

ARTICLE

# Regulating Off-Road: The California Desert and Collaborative Environmentalism

Keith Makoto Woodhouse

*Historians often understand the 1970s and 1980s in terms of a declining New Deal order, in which an antistatist right as well as a conflicted relationship between public interest movements and administrative authorities undermined the notion of an effective federal government. Nowhere was the erosion of federal administration seemingly more apparent than in the West. An examination of the regulation of off-road racing in the California desert, focusing on everyday administration rather than on elections and lawsuits, reveals how federal agencies actually worked more collaboratively and productively with different interest groups than familiar narratives about these polarized decades would suggest. Contrary to depictions of federal agencies as administering from afar, and of environmental organizations as overly litigious and out of touch, regulatory work in the California desert happened locally and through relationships shaped by new laws such as the National Environmental Policy Act.*

On Thanksgiving weekend in 1980, a crush of motorbikes roared across the Mojave Desert, tracing a route from the heart of California's Inland Empire to Nevada's southern tip. The off-road vehicles (ORVs) were in the early stages of the sixth annual "unorganized trail ride" from Barstow to Las Vegas, an event led by a mysterious figure known as the "Phantom Duck of the Desert." The unsanctioned trail ride first took place in 1975 when the Bureau of Land Management (BLM), the federal agency that oversaw much of the Mojave, stopped granting a permit for the official Barstow-to-Vegas Race. Southern California ORV riders called Barstow-to-Vegas "the biggest and *best* motorcycle race in the *world*," and environmentalists called it a "test case" for how the BLM—in many ways the runt of the litter among federal land agencies—might distinguish itself through careful administration of one of its largest holdings.<sup>1</sup> The route from Barstow to Las Vegas bisected the 25-million-acre California Desert Conservation Area (CDCA), for which the BLM was completing a management plan when the Phantom Duck rode again.

During the 1980 ride, clouds of dust kicked up by several hundred ORVs engulfed fringe-toed lizards, mesquite trees, alluvial fans, and a handful of people acting as monitors scattered along several dozen miles of the course. The observers included BLM rangers as well as environmentalists from the Sierra Club and the High Desert Environmental Defense Fund. For six

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<sup>1</sup>San Gabriel Valley Motorcycle Club race announcement and directions, undated, folder 13, carton 5, Sierra Club Northern California/Nevada Regional Conservation Committee Records, BANC MSS 2005/296, The Bancroft Library, University of California, Berkeley, CA [hereafter SCNCNRCC].

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years, the BLM had refused to authorize the event while also failing to prevent it. Instead, BLM rangers surveyed the unpermitted race and recorded its effects, working with environmentalists who walked the route and even flew overhead, snapping photographs from a small airplane. Together, environmentalists and rangers gathered and analyzed information about environmental impact. Working alongside each other with reservations but with a common purpose, the monitors demonstrated a quiet but ongoing association between federal agencies and private citizens at a time when such cooperative relationships seemed endangered, especially in the contentious West.

The 1980 trail ride coincided with key developments in modern U.S. political history. ORV riders crossed the Mojave just weeks after voters elected Ronald Reagan president and amid the “sagebrush rebellion,” an attempt by Western legislators to seize federal lands and transfer them to state governments. In the West, policy makers and resource users had grown frustrated with federal land agencies’ multiple-use mandate and the attendant environmental regulations. The politics of public lands and of the Republican Party appeared to have aligned; as a presidential candidate, Reagan proclaimed his support for the sagebrush rebellion, and after Reagan’s victory Nevada assemblyman and sagebrush rebellion leader Dean Rhoads assured his backers, “Because of the November election, it’s a whole new ball game.”<sup>2</sup> Historians of the West have long understood the election and the rebellion as a moment when Western antagonism toward environmental regulation fed a growing conservative movement, pitting environmentalists against a hostile administration in Washington, DC, and at the same time galvanizing attacks on the regulatory state.<sup>3</sup>

Recently, environmental historians have questioned the significance of Reagan’s election. They have argued instead that the weakening of environmental regulation and the decline of the New Deal order began years earlier, as environmentalists grew frustrated with the hamstrung and compromised agencies responsible for protecting natural resources. This account of environmental regulation has mainly focused on legal battles between environmental groups and federal bureaucrats, battles featuring administrative agencies that overlooked serious abuses and courts that offered immediate remedies.<sup>4</sup> The story of frustrated environmentalists using the courts to spur regulatory efforts is an important part of a larger narrative about political reform in the late twentieth century, in which Congress offered a means for policing an increasingly unaccountable slew of triple-initialed administrative agencies. The legislature provided

<sup>2</sup>“Sagebrush Rebels’ Are Reveling in Reagan,” *New York Times*, Nov. 24, 1980, D9.

<sup>3</sup>On the sagebrush rebellion, see Michael J. Makley, *Open Spaces, Open Rebellions: The War Over America’s Public Lands* (Amherst, MA, 2017); Karen Merrill, *Public Lands and Political Meaning: Ranchers, the Government, and the Property Between Them* (Berkeley, CA, 2002); R. McGreggor Cawley, *Federal Land, Western Anger: The Sagebrush Rebellion and Environmental Politics* (Lawrence, KS, 1993); and William Graf, *Wilderness Preservation and the Sagebrush Rebellions* (Savage, MD, 1990). The Reagan-centered narrative was perhaps most influentially outlined in Samuel Hays, *Beauty, Health, and Permanence: Environmental Politics in the United States, 1955–1985* (Cambridge, UK, 1987). Arthur McEvoy is less focused on Reagan, but considers 1970s environmental law the apotheosis of the New Deal and the 1980s a period of steep decline. See Arthur McEvoy, “Environmental Law and the Collapse of New Deal Constitutionalism,” *Akron Law Review* 46, no. 4 (2013): 881–908. Similarly, James Morton Turner has argued that environmental partisanship preceded Reagan but that the politics of public lands in the early 1980s were nonetheless a pivotal moment in “the decline of liberalism and the rise of modern conservatism.” See James Morton Turner, “The Specter of Environmentalism’: Wilderness, Environmental Politics, and the Evolution of the New Right,” *Journal of American History* 96, no. 1 (Jun. 2009): 123–48, here 147.

<sup>4</sup>For instance, see Paul Sabin, “Environmental Law and the End of the New Deal Order,” *Law and History Review* 33, no. 4, (Nov. 2015): 965–1003; Jefferson Decker, *The Other Rights Revolution: Conservative Lawyers and the Remaking of American Government* (New York, 2016); Robert Lifset, *Power on the Hudson: Storm King Mountain and the Emergence of Modern American Environmentalism* (Pittsburgh, 2014); and Paul Charles Milazzo, *Unlikely Environmentalists: Congress and Clean Water, 1945–1972* (Lawrence, KS, 2006), 112–60. See also Joanna Grisinger, *The Unwieldy American State: Administrative Politics Since the New Deal* (New York, 2012), 255–8.

tools that allowed public interest groups to use the judiciary to police executive agencies, from the Federal Trade Commission to the Forest Service, when those agencies fell short of their regulatory responsibilities. In the 1960s and 1970s, both Congress and the public grew more skeptical of agency expertise and wary of “regulatory capture”—undue influence by particular industries over their own regulators—and remade the regulatory system, partially outsourcing regulatory responsibility and setting up a quasi-adversarial relationship between public interest groups and distant federal bureaucrats.<sup>5</sup>

Both of these interpretations describe the 1970s and 1980s as the downslope of a rise-and-fall narrative about the New Deal order by pointing to crucial shifts in political dynamics. However, by focusing on critical elections, influential lawsuits, or impassioned rhetoric, they tend to overlook the less fervent conversations and more collaborative efforts taking place outside of courtrooms and legislative chambers—conversations in which particular interests often mattered more than did broad ideological commitments. Those conversations sounded less like the last gasps of a fragmenting system than an ongoing negotiation over distinct concerns and wide-ranging rules.<sup>6</sup>

Shifting focus away from formal legal battles offers a fresh view of the processes and the parties that made up environmental conflicts. Some of the very laws that both antagonized Western resource users and facilitated citizen lawsuits against federal agencies also encouraged collaboration, none more so than the National Environmental Policy Act (NEPA).<sup>7</sup> Although NEPA is best known for the many key lawsuits it generated through its mandatory environmental assessments, litigation was never the only or even the primary means of reforming administrative policy. Nor was Washington, DC always the locus of federal administration. In court, laws like NEPA fostered an oppositional stance between federal agencies and private parties; in day-to-day management, those same laws could rely on collaborative if cautious relationships between bureaucrats and the people they served. Contrary to simplistic and quasi-libertarian characterizations of the national government as always centralized and far removed, agency staff interacted with the same constituents month after month and year after year,

<sup>5</sup>Historians have called this scheme “the new social regulation.” See Richard Harris and Sidney Milkis, *The Politics of Regulatory Change: A Tale of Two Agencies*, 2nd ed. (New York, 1996). On the erosion of public trust in administrative expertise, see Brian Balogh, *Chain Reaction: Expert Debate and Public Participation in American Commercial Nuclear Power, 1945–1975* (New York, 1991).

<sup>6</sup>For recent scholarship that has deemphasized the rise and fall of the New Deal order, see Brent Cebul, Lily Geismer, and Mason B. Williams, eds., *Shaped by the State: Toward a New Political History of the Twentieth Century* (Chicago, 2019); Matthew Lassiter, “Political History Beyond the Red–Blue Divide,” *Journal of American History* 98, no. 3 (Dec. 2011): 760–4; and Brian Balogh, *The Associational State: American Governance in the Twentieth Century* (Philadelphia, 2015). Balogh describes an active national government, both before and after the New Deal, as “hidden in plain sight” (30). For a look at collaborative efforts between federal agencies and private citizens, hidden in plain sight behind apparent Western antistatistism, see Peter Walker, *Sagebrush Collaboration: How Harney County Defeated the Takeover of the Malheur Wildlife Refuge* (Corvallis, OR, 2018). The legal scholar Karen Tani has questioned the idea of a New Deal order replaced by a neoliberal one in writing about cooperative efforts between the Department of Health, Education, and Welfare and disability rights activists in implementing the Rehabilitation Act of 1973. See Tani, “Training the Citizen-Enforcers of Disability Rights, 1978–1982,” unpublished draft chapter presented at the American Bar Foundation Legal History Roundtable, May 10, 2019, on file with author.

