entered a long horseshoe tunnel and came back out heading east. Curving around Windy Point just

above Scenic, they went on to Wellington. The horseshoe tunnel area is the only place where the Iron Goat Trail doesn't go. The stretch of trail from Scenic to Martin Creek is called the "lower grade"; from Martin Creek to Windy Point, it's the "upper grade" and, from Windy Point on, it's the "Wellington segment." Only the upper grade is not wheelchair accessible.

A 500-foot long asphalt trail connects the interpretive site to the Iron Goat Trail. Volunteers are about halfway done building one more trail – a "crossover" trail that will climb almost 800 feet from this "connector" trail to Windy Point and the upper grade. In many ways, it is the most challenging of all, switchbacking up a steep mountainside littered with cliffs, avalanche debris, and huge boulders that have to be moved with rock bars and oftentimes broken up. Rocks rolling down the hill across the trail below are always a hazard. This trail should be completed in late 2007.

There is one more trail on the horizon. It would drop down to Martin Creek from the parking lot, following the concrete blocks that supported the two long-gone trestles across the creek and into the horseshoe tunnel. Plans are for it to ultimately connect to the Kelly Creek trail upstream. The Forest Service and VOW have applied for funding from the state Inter-agency Committee for Outdoor Recreation (IAC). Assuming the money comes through, construction would begin in 2008. ■



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NATALIE WILLIAMS

Just the top of a familiar peak – recognize it?

Trustees Election Ballot

It's time for another ALPS Trustees election. This one will be for the 2006-2009 term. Three of the four candidates – Bill Beyers, Jim Chapman and Kevin Geraghty – are running for re-election. The fourth, Charlie Raymond, was appointed to fill a vacancy.

We still have some vacancies on the board, so are providing space for you to suggest someone for us to appoint. If you are interested yourself or would like to attend one of our meetings, contact President Don Parks at 425-883-0646 or dlparks@verizon.net.

BILL BEYERS, Seattle, Professor of Geography at University of Washington. ALPS Trustee/Officer from ca. 1972-1983, ALPS President 1974-76. Bill was quite active in the campaign to pass the legislation enacted by Congress in 1976 that established the Alpine Lakes Wilderness and Management Unit. He left the ALPS Board in the early 1980s, feeling that membership on it should rotate. Recently, he helped do a fiscal impact analysis that was a critical part of getting the Kittitas County Commissioner's support for The Cascades Checkerboard Partnership's project. Bill also led the team that brought the third edition of the Alpine Lakes map to production, with the goal of having this product bring a revenue stream to ALPS, and to stimulate new memberships.

JIM CHAPMAN, Edmonds, retired engineer, ALPS Trustee/officer since 1973. President, 1978-80 and 1989-92. Current Secretary. Jim worked on several land exchanges, including two with Longview Fibre and the I-90 exchange with Plum Creek. He lobbied Congress for money to buy parcels on Icicle Ridge, along the Icicle River, and in the Silver Creek watershed. Jim was also ALPS' representative to The Cascades Conservation Partnership.

KEVIN GERAGHTY, Seattle, replaced the late Henry Steinhardt in 2002. Kevin has been developing a new website for ALPS. He has a wealth of knowledge of Westside forest issues and conditions, and has taken the lead for ALPS on emerging problems including logging and roading plans for Lowe Creek, Natapoc Mountain, and the Roaring Thin timber sale.

CHARLIE RAYMOND, Seattle, Professor Emeritus of Geophysics at the University of Washington, studying snow, ice and climate change. Charlie is a long-time member of ALPS. He joined the ALPS board about two years ago to become more active in local environmental advocacy. His main interest is in preserving wilderness and protecting surrounding areas. Charlie's present emphasis is on ORV and snowmobile issues, especially in the Cle Elum Ranger District. He and his wife own a small cabin in the upper Cle Elum valley, where they enjoy hiking and cross-country skiing.

Please mark the ballot below for four trustees, fold it and tape it closed. Mail to the address on the backside of this sheet.

- Bill Beyers
- Jim Chapman
- Kevin Geraghty
- Charlie Raymond
- _____

(Suggested New Trustee)

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