

**From:** Bruce Wright  
**To:** [Stockwell, Hope](#)  
**Subject:** OHV1  
**Date:** Friday, June 15, 2018 11:32:35 AM

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A small percentage on Montana's ride snow machines or off road vehicles, the greater percentage drive autos. Rather than pull money from the majority, it would make more sense to increase the recreation vehicle licenses or a user pass for out of state riders to fund those special uses. What about lawn mowers and boats? The state makes millions off of road tax for fuel that goes into motors that never see pavement. Regular people do not have the option of fueling up non highway motors with tax free gas , unlike agriculture or construction fuel their equipment with dyed fuel. Fuel tax is for roads, let the recreational users pay for their own benefits.

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Bruce Wright

Vo-ag instructor, Terry Schools  
Terry, Montana  
406-635-5534

It's not the bad years that break you.

**From:** James Reno  
**To:** [Stockwell, Hope](#)  
**Subject:** diversion of fuel tax funds  
**Date:** Monday, June 18, 2018 7:00:45 AM

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This note is to express my opinion about the diversion of fuel tax funds to other than highway projects. You ask the tax payer to approve a gas tax to be able to receive matching funds for our highway projects and now you want to send these funds to other projects and leave us short for matching funds. This is not a good idea and is wrong to do. It is what we see often, tell the tax payer what we plan to use the tax hike for and then do what they want. Wait until you need another tax increase, even if it is for a good purpose, you would lose the trust of the people. Do not promise one thing and do another. This is bad business.

Thanks,

Jim Reno  
Westate Machinery Co.  
1-800-999-6676

**From:** Duane Loken  
**To:** [Stockwell, Hope](#)  
**Subject:** Diversion of gas tax to OHV and snowmobile roads  
**Date:** Monday, June 18, 2018 12:42:12 PM

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Dear Ms. Stockwell,

The purpose of this email is to offer comments concerning the above concepts. The intent all along of the increase in the gas tax is to allow Montana to generate necessary revenue to provide the required matching funds to obtain Federal Highway funds to repair Montana's rapidly deteriorating roads and bridges and increase the safety for the traveling public. As it is, the 4.5 cents is only a short term fix and is not enough to maintain the match in the long run. The gas tax should have been at least \$.10 per gallon. To take money from this revenue source would risk losing Federal dollars. Montana is a recipient state. For every \$1.00 we spend, \$.87 comes from Federal Highway Trust Fund. But we need to come up with our match to obtain these funds. In addition, the proposed diversion is for recreational purposes. It is irresponsible to spend these dollars for recreational purposes when they are needed for projects and improvements that can save lives.



**Duane Loken, PE**  
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**Bob Walker**  
**60 Pine Ridge Circle**  
**Clancy, MT 59634**  
**406-461-0523**  
**bob\_mttrails@outlook.com**



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To: Environmental Quality Council

FROM: Bob Walker, Montana Trails, Recreation and Parks Association

SUBJECT: Increase in State Gas Tax to Montana' Off-Highway Vehicle Program

We understand that the Environmental Quality Council is considering a bill to increase from 1/8 of 1% to 23/50 of 1% of the money received in payment of the (state) gasoline tax to be deposited to an off-highway vehicle account in the state special revenue fund. This increased amount is supported in a study by the University of Montana's Bureau of Business and Economic Research. The Montana Trails, Recreation and Parks Association supports this increase which is needed as described below.

It is important to point out that this gas tax returned to the off-highway vehicle (OHV) program is for gas used in off-highway vehicles off roads! The gas tax authorized to the OHV account has not increased since 1991! The number of registered OHVs has increased exponentially in that time period.