<sup>7</sup>For works that examine the new regulatory regime primarily in terms of lawyers and lawsuits, see Decker, *The Other Rights Revolution*; Sabin, “Environmental Law and the End of the New Deal Order”; Sean Farhang, *The Litigation State: Public Regulation and Private Lawsuits in the U.S.* (Princeton, NJ, 2010); and Steven Teles, *The Rise of the Conservative Legal Movement: The Battle for Control of the Law* (Princeton, NJ, 2008), 22–57. On NEPA, see Matthew Lindstrom and Zachary Smith, *The National Environmental Policy Act: Judicial Misconstruction, Legislative Indifference, and Executive Neglect* (College Station, TX, 2001); Serge Taylor, *Making Bureaucracies Think: The Environmental Impact Statement Strategy of Administrative Reform* (Stanford, CA, 1984); and Joshua Ross Ashenmiller, “The National Environmental Policy Act in the Green Decade, 1969–1981” (Ph.D. diss., University of California–Santa Barbara, 2004).

fostering relationships between active citizens and a federal government much closer to home. Similarly, environmental organizations worked on the ground even as they lobbied in the nation's capital, despite what scholars and Western resource users alike have often judged to be overreach and a lack of consideration for local issues.<sup>8</sup>

The contested management of the California Desert Conservation Area in the 1970s offers a key example of environmental regulation at close quarters. Critics saw the BLM, which managed much of the California desert, as a classic “captured” agency. But recreational trends in Southern California and two key laws—NEPA and the Federal Land Policy and Management Act (FLPMA)—shaped an environmentalism that relied less on lawyers than on persistent and often informal negotiation. Regulating desert use and developing a CDCA management plan was local work that depended on intimate knowledge of the desert and its visitors—a geography of regulation that emerged from environmental assessment and from interactions between federal managers, environmentalists, and ORV advocates.

In the CDCA, collaborative work helped minimize the effects of thousands of ORVs streaking across millions of desert acres. Environmental impact assessment regularly brought antagonists together in delicate partnership, with BLM managers and environmentalists working as unlikely colleagues. By the early 1980s even environmentalists and motorcyclists came together to ensure that one popular race's route would avoid desert tortoise habitat. Lawsuits were filed and conflicts arose, none more contentious than when the BLM canceled the annual Barstow-to-Vegas Race and the Phantom Duck rode in defiance. Desert management, however, evolved less through court orders than through an ongoing debate structured by NEPA and FLPMA. On the ground, the ties between private citizens and national government, so often seen as frayed by the decline of the New Deal order, had in fact become more imbricated. In the California desert, long-term work performed by federal managers and local users, all of whom knew each other, gradually fit regulatory practices to a vast and rugged landscape.

### Environmentalism, the Administrative State, and the Geography of Recreation

The modern environmental movement came of age in the late 1960s, at the same moment that Americans sought greater participation in the process of enforcing federal rules and regulations. The broad public had grown more concerned about protecting civil rights, consumer safety, and environmental amenities, and less convinced that administrative agencies alone could handle these tasks.<sup>9</sup> Lawmakers either shared or acceded to constituents' doubts about the federal bureaucracy and passed laws that encouraged public oversight of government agencies through private lawsuits. Negligent federal regulators found themselves increasingly likely to be sued by organized groups of watchful citizens.

Environmentalists were among the most organized and watchful. Soon after the first Earth Day in April 1970, environmental organizations concentrated on a strategy of lobbying and litigation, using Congress and the courts to advance an agenda for environmental protection. A raft of new regulations and an efflorescence in the field of environmental law furthered

<sup>8</sup>On persistent concerns about federal overreach in the West, see Walker, *Sagebrush Collaboration*; Makley, *Open Spaces, Open Rebellions*; and James Pogue, *Chosen Country: A Rebellion in the West* (New York, 2018). On the characterization of mainstream environmentalists as sometimes out of touch and concerned primarily with a remote nature—characterizations that themselves assume a particular geographical orientation—see, for instance, William Cronon, ed., *Uncommon Ground: Rethinking the Human Place in Nature* (New York, 1995); Christopher Sellers, *Crabgrass Crucible: Suburban Nature and the Rise of Environmentalism in Twentieth-Century America* (Chapel Hill, NC, 2012); and Emma Marris, *Rambunctious Garden: Saving Nature in a Post-Wild World* (New York, 2011).

<sup>9</sup>On consumer safety, see Michael Pertschuk, *Revolt Against Regulation: The Rise and Pause of the Consumer Movement* (Berkeley, CA, 1982); on civil rights, see Farhang, *The Litigation State*.

this strategy,<sup>10</sup> as did a reinterpretation of the “doctrine of standing” and the right to sue over environmental harms. Two key legal decisions, concerning development projects in California and New York, laid a legal foundation for a more liberal definition of standing that would grant environmental groups greater access to the courts.<sup>11</sup>

Environmental organizations grew adept at wielding their new legal weapons, especially against public agencies. With environmental lawyers looking over their shoulders, administrators at offices from the Environmental Protection Agency to the Atomic Energy Commission were more careful to enforce federal regulations.<sup>12</sup> Activists subjected the U.S. Forest Service to special scrutiny. The Forest Service followed a multiple-use mandate requiring that it balance the competing interests of industry, agriculture, recreation, and conservation, but environmentalists complained that the agency privileged the first two. Legal battles over wilderness designation in national forests in the wake of the Wilderness Act of 1964 triggered lawsuits based on NEPA violations and initiated decades of legal actions against the agency.<sup>13</sup> Seemingly isolated fights like the spotted owl controversy of the 1980s were nationally visible skirmishes in a long-running contest over Forest Service policy and autonomy. As the judicial and legislative branches began to challenge agency independence after the 1960s, Karen Orren and Stephen Skowronek write, the Forest Service “bore the most sustained assault from the courts and Congress” of all federal land agencies, an assault coordinated by legislators and jurists and waged by environmentalists.<sup>14</sup>

National forests, flush with scenic vistas and familiar recreational opportunities, assumed prominence of place in legal battles over federal land management. Level, arid, and vacant public lands attracted less ongoing attention from environmentalists. By the 1970s, though, recreation had come to the desert. More people using desert lands with greater frequency produced more immediate and more persistent clashes, and soon managing a sparse, dry landscape was no less fraught than managing a lush mountainside. BLM administrators in desert districts were unused to combining large-scale planning with ground-level administration, and they worked in an agency with decades less management experience than the Forest Service. While influential court battles over national forests emphasized the adversarial and juridical nature of environmental regulation, desert management featured a more haphazard and collaborative approach.

Desert recreation started with cities, even when cities were nowhere in sight. Historians have tended to follow roads and suburban subdivisions in order to track the winnowing of open space by a consumption-fueled midcentury American society; lawns and asphalt signified the broad extent to which the postwar economic and population booms pushed mostly middle-class Americans, in great numbers, into what had been sparsely populated landscapes. But metropolitan influence reached far beyond what standard maps suggested. As Andrew Needham

<sup>10</sup>On Earth Day, see Adam Rome, *The Genius of Earth Day: How a 1970 Teach-In Unexpectedly Made the First Green Generation* (New York, 2014). New regulation included NEPA, the Clean Air Act of 1970, the Endangered Species Act, and the creation of the Environmental Protection Agency. On environmental law, see Christopher Bosso, *Environment, Inc.: From Grassroots to Beltway* (Lawrence, KS, 2005), 39–40; and Sabin, “Environmental Law and the End of the New Deal Order.” See also Don Harris, “Conservation and the Courts,” *Sierra Club Bulletin* (Sept. 1969): 8–9, 21.

<sup>11</sup>On the ruling concerning Mineral King Valley in the southern Sierras, see Michael Cohen, *The History of the Sierra Club: 1892–1970* (San Francisco, 1988), 339–45; on the ruling concerning Storm King Mountain on the Hudson River, see Lifset, *Power on the Hudson*. See also Christopher Stone, *Should Trees Have Standing? Toward Legal Rights for Natural Objects* (Los Altos, CA, 1974).

<sup>12</sup>Harris and Milkis, *The Politics of Regulatory Change*, 238–46.

<sup>13</sup>On the Forest Service’s wilderness policies, see Dennis Roth, *The Wilderness Movement and the National Forests* (College Station, TX, 1988); and James Morton Turner, *The Promise of Wilderness: American Environmental Politics Since 1964* (Seattle, 2012), 183–224.

<sup>14</sup>Karen Orren and Stephen Skowronek, *The Search for American Political Development* (New York, 2004), 167.

has pointed out, city limits and highway shoulders did not mark the boundaries of environmental transformation; urban growth “was spatially far broader than currently understood.”<sup>15</sup>

By the mid-twentieth century, recreational patterns stretched the peripheries of urban communities. Roads leading out of town were not only a means of escape but themselves a limit to overcome.<sup>16</sup> Small-bore engines made this easier. Although Americans fell in love with personal automobiles propelled by four-stroke engines, which delivered power every two rotations of their crankshafts, utility vehicles often relied on compact, higher torque, two-stroke engines, in which every rotation provided force. Two-stroke engines proliferated after World War II in lawnmowers, chainsaws, personal watercraft, and ORVs. Louder, dirtier, and less fuel-efficient than their four-stroke cousins, two-stroke engines flourished in an era of abundant oil and scarce regulation.<sup>17</sup>

The combination of wanderlust, postwar affluence, and light and powerful small-bore engines buoyed the market for recreational ORVs. Between 1960 and 1970, annual sales of dune buggies rose to \$5 million from nearly nothing, motorbike sales went from less than \$1 million to nearly \$90 million, and snowmobile sales shot up from \$1.5 million to over \$185 million.<sup>18</sup> Paul Josephson has usefully termed the explosion of off-road leisure “Fordism in recreation”—the mass production of machines that allowed fun-seeking Americans to travel nearly anywhere, nearly anytime.<sup>19</sup>

ORVs redefined riders’ relationships with space and terrain, dramatically expanding the geography of outdoor recreation for millions of midcentury city dwellers. In the Southwest, that meant vast stretches of once remote and inaccessible desert now stood within a few hours’ drive of major urban centers. “I am becoming convinced that the social values of the desert as a place for man to escape the pace of urban life may far outweigh its economic values,” J. Russell Penny, California State Director for the Bureau of Land Management, said in 1971 while discussing ORV use.<sup>20</sup> Although he left it unclear whether ORVs were a means of escaping urban life or a vector for extending its reach, Penny left little doubt that the California desert—which spilled into the Great Basin and Sonoran deserts but overwhelmingly comprised the Mojave—was best understood in relation to the cities that it bordered.

The midcentury cities most closely associated with the California desert were, first and foremost, the conurbation of Los Angeles and San Diego to the west and the urban outpost of Las Vegas to the northeast. The metropolitan area of Los Angeles, California’s largest city in the 1960s, pushed well beyond the geographic confines of the Los Angeles Basin. Las Vegas remained relatively small, but the population of Clark County was growing rapidly. Interstate Highway 15 ran for 200 miles between the two urban zones, and on either side of that highway stretched several million acres of the Mojave.

All those desert acres, once a bleak space to cross on the way from one city to another, became a destination for ballooning numbers of recreationists. By the 1960s the American Motorcycle Association (AMA), on the leading edge of national cycling trends, had dedicated itself to off-roading. The AMA’s District 37 organized off-road races throughout Southern

<sup>15</sup>Andrew Needham, *Power Lines: Phoenix and the Making of the Modern Southwest* (Princeton, NJ, 2014), 6. On roads as vectors of environmental transformation, see Paul Sutter, *Driven Wild: How the Fight Against Automobiles Launched the Modern Wilderness Movement* (Seattle, 2005). The classic work on the far-reaching environmental effects of cities is William Cronon, *Nature’s Metropolis: Chicago and the Great West* (New York, 1991).

<sup>16</sup>On the rise of motorized recreation in the early twentieth century, see Sutter, *Driven Wild*, 19–53. As Sutter makes clear, even in the interwar years urban Americans drove into the countryside and beyond over a combination of paved roads, dirt roads, and no roads at all.

<sup>17</sup>Paul R. Josephson, *Motorized Obsessions: Life, Liberty, and the Small-Bore Engine* (Baltimore, 2007), 5–10. Many dryland ORVs used four-stroke engines, but two-stroke motorbikes were smaller and cheaper and helped to expand the market.

<sup>18</sup>“Fun Cars—A Boom That’s Running into Trouble,” *U.S. News & World Report*, Jan. 3, 1972, 32.

<sup>19</sup>Josephson, *Motorized Obsessions*, 2.

<sup>20</sup>Shav Glick, “Desert Motorcycling a Family Affair in Wide-Open Spaces,” *Los Angeles Times*, Dec. 5, 1971, C1.

California, which generally involved hurtling through the desert at speeds approaching 100 miles per hour. Motorcycle culture flourished in the southland, where a vastly disproportionate number of the machines were registered.<sup>21</sup> Honda, the largest motorcycle manufacturer in the world in the mid-twentieth century, opened its first American office in Los Angeles in 1959. Japanese motorcycle makers—especially Honda, Yamaha, Suzuki, and Kawasaki—built machines that were smaller than American bikes and easier to ride. At first, manufacturers designed these smaller machines for traveling on or off pavement. Soon, Japanese and Spanish motorcycle companies began making exceptionally lightweight bikes—with high profiles, knobby tires, and heavy-duty shocks—strictly for off-road use. As the bikes' weight fell so too did their price, the cheapest selling for only a few hundred dollars. Californians recreated in the desert in greater and greater numbers in the late 1960s and early 1970s, especially while riding motorbikes, dune buggies, or some other kind of two-, three-, or four-wheeled ORV. Reporting on the effects of ORV use in 1973, the *Los Angeles Times* summarized the view from Kern County's Jawbone Canyon, where a veteran state warden noted how "the crush of humanity and vehicles started about seven years ago and has increased tremendously."<sup>22</sup>

With over a million ORVs in Southern California by the early 1970s and an increasingly crowded desert fringe, off-road racers looked further afield for more open space. "Each passing year the perimeter where riding is acceptable grows farther from suburbia," reporter Shav Glick wrote in the *Times*.<sup>23</sup> In 1967 the San Gabriel Valley Motorcycle Club, a member of the AMA's District 37, organized a race for Thanksgiving weekend from Barstow, California, to Las Vegas. It would be a "hare and hound" race (the lead cyclist the hare, negotiating a path through the desert, all the other cyclists the hounds). The course stretched for more than 150 miles over unforgiving terrain and took several hours to complete. Just over 500 riders attempted the first Barstow-to-Vegas Race. In 1972 more than 2,500 people signed up, and in 1974, 3,000 entrants rode past well over 10,000 spectators. "For the growing group of family-oriented riders to whom the desert has become a life-style," Glick explained in 1974, "it is their Super Bowl, Olympic Games and World Series."<sup>24</sup>

The San Gabriel Valley Motorcycle Club held the Barstow-to-Vegas Race every Thanksgiving weekend from 1967 to 1974 (Figures 1–3). The BLM allowed no more than 3,000 riders for a point-to-point race, and race organizers began turning away hundreds of aspiring entrants. In 1975 the BLM decided that the environmental impact of Barstow-to-Vegas was too great for the event to continue unabated, and the agency refused to grant another permit. That year and the following, a handful of motorcyclists rode the route anyway in a "memorial trail ride" honoring the now defunct race. In 1977, magazine ads and posters named the tradition, announcing a "Third Annual Barstow to Vegas 'Unorganized' Trail Ride," led by an anonymous figure called "the Phantom Duck of the Desert."<sup>25</sup> In defiance of BLM management, the trail ride grew larger each year, as did the

<sup>21</sup>According to David Darlington, by 1966 one in five motorcycles in the United States was in California and two-thirds of those were in the southern portion of the state. See David Darlington, *The Mojave: A Portrait of the Definitive American Desert* (New York, 1996), 240.

<sup>22</sup>Lupi Saldana, "Motorcycle Craze: Serious Threat to Wildlife," *Los Angeles Times*, Mar. 17, 1973, D5. On the evolution of dirt bikes, see Joe Scalzo, "Running Off the Road: Out Where the Sand Is Your Friend," *Los Angeles Times*, June 18, 1972, X20. On the history of motorcycles and ORVs in Southern California generally, see Darlington, *The Mojave*, 239–41.

<sup>23</sup>Glick, "Desert Motorcycling a Family Affair."

<sup>24</sup>Shav Glick, "Battle for the Great Mojave," *Los Angeles Times*, Dec. 17, 1974, F1. On ORV numbers, race participant numbers, and desert use, see also Philip Fradkin, "Sands of Time Running Out for State Desert?" *Los Angeles Times*, Feb. 13, 1972, B1.

<sup>25</sup>Third Annual Barstow to Vegas Unorganized Trail Ride poster, 1977, folder 27, carton 5, SCNCNRCC. See also Darlington, *The Mojave*, 261.



**Figure 1.** Barstow-to-Vegas Race, early 1970s. Undated photograph. Courtesy of the Bureau of Land Management California State Office.

controversy surrounding it. By the late 1970s the Phantom Duck had become, according to the *Riverside Press-Enterprise*, “a folk hero among motorcycle and off-road vehicle enthusiasts.”<sup>26</sup>

While the Phantom Duck’s rogue event grew in popularity, the BLM attempted to assemble a single management plan for what would become the California Desert Conservation Area. The plan would eventually address issues ranging from wilderness and wildlife to energy production, utility corridors, grazing, air pollution, cultural artifacts, and military use. But as the draft’s environmental impact statement acknowledged, “Motorized vehicle use in the desert constitutes one of the most strongly contested and debated desert issues.”<sup>27</sup> As pleasure riders from Southern California reached across the Mojave to Las Vegas, desert recreation moved to the center of desert regulation.

### The Geography of Regulation

“Why do we tolerate them?” the environmental writer T. H. Watkins asked in 1969, describing how ORVs wrecked public lands by churning soil, uprooting vegetation, eroding hillsides and watersheds, and terrorizing wildlife. Watkins blamed “federal land policies that have never been adequately revised to meet the problems of a situation no one anticipated,” and warned that

<sup>26</sup>Alan Lecker, “Cyclists Build Fund for Fight with BLM,” *Riverside Press-Enterprise*, Dec. 23, 1978, folder 27, carton 5, SCNCNRCC.

<sup>27</sup>Bureau of Land Management, *California Desert Conservation Area Plan Alternatives and Environmental Impact Statement Draft* (Sacramento, CA, Feb. 1980), 89.





**Figure 2.** Barstow-to-Vegas Race, early 1970s. Undated photograph. Courtesy of the Bureau of Land Management California State Office.

ORV users, organized and active, “have taken full advantage of the weaknesses in the law.”<sup>28</sup> Weak regulation, Watkins suggested, invited abuse. Like storm clouds, regulated activities inevitably moved from areas of high pressure to areas of low pressure. Riders and their clubs drifted toward public lands during the 1960s in part because rules there were so few. Property owners pushed county governments to require written consent when ORVs crossed private land; on public lands, meanwhile, regulation remained sparse or nonexistent.<sup>29</sup> As recreational ORV use spiked in the 1960s, some states began passing restrictions on use, but state legislators directed such laws primarily at snowmobiles, which enjoyed nearly unlimited range after a heavy snowfall to run over small trees, fences, and both wild and domesticated animals.<sup>30</sup>

Warm weather ORVs initially made less of an impression on landscapes, and so on local residents and public administrators. Compared to snowmobiles in wintertime New England and the Great Lakes region, dirt bikes and dune buggies seemed out of sight and out of earshot

<sup>28</sup>T. H. Watkins, “Infernal Machines on the Public Lands,” *Cry California* (Spring 1969): 6–19, here 16. On ORV damage, see also Geological Society of America, Committee on Environment and Public Policy, *Impacts and Management of Off-Road Vehicles* (Boulder, CO, 1977).

<sup>29</sup>See Fradkin, “Sands of Time Running Out for State Desert?”; and Glick, “Desert Motorcycling a Family Affair.” On state and federal governments’ initial embrace of ORVs for official uses, see Frederick Eissler, “Here Come the Rough Riders!” *National Parks Magazine* (May 1962): 4–6, here 6; and “Fun Cars—A Boom That’s Running into Trouble,” 32–3.

<sup>30</sup>On snowmobiles, see Dorothy Boyle Huyck, “Trails: So Who Needs Them?” *American Forests* (Oct. 1971): 22–4, 62–3, here 63; Kenneth C. Field, “The Roaring Success of Snowmobiles has Rural Folk Furious,” *Wall Street Journal*, Jan. 13, 1969, 1; and “Fun Cars—A Boom That’s Running into Trouble,” 33.



**Figure 3.** Barstow-to-Vegas Race, early 1970s. Undated photograph. Courtesy of the Bureau of Land Management California State Office.

as they buzzed across the vast expanses of federal land in the West. BLM's few field staffers had little statutory power when they encountered motorbike races, as both the BLM's legal authority and federal law more generally had scant interest in ORV use.