A clear need exists for this increase in state gas tax funds to the OHV program. In FY 2018, applications for OHV grant funds totaled \$185,000 while only \$110,000 was available. Several valuable projects were not included in applications due to the small amount available. Examples include expanding the regional OHV trail maintenance program for an additional cost of \$180,000 per year. Currently one single grant to the Montana Trail Vehicle Riders Association allows them to contract with a trail builder-maintainer who owns a Sweco Traildozer to maintain and rehabilitate OHV trails on four national forests. The need for this type of work is statewide. As an important point, 99% of OHV trails exist on U.S. Forest Service and BLM managed properties. Grants on or to federal agencies for OHV projects require the cooperation with and support from an OHV club!

Also there is a dire need for expansion of the On the Right Trail Ethics Education Program totaling an additional \$50,000 per year. Montana had the best ethics education program in the

United States and several other states copied our example. Montana still has a stellar program but, due to inadequate funds, several important tools of the program have been idled.

Finally a few local OHV clubs have worked with land management agencies to develop quality OHV route maps but unfortunately there has not been adequate funds to provide maps to Montana's OHV public statewide. Additional grant funds of \$50,000 per year would allow OHV clubs to expand this effort statewide!

Montana's OHV grant program includes funds for invasive species abatement. Annually several OHV grants include invasive species abatement activities and are supported by local clubs and Fish, Wildlife & Parks.

The state OHV Program is administered by Fish, Wildlife & Parks which relies on a citizens OHV Advisory Committee to recommend grants for OHV projects. That citizen's advisory committee also makes recommendation for the future of the grant program and OHV issues statewide.

I serve on that OHV Advisory Committee. I and the Montana Trails, Recreation and Parks Association hope you will see the need to increase the amount of the state gas tax going to Montana's off-highway vehicle program and sponsor the proposed bill.

**Bob Walker**  
**60 Pine Ridge Circle**  
**Clancy, MT 59634**  
**406-461-0523**  
**bob\_mttrails@outlook.com**



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To: Environmental Quality Council

FROM: Bob Walker, Montana Trails, Recreation and Parks Association

SUBJECT: Increase in State Gas Tax To Snowmobile Program

We understand that the Environmental Quality Council is considering a bill to increase from 15/28 of 1% to 9/10 of 1% the money received in payment of the (state) gasoline tax and to be deposited to a snowmobile account in the state special revenue fund. This increased amount and need is documented in a study by the University of Montana's Bureau of Business and Economic Research. The Montana Trails, Recreation and Parks Association supports this increase which is needed as described below.

It is important to point out that this gas tax returned to the snowmobile program is for gas used in snowmobiles off maintained roads and on trails! The gas tax authorized to the snowmobile account was increased to 15/28 of 1% in 1995 and was based on a Snowmobile Economic Impact and Fuel Use Study conducted by the University of Montana's Bureau of Business and Economic Research. In fact that study showed a much larger amount of gas tax paid by snowmobilers for use off-road but the legislature only approved that amount expended by Montana resident snowmobilers and did not include non-resident snowmobile visitor's state gas tax expenditures.

The latest economic impact and fuel use study published by the University of Montana's Bureau of Business and Economic Research (2013) showed how important the grooming of snowmobile trails is to nearby communities during the winter months. Both nonresident and resident snowmobilers tend to spend a substantial amount of money on their snowmobile trips. These expenditures do not only include fuel, but also include restaurants, snowmobile repair shops, convenience stores, and sleeping establishments. Many of Montana's small western community businesses would not survive the winters without the groomed trails.

A clear need exists for this increase in state gas tax funds to the snowmobile program. In FY 2016-2017, Fish, Wildlife & Parks, the state agency that administers the state snowmobile program, received applications from 25 dedicated snowmobile clubs totaling \$581,000 but the

amount available for grants was \$429,204. At the same time these clubs invested \$550,339 of their own club money and value of volunteer labor to help maintain 4,000 miles of safe and quality winter trails.

Snowmobile trail groomers, somewhat similar to tracked caterpillars, maintain quality and safe snowmobile trails for all types of winter recreational activities. Most machines needed for grooming in the 195 HP power range and above now cost in excess of \$250,000. FWP, with input from the citizen snowmobile advisory committee, prioritizes and purchase used machines to attempt to meet the need and lease them to snowmobile clubs. Unfortunately with funds currently available, the snowmobile program can't adequately maintain an aging fleet of groomers!