That changed in the 1970s, when several interconnected developments transformed the geography of ORV regulation in California. First, significant support emerged in Congress for managing California desert lands more closely with ecological protection in mind. Alongside this pressure, the executive branch moved to restrict ORV use nationwide. And, the political openings offered by the National Environmental Policy Act, passed in 1969, intersected with the expanded responsibility and authority granted to the BLM by the Federal Land Policy and Management Act, passed in 1976. While these developments in part paralleled some of the common patterns of the new social regulation, in which public interest groups stepped in to enforce and implement policy, the process of mapping regulation onto the desert was collaborative as well as adversarial. Lawsuits offered a powerful tool for molding agencies and policies, but environmentalists, ORV advocates, and concerned citizens put as much work into shaping the habits of regulation through localized practice and on-the-ground administrative learning.

Regulation required knowledge of the desert, and that knowledge lagged behind the accelerating rate of desert recreation. Before the 1970s, biologists and ecologists conducted relatively little research in the Mojave beyond documenting the effects of aboveground nuclear detonations at the Nevada Test Site.<sup>31</sup> Sandwiched between the much larger Great Basin and Sonoran deserts, and as much a transition zone as a desert in its own right, the Mojave was a varied

<sup>31</sup>Research increased after the creation of two desert research centers in the 1970s. See Lawrence Walker and Frederick Landau, *A Natural History of the Mojave Desert* (Tucson, AZ, 2018), 250–4. On the Nevada Test Site, see Robert Webb, Lesley DeFalco, Todd Esque, and Philip Medica, “A Review of Selected Long-Term Ecological Studies of the Mojave Desert Ecosystem,” in *The Mojave Desert: Ecosystem Processes and Sustainability*, eds.

landscape. In the north, the Las Vegas Valley sat east of where the Death, Amargosa, and Pahump Valleys stretched flat and wide between the Panamint and Spring Mountain Ranges. The central Mojave, where the mostly underground Mojave River flowed to Soda Lake, lay sparse and relatively low. The southwestern Mojave encompassed Edwards Air Force Base, Joshua Tree National Monument, and the city of Barstow, and nestled against populated areas like the Coachella Valley and Los Angeles County.<sup>32</sup> Such a varied region supported habitats for many hundreds of species of mammals, birds, reptiles, and plants. Those species and their habitats remained mostly unexamined by federal managers; left out of the Wilderness Act of 1964, the BLM was not required to scrutinize and inventory its holdings as was the Forest Service.

Desert managers knew and understood the human activity in the desert little more than they did the nonhuman. Even by the late 1960s, the BLM could field perhaps a half dozen employees at a time to monitor 12 million acres of California desert.<sup>33</sup> Still, the first Barstow-to-Vegas Race in 1967 was hard to miss. Alerted to the race after the fact by Riverside District managers, State Director Penny realized how little his agency knew about desert recreation and about ORV riders in particular, and in response he ordered the first comprehensive study of desert use and administration.

The report, *The California Desert*, considered the region's future primarily in terms of "the need for open space in American cities," and characterized desert lands as both a source of "outstanding recreation" and also threatened by over-enjoyment.<sup>34</sup> The report's staff recommended a comprehensive desert management plan that would begin with mapping recreational use—in particular developing a system of roads and trails for the "unique and pressing problems" of ORVs.<sup>35</sup> One of the staff members who assembled the report subsequently went to work for California Congressman Bob Mathias, and in 1971 convinced the congressman to author legislation creating such a plan. Another member of Congress representing the desert, Jerry Pettis, immediately put together a similar bill, as did California Senators Alan Cranston and John Tunney the following year.<sup>36</sup>

While California legislators introduced and reintroduced desert management bills, the executive branch prodded land management agencies to develop new guidance for ORV use. Rogers Morton, Richard Nixon's secretary of the interior, appointed an interdepartmental task force on ORV use in 1971. "Controversy is intensifying," *U.S. News & World Report* alerted its readers in 1972, just weeks before Nixon signed Executive Order 11644, which directed key cabinet secretaries to devise regulations and enforcement mechanisms that would allow limited ORV use on federal lands while protecting natural resources and environmental values.<sup>37</sup> In response, the BLM drafted an Interim Critical Management Program (ICMP) that began mapping vehicular recreation in California's public domain lands by defining a small fraction of those lands as either completely closed or open to ORV use, and the great majority as open with restrictions—most problematically, with vehicle travel limited to a set of vaguely defined "existing or designated roads and trails."<sup>38</sup>

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Robert Webb, Lynn Fenstermaker, Jill Heaton, Debra Hughson, Eric McDonald, and David Miller (Reno, NV, 2009), 429–58.

<sup>32</sup>Webb et al., *The Mojave Desert*, 1–5.

<sup>33</sup>Fradkin, "Sands of Time Running Out for State Desert?"

<sup>34</sup>Bureau of Land Management California State Office and National Park Service Western Regional Office, *The California Desert*, Nov. 1968.

<sup>35</sup>*The California Desert*, 237–46.

<sup>36</sup>Frank Wheat, *California Desert Miracle: The Fight for Desert Parks and Wilderness* (San Diego, CA, 1999), 2–14.

<sup>37</sup>"Fun Cars"—A Boom That's Running into Trouble," 32.

<sup>38</sup>U.S. Department of the Interior Conservation Yearbook Series No. 10, *Our Natural Resources: The Choices Ahead* (Washington, DC, 1974), 86. See also Robert Stebbins, "BLM Desert Plan Found Inadequate," *ORV Monitor* (June 1974): 4–5.

As environmental organizations pushed administrative policy toward greater protection of natural resources, the BLM needed an especially strong shove. Of all the federal land management agencies, the BLM was the youngest and in many ways the last to embrace ecological imperatives. Created in 1946 when the Truman administration merged the General Land Office with the United States Grazing Service, the BLM inherited the largest jurisdiction in the country—over 500 million acres of surface lands in addition to a subsurface mineral estate. Reorganization did not come with clear administrative direction; BLM lacked the sort of “organic act” that provided the National Park Service with its dual mission of conservation and public enjoyment, and the U.S. Forest Service with its multiple-use mandate. Relying mostly on mineral legislation and the 1934 Taylor Grazing Act for administrative guidance, for its first decade the agency concerned itself with ranching and mining.<sup>39</sup>

In the 1950s and 1960s, a rapidly growing constituency of outdoor recreationists as well as a nascent ecological sensibility nudged the BLM toward a multiple-use approach to management. Critics judged that it remained a “captured” agency working largely on behalf of two industries. Now legislation such as NEPA allowed public interest groups to act as legal counterweights.<sup>40</sup> Environmental lawyers quickly realized that NEPA’s business end—the requirement that, for any major action, federal agencies assemble an environmental impact statement (EIS) and make it public—offered them a sharp wedge for prying open federal policy.<sup>41</sup>

Litigation, however, was not the only means that NEPA provided for checking bureaucratic decision-making. An agency could also change through the process of navigating the EIS requirement on the ground.<sup>42</sup> By 1974 the Barstow-to-Vegas Race was in its eighth year, and the San Gabriel Valley Motorcycle Club anticipated as many as 15,000 attendees. As in previous years the race would feature two dead-engine starts across a flat plain toward a “smoke bomb” (an ignited pile of tires), a series of checkpoints to make sure riders followed the prescribed course, and what race organizers called “conservationist friends (?)” documenting the event with notepads and cameras. This time, however, the BLM released a preliminary EIS about the possible effects of Barstow-to-Vegas just one month before the starting banner dropped.<sup>43</sup>

In the past the BLM had rarely based regulatory decisions about the desert on serious environmental assessments. As the draft EIS noted, the longstanding limit of 3,000 participants for point-to-point races was an arbitrary figure unrelated to potential impact. “It does not represent an optimum for any purpose,” the BLM admitted.<sup>44</sup> The official limit suggested that the desert could sustain the effects of 3,000 motorbikes, but the draft described a vibrant and fragile landscape, with the racecourse cutting through areas full of wildlife, cultural resources, and unusual opportunities for solitude and quiet.<sup>45</sup> The potential impacts of such a large event included soil compaction that would hinder vegetative growth; crushed reptiles and mammals as well as nests and burrows; ruts across wet playas that could remain visible for decades; the destruction of

<sup>39</sup>On the early history of BLM, see James Skillen, *The Nation’s Largest Landlord: The Bureau of Land Management in the American West* (Lawrence, KS, 2009), 14–37; and Leisl Carr Childers, *The Size of the Risk: Histories of Multiple Use in the Great Basin* (Norman, OK, 2015), 45–53.

<sup>40</sup>As Paul Sabin notes, NEPA’s EIS requirement “reflected Congress’s lack of faith that agencies would always represent the full scope of public concerns.” See Sabin, “Environmental Law and the End of the New Deal Order,” 1002. Skillen explains that NEPA “marked the entrance of both environmental groups and the courts into public land policies.” See Skillen, *The Nation’s Largest Landlord*, 12.

<sup>41</sup>Sabin, “Environmental Law and the End of the New Deal Order,” 967.

<sup>42</sup>EIS compliance could reshape an agency’s planning process and even personnel. See Skillen, *The Nation’s Largest Landlord*, 92; and Robert H. Nelson, *Public Lands and Private Rights: The Failure of Scientific Management* (Lanham, MD, 1995), 113.

<sup>43</sup>San Gabriel Valley Motorcycle Club race announcement and directions, undated, folder 13, carton 5, SCNCRCC.

<sup>44</sup>Bureau of Land Management, *Draft Environmental Impact Statement: Proposed Barstow-Las Vegas Motorcycle Race* (Sacramento, CA, Sept. 1974), I-18.

<sup>45</sup>Bureau of Land Management, *Proposed Barstow-Las Vegas Motorcycle Race*, II-1–II-71.

archaeological and historical sites; and increased particulate pollution that could reach nearby communities.

Hoping to accommodate the desert's varied uses, the BLM at first stopped short of denying a race permit. Canceling Barstow-to-Vegas would have obviated the many environmental impacts but, as the BLM warned with some prescience, could lead to frustration, an unsanctioned ride, and "confrontation between Bureau officials and would-be racers."<sup>46</sup> Instead, the agency studied and surveilled the race, making before-and-after estimates of animal populations, photographing the event from the ground and from the air, and measuring soil compaction and dustfall. The BLM, in other words, invested itself in the sorts of observations that groups like the Sierra Club and the High Desert Environmental Defense Fund had already begun to sponsor. As ORV regulations evolved, BLM staff and environmentalists worked alongside if not always with each other.<sup>47</sup>

Barstow-to-Vegas provided an opportunity for the BLM to absorb a measure of NEPA's intended mission, and an invitation for interested parties—particularly environmentalists—to participate. "Most of us feel this race is a test case, especially since this is really BLM's first half-way decent compliance with NEPA's environmental process," Chuck Bell, president of the High Desert Environmental Defense Fund (HDEDF), wrote to his colleagues with measured optimism.<sup>48</sup> Bell performed spot surveys of the race route along with representatives from the Sierra Club, the Society for California Archaeology, and San Bernardino County. Overall, the surveyors considered the draft EIS a still-incomplete assessment. Bell and his group found only a partial accounting of Native petroglyphs and artifacts, too little attention to the potential impact of so many spectators, and an unfounded assumption that several thousand cyclists would keep to the "existing roads and trails" designated by the ICOMP.<sup>49</sup>

Complaints aside, however, Bell mainly viewed the environmental assessment as progress. "The HDEDF commends the BLM for complying with the intent of the environmental process established by the National Environmental Policy Act," he wrote to State Director Penny. "The EIS is an outstanding source of information by itself, and a rather good analysis of some of the potential environmental impacts."<sup>50</sup> The Sierra Club's Jim Dodson and Lyle Gaston agreed, and viewed the preliminary statement within an even larger framework. The draft EIS, they wrote separately, "is a significant step toward a comprehensive evaluation of the resources of the California Desert."<sup>51</sup> Keeping close track of politicians' efforts to enact an overall desert management plan, Dodson and Gaston perceived NEPA's requirements as a way of knowing the desert through environmental assessment, and they considered that knowledge a foundation for meaningful regulation.

On the day of the race, BLM rangers and representatives of the environmental organizations passed one another as they observed race conditions and tried to keep riders inside the designated course. Both rangers and environmentalists discovered a range of even more distressing environmental impacts than the EIS had predicted—a quarter-mile swath of tracks that far exceeded the hundred-foot limit, illegal shortcuts through a stand of rare desert plants, and kangaroo rats bleeding from their mouths and ears.<sup>52</sup> In the weeks after the race, the Society for California Archaeology's Ike Eastvold and University of California–Riverside anthropologist

<sup>46</sup>Ibid, VIII-2.

<sup>47</sup>Many environmentalists already considered themselves reinforcements for BLM's "thinly stretched rangers." See Mabel Barnes to Desert Subcommittee members, Oct. 1973, folder 43, carton 3, SCNCNRCC.

<sup>48</sup>Chuck Bell to Richard Gutting, Nov. 1, 1974, folder 13, carton 5, SCNCNRCC.

<sup>49</sup>Chuck Bell to Penelope Kramer, Oct. 22, 1974, folder 13, carton 5, SCNCNRCC.

<sup>50</sup>Chuck Bell to J. R. Penny, Oct. 9, 1974, folder 13, carton 5, SCNCNRCC.

<sup>51</sup>Jim Dodson and Lyle Gaston to Bureau of Land Management, Oct. 8, 1974, folder 13, carton 5, SCNCNRCC.

<sup>52</sup>See "Barstow to Las Vegas: A License to Destroy," *ORV Monitor* (Dec. 1974): 3–5, 8; and "... But the Memory Lingers On ...," *ORV Monitor* (Feb./Mar. 1975), 3.

Sylvia Broadbent found damage to both unrecorded and candidate historical sites strewn with potsherds and crafted jasper.<sup>53</sup>

Unlike in familiar stories of agency and activist standoffs, BLM analyses of the race aligned with the assessments of a variety of cultural and environmental interest groups. In response to its own findings as well as to further, post-race damage recorded by conservationists, the BLM in 1975 rejected the San Gabriel Valley Motorcycle Club's permit application for that year's event.<sup>54</sup> "Our followup [sic] studies last year showed impacts from the race were greater than predicted in the environmental impact statement," BLM announced, "and it is clear we won't know how to prevent or properly mitigate these impacts without going through a detailed environmental analysis process." Given the legal necessity of an EIS for managing a large-scale race, and given limited available staff, BLM's California office denied the permit for 1975 and gave no reason to think the race would be permitted in later years.<sup>55</sup> NEPA and the EIS process had reframed how BLM approached not just ORV regulation but management of the California desert. And the Barstow-to-Vegas EIS brought together environmentalists and BLM staff into a tenuous but cooperative relationship, documenting and evaluating the race's effects.

### The California Desert Conservation Area

By the late 1970s environmentalists understood that the Southern California desert provided a home for not only scattered communities of people but also a rich variety of plants and wildlife.<sup>56</sup> For growing crowds of hikers, campers, rockhounds, and especially ORV riders, the desert was a recreational destination. And because so many different groups cared about the desert for different reasons, the desert became an administrative opportunity that could elevate the stature of the BLM among the nation's land management agencies.

Managing the California desert, and public lands across the nation, required that the BLM gain statutory authority and resources to match the sort of oversight encouraged by NEPA. For environmentalists, the BLM's limited authority stood in the way of balanced desert management. "If we end up forcing 'organized' events into 'unorganized' events, we might not end up saving some of the desert from resource destruction," Chuck Bell of the Environmental Defense Fund (EDF) wrote to Penny Kramer, editor of EDF's *ORV Monitor*, "and since that is the main goal, we will need to beef up BLM's staff and its intent to manage and protect resources."<sup>57</sup> Congress achieved both ends when it passed the Federal Land Policy and Management Act (FLPMA) in 1976. FLPMA provided BLM with new responsibilities and powers, including law enforcement authority on par with the Forest Service and Park Service, both of which had long fielded rangers with firearms and arrest powers. The law also codified and authorized much of what the agency was doing in practice, putting BLM planning on a path already structured by NEPA. FLPMA emphasized environmental protection and wilderness; it made land-use planning into a decision-making process akin to an EIS; and it required the same sort of broad public participation as

<sup>53</sup>Ike Eastvold to Richard Gutting, Dec. 9, 1974, folder 13, carton 5, SCNCNRCC; UC-Riverside news release, Jan. 21, 1975, folder 13, carton 5, SCNCNRCC.

<sup>54</sup>On observing the race, see Darlington, *The Mojave*, 258.

<sup>55</sup>Bureau of Land Management press release, Sept. 11, 1975, folder 27, carton 5, SCNCNRCC.

<sup>56</sup>Defenders of Wildlife, for instance, described the Southern California desert as home to over 100 habitats supporting 640 vertebrate species, 37 of them on state or federal lists of endangered, rare, or sensitive species. See Defenders of Wildlife action alert, Apr. 17, 1980, folder 8, carton 249, Sierra Club Records, BANC MSS 71/103c, The Bancroft Library, University of California, Berkeley, CA [hereafter SCR].

<sup>57</sup>Chuck Bell to Penny Kramer and Richard Gutting, Sept. 15, 1975, folder 27, carton 5, SCNCNRCC. On environmentalists' support for FLPMA, see "From General Land Office to BLM ... Has Anything Really Changed?" *ORV Monitor* (Jun./Jul. 1975): 4–6; "BLM Bill: 'Change It or Kill It,'" *ORV Monitor* (Aug./Sep. 1974): 1–3; "In the House Interior Committee ..." *ORV Monitor* (Oct. 1974): 3; "Organic Act," *ORV Monitor* (Aug. 1976): 5; and "Organic Act Passes," *ORV Monitor* (Oct. 1976): 1.

did NEPA.<sup>58</sup> For events like Barstow-to-Vegas, the BLM had already worked with public interest groups and local governments; FLPMA made this sort of civic participation in agency decision making mandatory. Together, the two laws provided the agency with not only legal recourse but also a framework for planning and administrating at close quarters.

FLPMA designated the California desert as a testing ground for such an approach. Buried within the law's dozens of pages, Section 601 directed the Secretary of the Interior to implement a long-range and comprehensive plan in order to provide for the public use and protection of the California Desert Conservation Area (CDCA). After watching desert management bills fail to reach a vote year after year, Senator Cranston and Congresswoman Shirley Pettis shoehorned a version of those bills into FLPMA.<sup>59</sup> As a result, the law effectively created the CDCA as an administrative unit—25 million acres of Southern California, nearly one-quarter of the entire state, stretching from just outside of Los Angeles County to Arizona's western edge and from the Owens Valley to the U.S.–Mexico border.

The California Desert Conservation Area Plan was an ambitious undertaking for an agency that had long operated in the shadow of the Forest and Park services, and it offered the possibility of remaking the BLM. The CDCA Plan, the agency would later take to saying, "because of the magnitude of the area it encompasses, its importance and complexity, is totally unique to modern land use planning in this country and probably the world."<sup>60</sup> The BLM reorganized its Southern California personnel around the CDCA, creating a Desert Planning Staff and Desert Advisory Council and subsuming the Riverside District into a larger Desert District that encompassed the entire region.<sup>61</sup> "I view the California desert as one of the most exciting resource management challenges of this century," James Ruch, BLM's California state director, wrote in the California Native Plant Society's *Fremontia*.<sup>62</sup> June Latting, the Society's Southern California conservation representative, offered a franker assessment when she drafted a response to Ruch. "BLM leadership recognized that the Bureau could take its place within the government as a responsible land manager," Latting wrote, "and gain stature, respect and credibility in the eyes of the public, if an outstanding Desert Plan could be prepared."<sup>63</sup> The Desert Protective Council's Harriet Allen agreed, and offered Ruch a list of pointers on how to manage a major recreational event like Barstow-to-Vegas. "BLM can bring order to the desert," she assured Ruch, "though it is about ten or fifteen years behind USFS and NPS."<sup>64</sup> As recreation and environmental protection gained prominence in federal land management, the CDCA Plan would be the BLM's showcase policy framework—"a regional plan with national significance," as the agency described it.<sup>65</sup>

National significance came in part from heavy use, and heavy use created a greater administrative challenge. FLPMA required a final CDCA Plan by October 1980, giving the BLM four years to create a regulatory regime for the entire southeast quadrant of California. During those years the nascent CDCA was a laboratory for the concept of "multiple use," with interested parties arguing for the legitimacy—and at times the preeminence—of their own particular use of the desert, none more so than environmentalists and ORV enthusiasts. "The reality of multiple

<sup>58</sup>See Skillen, *The Nation's Largest Landlord*, 106–9.