We hope you will see the need to increase the amount of the state gas tax going to Montana's snowmobile program and sponsor the proposed bill.

# **CAPITAL TRAIL VEHICLE ASSOCIATION (CTVA)**

**P.O. Box 5295  
Helena, MT 59604-5295**

June 19, 2018

Legislative Services Division  
Attn. Hope Stockwell  
PO Box 201704  
Helena, MT 59620  
[hstockwell@mt.gov](mailto:hstockwell@mt.gov)

Re: OHV1 - – increasing the gas tax revenue allocated to the off-highway vehicle program within the Department of Fish, Wildlife, and Parks from 1/8 of 1% to 23/50 of 1%

Dear Ms. Stockwell,

We have assembled the following information and issues from our members and other motorized recreationists for the project record. We appreciate the opportunity to provide our comments for the draft bill to increase the gas tax revenue allocated to the off-highway vehicle program within the Department of Fish, Wildlife, and Parks from 1/8 of 1% to 23/50 of 1%. Gas tax generated by OHV recreation has not been reasonably returned to OHV recreation for a very long time. This inequity has created many significant issues. The problem must be fixed at this legislative session.

## **We are passionate about OHV recreation for the following reasons:**

### **Enjoyment and Rewards of OHV Recreation**

- Opportunity for a recreational experience for all types of people.
- Opportunity to strengthen family relationships.
- Opportunity to experience and respect the natural environment.
- Opportunity to participate in a healthy and enjoyable sport.
- Opportunity to experience a variety of opportunities and challenges.
- Camaraderie and exchange of experiences.
- We like to build and maintain trails for use by everyone.
- For the adventure of it.

### **Acknowledged Responsibilities of Motorized Visitors**

- Responsibility to respect and preserve the natural environment. We are practical environmentalists who believe in a reasonable balance between the protection of the natural environment and the human environment.
- Responsibility to respect all visitors.
- Responsibility to use vehicles in a proper manner and in designated places.

- Responsibility to work with land, resource, and recreation managers. We are committed to resolving issues through problem solving and not closures.
- Responsibility to educate the public on the responsible use of motorized vehicles on public lands.

Motorized recreation represents and supports many different interests of forest visitors. Supporting motorized recreation is the best way to support diversity of uses and multiple-use. This over-arching fact must be adequately addressed in the purpose and need and adequately considered in the analysis and decision. We are representative of the needs of the majority of visitors who recreate on public lands but may not be organized with a collective voice to comment on their needs during the public input process. These independent multiple-use recreationists include visitors who use motorized routes for family outings and camping trips, weekend drives, mountain biking, sightseeing, exploring, picnicking, hiking, ranching, rock climbing, skiing, camping, hunting, RVs, shooting targets, timber harvesting, fishing, viewing wildlife, snowmobiling, accessing patented mining claims, and collecting firewood, natural foods, rocks, etc. Mountain bikers have been observed to prefer OHV trails because we clear and maintain them and they have a desirable surface for biking. Multiple-use visitors also include physically challenged visitors including the elderly and veterans who must use wheeled vehicles to visit public lands. All of these multiple-use visitors use roads and motorized trails for their recreational purposes and the decision must take into account motorized designations serve many recreation activities, not just recreational trail riding. We have observed that 97% of the visitors to our national forests are there to enjoy motorized access and motorized recreation.

**Our position is that the existing system does not return a reasonable percentage of gas tax paid by OHV recreationists to OHV recreation.**

- The existing percentage of gas tax returned to OHV recreation has not been reasonably returned to OHV recreation for a very long time.
- This inequity has created many significant issues.
- The problem must be fixed at this legislative session.
- Consequently, the needs listed above are not being met.
- Additionally, public land management agencies are using lack of funding as a reason to enact wholesale closure of motorized recreational opportunities.
- The public would greatly benefit from an enhanced system of OHV routes instead of more and more closures of motorized access and motorized recreation and the improper diversion of OHV gas tax is at the center of this significant issue.

**Significant Maintenance, Funding and Gas Tax Issues**

- An equitable percentage of the gas tax paid by OHV recreationists has not been returned to OHV recreation.
- An equitable percentage of the gas tax paid by OHV recreationists has not been returned to OHV recreation for a very long time and the cumulative effects are extremely significant.
- Significant cumulative effects include a massive amount of OHV closures by public land management agencies using funding as the excuse.
- The public's "pursuit of happiness" and "high standards of living and a wide sharing of life's amenities" has been impacted by the improper gas tax percentage issue.
- Handicapped, elderly, veterans, and youth have been significantly impacted by the improper gas tax percentage issue.

- The analysis must adequately consider information that identifies significant issues surrounding maintenance, funding and gas tax issues.
- If OHV recreation is removed, then OHV gas tax funds should not be used in the area. Unfortunately this has happened and must now be mitigated.
- If OHV recreation is removed, then OHV gas tax funds used previously in the area should be returned for use on motorized projects. Unfortunately this has happened and must now be mitigated.

**Adequate Mitigation Measures must be adequately addressed**

Because of the long-lasting and significant negative impact that the improper diversion of OHV gas tax has had on OHV recreation, the proposed action must adequately address mitigation measures to compensate for the long-lasting damage and disservice to the public. The goal of this mitigation must be to restore the “pursuit of happiness” and “high standards of living and a wide sharing of life's amenities” associated with OHV recreation and to restore equal opportunity program delivery.

Additionally information on the gas tax issue is provided at the end of this letter. We are looking forward to adequate attention and correction to a very serious management issue impacting Motorized Recreationists that has resulted from the improper diversion of OHV gas tax monies. We would greatly appreciate your commitment to solve this significant issue.

Sincerely,

/s/ CTVA Action Committee on behalf of our 240 members and their families and friends  
 Capital Trail Vehicle Association (CTVA)<sup>1</sup>  
 P.O. Box 5295  
 Helena, MT 59604-5295

Contacts:

Doug Abelin, President	at (406) 461-4818	<a href="mailto:dabelin@live.com">dabelin@live.com</a>
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<sup>1</sup> CTVA is also a member of Montana Trail Vehicle Riders Association ([mtvra.com](http://mtvra.com)), Blue Ribbon Coalition ([sharetrails.org](http://sharetrails.org)), and New Mexico Off highway Vehicle Alliance ([nmohva.org](http://nmohva.org)),. Individual memberships in the American Motorcycle Association ([ama-cycle.org](http://ama-cycle.org)), Citizens for Balanced Use ([citizensforbalanceduse.com](http://citizensforbalanceduse.com)), Families for Outdoor Recreation ([ffor.org](http://ffor.org)), Montana 4X4 Association, Inc. ([m4x4a.org](http://m4x4a.org)), Montana Multiple Use Association ([montanamua.org](http://montanamua.org)), Snowmobile Alliance of Western States ([snowmobile-alliance.org](http://snowmobile-alliance.org)), and United Four Wheel Drive Association ([ufwda.org](http://ufwda.org))