<sup>59</sup>On the legislative history of Section 601, see memorandum from Bob Dreher to Larry Silver, Aug. 18, 1988, folder 1, box 73, Frank Wheat Papers, The Huntington Library, San Marino, CA, 2–3 [hereafter FWP].

<sup>60</sup>BLM Observations on Wilderness Society's Point/Counterpoint Response," 1988, folder 4, box 73, FWP, 1.

<sup>61</sup>See Bureau of Land Management, *The California Desert Conservation Area Plan 1980 as Amended* (1980; Riverside, CA, 1999), 137–42.

<sup>62</sup>James Ruch, "The California Desert Plan," *Fremontia* (Jan. 1980): 14–17, here 17.

<sup>63</sup>June Latting, "The California Desert Plan—Protection or Destruction?" folder 5, carton 6, SCNCNRCC, 5. See also Wheat, *California Desert Miracle*, 8.

<sup>64</sup>Harriet Allen to Jim Ruch, Nov. 13, 1979, folder 27, carton 5, SCNCNRCC.

<sup>65</sup>Bureau of Land Management, "Public Affairs Plan for Draft California Desert Plan Alternatives and Environmental Statement," Dec. 20, 1979, folder 5, carton 6, SCNCNRCC, 6.

use, as both an idea and a policy,” Leisl Carr-Childers writes, “is a landscape filled with activities that are not always compatible.”<sup>66</sup> A multiple-use management approach was a tacit recognition of incompatibility, as well as an ambitious attempt to overcome it. As improbable as that attempt remained in the form of policy, though, in practice it could be an example of what the economist Charles Lindblom once called “the science of ‘muddling through,’” whereby administrators shaped the best policy through experiment as much as through planning.<sup>67</sup> “Muddling through” led to clashes over how to accommodate multiple use in the CDCA, but it also moved toward a more local and participatory kind of desert management.

In 1980 the BLM prepared its combined CDCA Plan and environmental impact statement, a document that would describe the overall desert management plan while analyzing its impact. Environmentalists wondered how to address the plan’s many allowances for ORV riders. “I feel we must make some accommodation to the fact that some level of competitive ORV use will continue to exist,” the Sierra Club’s Jim Dodson admitted, “and that we are better off seeking to contain it than confront it.”<sup>68</sup> Accommodating and containing ORVs in the California desert meant mapping their comings and goings. “Multiple use,” Senator Cranston had explained to members of Congress when he fought to include the California desert in FLPMA, “means multiple planning, by all concerned. It is not a question of whether, for example, off-road vehicles should be permitted in the desert. Of course they should. The question is where.”<sup>69</sup>

That question often came down to the definition of a “road” or a “way.” Few issues better measured the distance between making and implementing policy in the desert. Roads were a physical record of habitual behavior as well as a regulatory imposition on the land. In the desert, roads reshaped both landscape and human activity; the record of a vehicle’s passing persisted for many years and often encouraged repeated use.<sup>70</sup> Tank tracks left by General George Patton’s Desert Training Center, which operated in the Mojave from 1942 to 1944, remained visible in 1980, when the BLM considered whether they constituted “acceptable routes of travel.”<sup>71</sup>

ORVs required the designation of “routes,” “courses,” and “raceway areas,” vague terms that suggested where recreational mapping shaded into matters of customary use.<sup>72</sup> Off-road vehicle events, counterintuitively, had to keep to roads that lacked the fixity of pavement but had the consistency of regular travel. Archaeologist Ike Eastvold worried that annual races would inevitably turn “ways” into “roads,” and so reshape the regulatory map.<sup>73</sup> Legal and administrative mandates might mean little if desert users simply chose their own paths.

When Senator Cranston asked the BLM to define “road,” he learned how slippery the term could be. There was, agency representatives responded, no specific definition of a “road” in FLPMA or in the Wilderness Act, which BLM began to administer as part of the CDCA Plan. Other agencies that dealt with the Wilderness Act—a law that hinged on the concept of a road—tended to define the term for themselves.<sup>74</sup> Technicalities mattered a great deal. In 1978, the BLM defined a “road” as a route improved by hand or by power machinery, and a “way” as a route made only by the passage of vehicles. The AMA pushed for the

<sup>66</sup>Carr-Childers, *The Size of the Risk*, 11. See also Nelson, *Public Lands and Private Rights*, 122.

<sup>67</sup>Charles Lindblom, “The Science of ‘Muddling Through,’” *Public Administration Review* 19, no. 2 (Spring 1959): 79–88.

<sup>68</sup>Jim Dodson to “desert conservation activists,” Aug. 2, 1980, folder 2, carton 5, SCNCNRCC.

<sup>69</sup>Memorandum from Bob Dreher to Larry Silver, Aug. 18, 1980, folder 1, box 73, FWP, 5.

<sup>70</sup>Matthew Brooks and Bridget Lair, “Ecological Effects of Vehicular Routes in a Desert Ecosystem,” in Webb et al., *The Mojave Desert*, 168–95.

<sup>71</sup>Bureau of Land Management, *Draft Environmental Impact Statement: Johnson Valley to Parker Motorcycle Race* (Riverside, CA, Aug. 1980), iv. On the Desert Training Center, see Darlington, *The Mojave*, 152–8.

<sup>72</sup>*The California Desert*, 237–46.

<sup>73</sup>Environmental Review Board minutes, Sept. 1, 1981, folder 23, carton 5, SCNCNRCC, 4.

<sup>74</sup>Deputy assistant director, BLM, to Alan Cranston, Aug. 25, 1978, folder 1, carton 227, Alan Cranston Papers, BANC MSS 88/214c, The Bancroft Library, University of California, Berkeley, CA [hereafter ACP].



BLM Interim Critical Management Plan's (ICMP) looser definition, by which a road was simply any route regularly used by vehicles. Environmentalists, meanwhile, insisted that only power machinery should count as road-building equipment. As the BLM began to consider wilderness designation in the CDCA, the *Los Angeles Times* reported, "the definition of road promises to become one of the most heated arguments."<sup>75</sup>

Both the concept of a road and the roads themselves changed regularly. When environmentalists, motorcycle clubs, and the BLM negotiated the Ludlow-to-Parker Race in 1979, they debated where exactly the 1975 race had circled the Iron Mountains and whether that route would qualify as a road under the ICMP. Lacking a clear route, the Iron Mountains stood in the way of a legal racecourse. Some BLM staffers claimed that the route around the mountains was strictly cross-country, while the AMA insisted that the course followed a clear road. The ICMP's more ambiguous definition did not apply to roads made after its enactment in 1973, negating the 1975 course, but motorcyclists and BLM management argued that the Iron Mountains region fell under a separate road categorization that began in 1977, birthing a new road and allowing the 1975 course to count. An administrative decision, according to this claim, changed the nature of a racecourse from a route to a road.<sup>76</sup>

A stricter definition of a road meant a clearer map of ORV regulation, while a looser definition left that map open to daily redefinition. After the BLM released its draft CDCA Plan, environmental organizations challenged the amorphous understanding and lax regulation of "existing ways."<sup>77</sup> That understanding theoretically allowed ORVs to make their own roads. "Ways' are defined so loosely that it could mean a track across the desert left by a few passes of a motorcycle or jeep (because desert land recovers so slowly)," Nicholas Yost, general counsel for the president's Council on Environmental Quality, told BLM Director Frank Gregg.<sup>78</sup>

Sweeping standards eventually gave way to case-by-case negotiation. The BLM gave itself seven years to determine route classifications throughout the California desert, delegating that work to the Subcommittee on Route Designation. The argument over roads remained a heated one, but the subcommittee quickly determined that the most practical approach to management rested on identifying conflicts rather than identifying roads themselves. Designating routes worked best when it happened on the ground and on the fly. The CDCA Plan remained an ongoing process rather than a strict charter, and feedback about actual experiences was not only an effective means of reconciling recreation with regulation but also an end in itself. "Most desert users would find it much easier to participate if they were asked to help identify problem areas where routes of travel should be closed," the subcommittee advised. "Instead of devoting scarce time and money to inventories and arguments over whether a route exists, BLM could concentrate on finding and solving problems."<sup>79</sup> As solving problems between different users migrated to the center of BLM's work, the agency needed to know its visitors as well as its resources. Regulating roads meant regulating people, and desert management brought the agency into closer contact with those people and their use of desert lands.

### The Phantom Duck and the Evolution of Participatory Management

As the BLM's Southern California staff worked more closely with desert users, it confronted the challenges of multiple use and face-to-face management, never more so than in a volatile series of

<sup>75</sup>Robert Jones, "Opponents Gear Up for Desert Conflict," *Los Angeles Times*, Aug. 21, 1978, 15. See also Ed Sylvester, "Objections Raised to Desert Plan," *Los Angeles Times*, May 19, 1978, E4.

<sup>76</sup>See memorandum from Ike Eastvold to George Barnes et al., Sept. 9, 1979, folder 25, carton 5, SCNCNRCC, 4.

<sup>77</sup>See Defenders of Wildlife, Action Alert, Apr. 17, 1980, folder 8, carton 249, SCR; and *El Paisano*, undated, folder 5, carton 6, SCNCNRCC, 6.

<sup>78</sup>Nicholas Yost to Frank Gregg, Apr. 23, 1980, folder 7, carton 6, SCNCNRCC, 5.