## Funding, Maintenance and Gas Tax Issues

1. Current management directives seek to aggressively decommission non-beneficial or unclassified roads, reduce the existing backlog on road maintenance and reconstruction, and reduce the resource impacts of the current roads network. The Forest Service in the Roadless Rule EIS reported that the backlog of forest road maintenance was about \$8.4 billion. This estimate includes many primitive roads and trails that motorized recreations would prefer not to have improved except for mitigation measures such as water bars and reroutes to avoid sensitive environmental areas. The challenge and recreation value of these types of primitive roads and trails is what most motorized recreationists are looking for. Therefore, this maintenance effort is overstated and a more reasonable alternative would be to incorporate reasonable mitigation measures and convert roads to unrestricted-width or restricted-width trails to provide motorized recreation opportunities and then remove these roads from the roads inventory. We request that this reasonable alternative be included as part of the preferred alternative.
2. Motorized recreationists have a history of clearing trails. The agency's trail maintenance costs could be reduced by up to ½ if all trails were opened to motorized recreationists.
3. Motorized recreationists have historically provided a significant amount of maintenance in order to keep routes open as part of their normal use. Now because of the significant number of motorized closures, the level of maintenance has been significantly reduced. We know of many motorized routes that are now closed and have become impassable to non-motorized recreationists because of the lack of user provided maintenance.
4. Considerable trail and environmental mitigation work could be accomplished by programs similar to AmeriCorps and Job Corps if they were given that direction and organized to provide that assistance.
5. We request, as a reasonable alternative, that maintenance actions be taken before closure actions. We believe that this is a viable alternative that would address many of the issues that are driving the pre-determined decision to closure. OHV recreation generates significant gas tax revenue that could be tapped for this purpose. For more background on this issue please refer to our comments on gas tax and funding.
6. We understand the operation and maintenance budget constraints facing the agency. However, lack of maintenance funding cannot be used as a reason for motorized closures because there is significant gas tax funding that is not being returned to motorized recreationists (see comments on gas tax issues). Motorized recreationists are willing to work in collaboration with the agency to obtain trail and OHV funding for the project area. Additionally, motorized recreationists can be called upon to help with the maintenance of trails in the project area. In many cases motorized recreationists have been providing trail maintenance for many years and are quite willing to continue in return for continued access.

7. The lack of money to maintain OHV routes is being used as a reason to close OHV routes and at the same time Recreational Trails Program (RTP) and gas tax money paid by OHV recreationists is not being returned to OHV recreation. There is also unused motorized RTP money available each year. Additionally, the lack of money is used as a reason that new OHV routes cannot be constructed.
  - a. Solution: The BLM and Forest Service must aggressively pursue and make use of all available forms of OHV trail funding including RTP, and a more equitable return of the gas tax paid by OHV recreationists. As demonstrated in the following comments, the amount of gas tax paid by OHV recreationists is enormous.
8. OHV recreation generates millions of dollars in OHV gas tax revenues which should be used to for trail maintenance (see additional comments and Oak Ridge National Laboratory, 1994, Federal Highway Administration, Report ORNL/TM-1999/100, Federal Highway Administration, An 80 page summary of the fuel used for OHV recreation, [http://www-cta.ornl.gov/cta/Publications/Reports/ORNL\\_TM\\_1999\\_100.pdf](http://www-cta.ornl.gov/cta/Publications/Reports/ORNL_TM_1999_100.pdf) ). Unfortunately, these dollars are not being applied to OHV trails. Bringing volunteers together with funding would solve nearly all of our OHV trail maintenance needs.
9. Our observations of recreationists taking visiting the primitive roads and trails within public lands indicate that 97% of the visitors represented multiple-uses that rely on motorized access and/or mechanized recreation (data available upon request). These needs can be further quantified by researching records from the Motor Vehicle Division (MVD) and the report Fuel Used for Off-Road Recreation (Report ORNL/TM-1999/100, Federal Highway Administration). Both of these sources document OHV numbers by state.

Montana is estimated to have 32,747 off-road trucks, 18,400 off-road motorcycles, and 23,017 off-road atvs for a total of 74,164 OHV recreationists (Report ORNL/TM-1999/100). This total does not include other multiple-use visitors using automobiles, SUVs, etc. Nationally, the total estimated off-highway vehicles equal about 7,400,000 which does not include other multiple-use visitors (Report ORNL/TM-1999/100).