<sup>79</sup>"California Desert Multiple Use Advisory Council Subcommittee on Route Designation Report & Recommendation," Mar. 25, 1982, folder 12, carton 6, SCNCNRCC.

encounters with the Phantom Duck of the Desert. By 1978 the Phantom Duck had been revealed as Louis McKey, an electrician from Fontana and a motorcycle enthusiast who deeply resented what he considered the government's heavy-handed management of ORVs.<sup>80</sup> McKey was a casual rider, and he championed novice cycling through ads in *Cycle News* celebrating a successful fellow amateur who rode with the Desert Ducks Motorcycle Club. McKey's ads announced themselves with a "Quack! Quack!" as did his subsequent communiqués as the Phantom Duck.<sup>81</sup>

Nine months before the fourth annual "unorganized trail ride," McKey sent a letter to several dozen people and organizations, including politicians ranging from members of the California Assembly to President Jimmy Carter. Insisting that his unorganized event was legal as long as it kept to "existing roads and trails," he warned the various lawmakers: "The choice is yours. A controlled, organized race that must follow a prearranged route that will avoid important historical and archaeological desert sites while providing much needed family recreational use of public lands, or, a massive, unorganized, but legal, trail ride of family groups enjoying a day in the desert." Anyone genuinely concerned about the desert's welfare, he insisted, would advance that cause "by guaranteeing multiple use of public lands."<sup>82</sup>

Gerry Hillier, director of BLM's Riverside District, made clear his agency's position by seeking an injunction against McKey's unpermitted ride. Hillier's injunction, which a judge eventually granted, was just one among several lawsuits and legal actions in the years leading up to finalization of the CDCA Plan in 1980, and a prelude to even more lawsuits after the plan's passage.<sup>83</sup> The injunction not only failed to prevent McKey from holding another unorganized ride in 1978; it also pushed McKey and Rick Sieman, editor of *Dirt Bike* magazine, to form the Phantom Duck of the Desert, Inc. "We intend to protect and expand the intelligent use of our lands through the legal system, legislative action and the courts, when necessary," PDoD, Inc. explained in a "position paper."<sup>84</sup> In 1980, PDoD, Inc. filed suit against the BLM for what it claimed was prejudicial action against itself and in favor of the Sierra Club. "If the BLM lives by a tangled network of unenforceable laws," McKey wrote to his supporters, "then it can also perish by the same web of beaurocracy [sic]."<sup>85</sup>

Environmentalists and BLM field staff had crossed paths with McKey, and this close contact made him more than just a legal adversary. "There is an overt threat to BLM employee's [sic] lives as a result of the recent gun-toting episode by PDOD and concurrent suggestion that BLM employees may disappear from the field," area managers warned the Desert District manager one month before McKey's 1980 unpermitted ride.<sup>86</sup> The episode had taken place two weeks earlier in San Bernardino at a public hearing on the proposed CDCA Plan. Ike Eastvold attended and later described the incident: "McKey came to that hearing and gave his 'testimony' with a .45 automatic on his belt. After pointing out that he got a badge 'for killing people' in the war (when he was 19), he wound up saying, 'When you go out to the desert you had better arm yourself, because no matter where you are out there you are subject to the Green Berets jumping you at any minute.'" BLM rangers, McKey explained, had been known to disappear in the wilds of Alaska.<sup>87</sup>

<sup>80</sup>On McKey, see Bob LaBarre, "'Phantom Duck' Alive and Protesting," *Riverside Press-Enterprise*, Dec. 4, 1978, B1, folder 27, carton 5, SCNCNRCC.

<sup>81</sup>See Darlington, *The Mojave*, 259–61.

<sup>82</sup>Phantom Duck of the Desert to Jimmy Carter et al., Feb. 14, 1978, folder 27, carton 5, SCNCNRCC.

<sup>83</sup>"Bureau of Land Management Response to the General Accounting Office Report," June 1989, folder 14, carton 227, ACP, 4.

<sup>84</sup>"Position Paper," undated, folder 14, carton 6, SCNCNRCC.

<sup>85</sup>Rick Sieman and the Phantom Duck of the Desert, "BLM Coverup! The Duck Papers," *Dirt Bike* (Oct. 1980), and press release, Sept. 29, 1980, both in folder 14, carton 6, SCNCNRCC.

<sup>86</sup>Memorandum from area managers to district managers, BLM Desert District, Nov. 3, 1980, folder 22, carton 5, SCNCNRCC.

<sup>87</sup>Memorandum from Ike Eastvold to George & Mabel Barnes et al., Nov. 25, 1980, folder 22, carton 5, SCNCNRCC.

McKey's posturing was especially provocative given the BLM's newly granted authority to staff a desert ranger force with arrest powers. Traditionally, BLM rangers had relied on local police and sheriffs when arrests or firearms were necessary, an approach that became less feasible in a more crowded desert.<sup>88</sup> "Right now BLM rangers have no more authority than your average citizen," ranger Brian Booher complained after the 1974 Barstow-to-Vegas Race.<sup>89</sup> FLPMA gave desert rangers something approximating the authority that forest and park rangers had long held. The Desert District sent rangers to law enforcement training in 1977 and began fielding armed rangers in 1978.<sup>90</sup>

With legal actions pending, tempers rising, and guns on display, the 1980 unorganized trail ride seemed bound for a head-on collision. "I want no confrontation," Hillier instructed his staff, anxious about his agency's newly armed rangers. "Our 1980 approach will be 'information-communication' oriented."<sup>91</sup> Hillier's staff, however, remained skeptical of appeals to common enjoyment of the desert. "The participant's [sic] attitudes are perceived to be so extreme as to render useless attempts to communicate through such means as interpretive, educational, or 'fun day' programs," area managers warned.<sup>92</sup>

The BLM, as concerned with safety as with enforcing its own rules, continued to deny a permit for any Barstow-to-Vegas ride, even as it helped plan the event's route in order to minimize damage.<sup>93</sup> Environmentalists grew agitated at the annual flaunting of the agency's own regulations. "The result of their lengthy history of cave-ins is this year's Frankenstein," Eastvold had said of the BLM a year earlier, before the 1979 race, "a kind of spoiled brat of their own creation, and they now intend to abdicate the desert to this monstrous phantom-child."<sup>94</sup> In 1979, Eastvold intensified environmentalists' ongoing documentation of the race by renting a small plane and taking several hundred pictures of the event and its effects.<sup>95</sup> In 1980 he planned to fly over the race again. A few days before his flight, he found a postcard in the mail from "Son of Desert Duck" that described the Duck's pre-ride of the race route. "Also observed *anti aircraft* guns with BLM markings along the trail," it read. "GOOD LUCK!!!"<sup>96</sup>

Eastvold, among the most cynical Barstow-to-Vegas opponents, doubted BLM strategy. Attempts to stop the race through injunctions, he claimed, had backfired, making McKey into "a 'protest leader,' a 'martyr.'" Attempts to isolate McKey by working on alternate events with more moderate ORV organizations like the American Motorcyclists Association had also failed, by creating the impression that illegal protest produced concessions.<sup>97</sup> The BLM agreed with Eastvold on at least the first point; legal mechanisms had largely failed. "In 1978," Hillier wrote to his area managers, "we took strong legal action and in so doing, drew more attention to it and made a folk hero of McKey."<sup>98</sup> On the second point, the BLM stood fast. "A positive situation is that at this point in time there is significant momentum building among

<sup>88</sup>For a thorough history of BLM law enforcement, see Dennis McLane, *Seldom Was Heard an Encouraging Word: A History of Bureau of Land Management Law Enforcement* (Guthrie, OK, 2011).

<sup>89</sup>"Barstow to Las Vegas: A License to Destroy," 4.

<sup>90</sup>See "Law Enforcement to Back Up BLM," *ORV Monitor* (Mar. 1978): 5; and "The California Desert District Rangers," *BLM Information Bulletin* (Sept. 1981), folder 27, carton 5, SCNCNRCC.

<sup>91</sup>Memorandum from California desert district manager to area managers et al., undated, folder 22, carton 5, SCNCNRCC, 5.

<sup>92</sup>Memorandum from area managers to district manager, Nov. 3, 1980, folder 22, carton 5, SCNCNRCC.

<sup>93</sup>See memorandum from Riverside district manager to director, Nov. 13, 1979, folder 27, carton 5, SCNCNRCC.

<sup>94</sup>Memorandum from Ike Eastvold to Harriet Allen et al., Nov. 16, 1979, folder 27, carton 5, SCNCNRCC.

<sup>95</sup>Eastvold to Allen et al., Nov. 29, 1979, folder 27, carton 5, SCNCNRCC.

<sup>96</sup>Memorandum from Ike Eastvold to George and Mabel Barnes et al., Nov. 25, 1980, folder 22, carton 5, SCNCNRCC.

<sup>97</sup>*Ibid.* By the late 1970s, the American Motorcycle Association had changed its name to the American Motorcyclists Association.

<sup>98</sup>Memorandum from California desert district manager to area managers et al., undated, folder 22, carton 5, SCNCNRCC, 5.

motorcycling publics toward re-establishing respect for BLM as a result of the recent efforts to permit the Johnson Valley to Parker race,” the area managers reported to Hillier. “Such a trend may significantly serve to reduce support for the PDOD.” The area managers proposed using environmental impact statements as a way of legitimizing AMA races and delegitimizing Barstow-to-Vegas.<sup>99</sup>

In the short term, this policy of moderation worked. Despite the aggressions of McKey and the frustrations of Eastvold, the 1980 trail ride avoided violence. In fact, that year—in which the BLM released, amended, and finalized the combined CDCA Plan and associated EIS—saw significant collaborative work between environmentalists, motorcyclists, and BLM staff. That collaboration was often heated, but the CDCA Plan and the EIS process served to put interested parties in conversation with one another in ways that made California desert management local and participatory.

The sort of regulation that characterized much 1970s environmentalism—designed to distance federal agencies from their traditional patrons and reliant on citizen oversight—put many interested parties at a greater remove from the federal government, especially in the hallways of Washington, DC. “They could face this regulatory apparatus without necessarily meeting a single person charged with enforcing the laws,” Jefferson Decker writes, “let alone developing the sort of collaborative relationships that had once allowed regulated industries, government bureaucrats, and members of Congress to maintain ‘iron triangles’ of mutually reinforcing power and influence.”<sup>100</sup> “Iron triangles” had structured regulatory relationships around industries, federal agencies, and congressional oversight committees, all comfortably ensconced in a set of ultimately self-serving affiliations. The new regulatory arrangements of the 1970s attempted to sever those bonds and distance those affiliations.<sup>101</sup>

At the same time, new regulations created and structured working relationships between federal agencies and their most active local constituents.<sup>102</sup> Critics called those active constituents “special interests,” but in more and more instances they had little financial stake in the agency or the issue at hand. Unlike the backroom alliances that made up “iron triangles,” these relationships were testy, local, and often public. Desert management under NEPA and FLPMA depended on environmentalists, ORV advocates, and BLM staff hashing out their differences with one another, often face-to-face. Hillier, Eastvold, McKey, and the parties they represented regularly found themselves in the same room. The “Son of Desert Duck” knew who Eastvold was and exactly how he planned to observe the race. In scrutinizing the race year after year and recording its impact, environmentalists effectively became an extension of the BLM’s environmental assessment process.

Environmentalists and cyclists at times made this point themselves. Groups like the Sierra Club and the High Desert Environmental Defense Fund participated in the assessment process from early on, viewing not only the process but also their own involvement as crucial. The Sierra Club, and environmental lawyers more generally, had been fighting for standing to sue in court since the mid-1960s; by the 1970s, thanks in part to NEPA, their claim to valid, non-economic interest in the protection of natural resources extended beyond lawsuits to administrative practices. Environmentalists increasingly viewed themselves as federal land managers’ contentious colleagues, equally well-versed in laws and policies and possessing an even greater understanding of broad goals. “It takes a community of vigilant citizens to ensure

<sup>99</sup>Memorandum from area managers to district manager, Nov. 3, 1980, folder 22, carton 5, SCNCNRCC.

<sup>100</sup>Decker, *The Other Rights Revolution*, 22.

<sup>101</sup>For classic critiques of iron triangles and pluralism, see Theodore Lowi, *The End of Liberalism: The Second Republic of the United States*, 2nd ed. (New York, 1979); and Grant McConnell, *Private Power and American Democracy* (New York, 1966), 210–1. McConnell considered not only the BLM but also the Forest Service to be largely captured by a regulated industry, despite the Forest Service’s supposed commitment to multiple use.

<sup>102</sup>Theodore Lowi has criticized this as “socialism for the organized, capitalism for the unorganized.” See Harris and Milkis, *The Politics of Regulatory Change*, 54.

that the agencies do the right thing and enforce their laws and regulations,” the Sierra Club’s Desert Committee instructed its members.<sup>103</sup> When the Sierra Club’s Jim Dodson wrote to the BLM’s Jim Ruch about ORV regulation and the CDCA Plan, he saw the Club as more than just another stakeholder. “Unlike user groups,” he explained, “we are concerned with the entire spectrum of issues in the Desert Plan and other aspects of your management activities; and I feel we both would benefit from more rather than less detailed discussion on these matters.”<sup>104</sup>

Motorbike advocates hoped for a seat at the table too. Philip Briggs and A. H. Tellier, earth scientists and ORV riders, urged their fellow cyclists to accept that the days of unrestricted riding were gone and to get involved in the EIS process. “The opportunity is there to get the analysis reports and impact studies done for point-to-point race corridors—but not without the continued efforts of motorcyclists,” they wrote in *Cycle Guide*. “Use this new information ... to work with the BLM on obtaining use areas and corridors.”<sup>105</sup>

The organized motorcycle community—best represented by the AMA and the Motorcycle Industry Council (MIC)—worked with the BLM not only to advance desert riding but also to escape the outlaw persona celebrated by the Phantom Duck. Hoping to promote a more family-friendly image, the AMA opposed McKey’s trail ride.<sup>106</sup> “If the government institutes rules,” said AMA Vice President Jim Wells when asked about the Phantom Duck, “it is incumbent on us to follow them.” Dennis David, chairman of the MIC’s land-use committee, said of the unorganized trail riders, “It’s destructive of their own interests, flying in the face of the BLM like that.”<sup>107</sup> When the BLM released its draft plan, the AMA encouraged its members to stick to the prescribed process. “Every rider must read the draft and contact BLM in opposition to all reduction of OHV [off-highway vehicle] space,” advised Rob Rasor, associate director of government relations.<sup>108</sup> McKey himself best summed up environmentalists’ and motorcycle organizations’ shared interests. “If they aren’t working for the Sierra Club,” he said bitterly of the AMA, “they’re doing a lot of work for free.”<sup>109</sup>

Desert management cultivated working relationships between erstwhile antagonists, even if only temporarily. By 1980, Dodson and Ruch had met regularly for several years. “I feel I should put down in writing some of the comments made in our phone conversation yesterday,” Dodson wrote to Ruch, explaining why the Club had declined to attend a meeting with motorcyclists and BLM staff. “The first point is your concern that this represents a decision to stone-wall the Bureau—to take the approach that we will ‘talk to you in court.’ I assure you this is *not* the case.” Lawsuits, Dodson made clear, were a last resort. “I think I speak for most environmentalists,” he wrote, “when I say that we welcome opportunities for productive dialogue with the Bureau.”<sup>110</sup>

Productive dialogue led to cooperative agreements. Despite their differences over desert management, and in particular the CDCA Plan’s designated course for the Johnson Valley-to-Parker Race, environmentalists and ORV riders agreed to set aside legal actions and work together on mitigating the race’s effects. Representatives from the AMA’s District 37 and the Sierra Club’s San Gorgonio Chapter decided on a route, on how many people

<sup>103</sup>“Planning Issues in the California Desert,” undated, folder 6, box 36, FWP.

<sup>104</sup>Jim Dodson to Jim Ruch, May 28, 1980, folder 7, carton 6, SCNCNRCC.

<sup>105</sup>Philip Briggs and A. H. Tellier, “The Desert Alternative,” *Cycle Guide* (Jan. 1977): 70–72, 77, here 77.

<sup>106</sup>On the violent and exclusionary reputation of bikers in the twentieth century, see Randy D. McBee, *Born to Be Wild: The Rise of the American Motorcyclist* (Chapel Hill, NC, 2015).

<sup>107</sup>“What People Say About the Phantom Duck of the Desert and His ‘Unorganized’ Trail Ride,” *ORV Monitor* (Nov. 1978): 3.

<sup>108</sup>“Four Alternatives Proposed in BLM’s Desert Plan Draft,” *AMA Desert Watch* (Mar. 1980), folder 13, carton 6, SCNCNRCC, 3.

<sup>109</sup>LaBarre, “Phantom Duck’ Alive and Protesting,” B2.

<sup>110</sup>Dodson to Ruch, May 28, 1980, folder 7, carton 6, SCNCNRCC.

would be allowed along that route, and to adjust the course one week before the race in order to avoid active desert tortoise habitat.<sup>111</sup> Under multiple-use guidelines, BLM director Frank Gregg had insisted a year earlier, “we are both resource *and* conflict managers.”<sup>112</sup>

There was no shortage of conflict to manage in the Mojave, much of it more difficult to reconcile than was the Johnson Valley-to-Parker Race. Even after passage of the CDCA Plan, antagonisms bloomed. Just two years into the plan, McKey’s persistent defiance convinced the BLM that official oversight was preferable to unofficial monitoring. The agency permitted the Barstow-to-Vegas Race in 1983, only to change course again in 1989 after the desert tortoise joined the endangered species list. At the same time, California Senator Alan Cranston grew increasingly unhappy with what he considered BLM’s hands-off approach to management after learning about the construction of several illegal utility roads in wilderness study areas.<sup>113</sup> Cranston began a decade-long effort to strengthen environmental protections in the CDCA, culminating in 1994 with passage of the California Desert Protection Act, which expanded and upgraded wilderness areas and National Park Service units including Joshua Tree and Death Valley.

Motorcyclists, mining interests, and the BLM itself accused Cranston of superseding the democratic support achieved by the CDCA Plan. Even Kenneth Norris, a University of California–Santa Cruz environmental studies professor who occasionally consulted with BLM, claimed that Cranston’s efforts “would undermine a unique \$8 million planning experiment in flexible desert management.”<sup>114</sup> Cranston argued that his bill, arrived at through the legislative process, represented little more than a continuation of ongoing desert administration.<sup>115</sup> That an elected representative in the 1990s had to defend his bill against charges of imperiousness, while a federal agency assumed the mantle of popular will, was a telling sign of broad investment in collaborative management.

## Conclusion

In the California desert, interest groups worked with federal administrators even when they fought against them. Environmentalists, and later ORV advocates, weighed in on administrative decisions and policy making. Lawsuits certainly forced changes in policy, but change also arose from administrative practice on the ground. Pressure groups in the West sometimes worked against the federal regulatory apparatus; although the sagebrush rebellion failed in its immediate legal aims, BLM director Frank Gregg nonetheless worried that it could succeed in mobilizing opposition to federal regulations, and there is ample evidence that it did.<sup>116</sup> But outside pressure also worked in tandem with the administrative state. Desert management, built on relationships between regional administrators and their most interested constituents, grew more sophisticated and better tailored to local conditions. The CDCA Plan recognized that “the public must assume its share of the responsibility for the public lands in the CDCA” and “that government by bureaucracy in a democratic society must be limited.”<sup>117</sup> The

<sup>111</sup>Agreement between AMA District 37 and Sierra Club San Geronio Chapter, Sept. 17, 1981, folder 23, carton 5, SCNCNRCC.

<sup>112</sup>“Remarks by Frank Gregg,” Feb. 5, 1980, folder 17, carton 20, Sierra Club Southwest Office Records, BANC MSS 98/134c, The Bancroft Library, University of California, Berkeley, CA, 1.

<sup>113</sup>Ed Haste to Alan Cranston, Mar. 1, 1985, folder 17, carton 227, ACP.

<sup>114</sup>Kenneth Norris, “Freezing the Desert: Plan to Create Parks Actually Threatens Wilderness,” *San Jose Mercury News*, Jan. 14, 1987, 7B.

<sup>115</sup>List of talking points on S.7, undated, folder 3, carton 227, ACP.

<sup>116</sup>See Brock Evans, memorandum, Oct. 10, 1979, folder 15, carton 93, Sierra Club National Legislative Office Records, BANC/MSS 71/289c, The Bancroft Library, University of California, Berkeley, CA. On ongoing effects of the sagebrush rebellion, see for instance Jennifer Percy, “They Want to Destroy Us: Fear of the Federal Government in the Ranchlands of Oregon,” *New York Times Magazine*, Jan. 21, 2018, 42–51.

<sup>117</sup>Bureau of Land Management, *The California Desert Conservation Area Plan 1980 as Amended* (1999), 5–7.

CDCA was, in fact, government by bureaucracy, but one that had grown more responsive and collaborative. Although disgruntled Westerners liked to portray the federal government as an indifferent authority imposing rules from afar, Americans frequently encountered that government as familiar figures working much closer to home.

Critiques of the New Deal's concentration of authority in the executive branch led to reforms that checked the power of administrative agencies and accelerated a sweeping distrust of government.<sup>118</sup> But historians may have too readily agreed that the 1970s and 1980s marked a startling shift in how Americans—conservative and liberal—conceived of national government. Federal regulatory power was never as singular or as concentrated as its fiercest critics suggested. Although lawsuits against lax regulation and administrative misbehavior served as vital correctives, federal agencies learned in other ways, many of them informal, gradual, and relatively unnoticed. In the vastness of the California desert, administrative management was easy to miss, but—like vehicle tracks—became an indelible part of the landscape.

**Keith Makoto Woodhouse** is an associate professor at Northwestern University, where he teaches in the History Department and the Environmental Policy and Culture Program. He is the author of *The Ecocentrists: A History of Radical Environmentalism*, and is currently working on a history of the California Desert Conservation Area.

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<sup>118</sup>See Pertschuk, *Revolt Against Regulation*, 64.