Additionally, there are millions of other multiple-use visitors who use motorized access for sightseeing, exploring, picnicking, hiking, rock climbing, skiing, mountain biking, riding horses, camping, hunting, RVs, target shooting, fishing, viewing wildlife, snowmobiling, accessing patented mining claims, and gathering of firewood, rocks, natural foods, etc. Mountain bikers seem to prefer OHV trails because we clear and maintain them and they have a desirable surface for biking. Additionally, many of the routes within the project area are necessary to maintain access to patented mining claims and historic districts. Also, physically challenged visitors must use wheeled vehicles to visit public lands. The needs of all of these multiple-use visitors have not been adequately addressed and the proposed negative impacts to them have not been adequately disclosed. We request that the cumulative needs of these visitors be accurately quantified and the cumulative negative impacts of closures on these visitors be considered in the decision-making.

10. Finding funding for programs can be a challenge. In the case of OHV recreationists, ample funding is being generated by OHV recreationists, however as demonstrated in the following paragraphs, a reasonable amount of this funding is not being returned to OHV recreationists.

State governments collect excise taxes on gasoline for road and highway improvements ranging from \$0.075 to \$0.389 per gallon (References 7, 9, and [http://www.flyingj.com/s\\_tax.html](http://www.flyingj.com/s_tax.html) ). The federal government collects excise tax on gasoline for road and highway improvements equal to \$0.184 per gallon, which is earmarked for the Federal Highway Trust Fund (Reference 8 and 10). A federal excise tax refund program for gasoline used for off-road purposes does not exist at this time. Some states allow purchasers of gasoline for off-road use to collect a state tax refund for fuel used in a non-taxable manner. For example, the State of Montana defines fuel consumed by equipment and vehicles operating off public roads as fuel used in a non-taxable manner (Reference 2). Therefore, excise tax on gasoline used for off-road fuel use should either be refunded to off-highway recreationists or used to fund programs that benefit off-highway recreationists. Neither of these mechanisms are being implemented in an equitable manner at this time. Therefore, a reasonable amount of the gasoline excise tax paid by off-highway recreationists is not being returned to off-highway recreationists or used for their benefit at this time.

The magnitude of gas tax paid by OHV recreationists is significant. Fuel used for off-road motorcycle, atv and 4-wheel drive recreation in Montana is estimated at 18,537,060 gallons per year (Reference 1). The State of Montana fuel tax is \$0.2775 per gallon (Reference 2). Therefore, an estimated \$5,144,034 in state fuel tax (\$0.2775 per gallon times 18,537,060 gallons per year) is paid annually by Montana off-road recreationists. The present worth of this annual amount over the past 30 years is about \$88,940,000. Other states can be calculated by referring to the state gas tax amount per gallon published at [http://www.flyingj.com/s\\_tax.html](http://www.flyingj.com/s_tax.html) . Unfortunately, most of the state tax paid by OHV recreationists on gasoline ends up being used for other programs and not for OHV programs.

Additionally, federal gas tax paid by OHV recreationists living in Montana is significant and is estimated at \$3,410,819 (\$0.184 per gallon times 18,537,060 gallons per year). The present worth of this annual amount over the past 30 years is about \$58,973,000. There is no method for direct return of the federal excise tax to OHV recreationists. Therefore, most of the federal excise tax paid by OHV recreationists on gasoline ends up being used for other programs and not for OHV programs. In summary, OHV recreationists in Montana generate total state and federal annual gas tax revenue on the order of \$8 million and a present worth over the past 30 years of about \$150,000,000. Other states are similar or more. This level of funding would be sufficient to fund expanded and enhanced OHV programs in Montana and other states but this objective requires an equitable means of returning off-road gas tax to OHV recreationists.

The amount of gas tax being returned to Montana OHV recreationists through State Trails Program (STP) and Recreational Trails Programs (RTP) is on the order \$200,000 per year (References 3 and 4) or about 3% of the actual state and federal gas tax paid by OHV recreationists. This small percentage of return is not equitable and other states also follow this trend. We request that revisions be made to state and federal programs in order to return to OHV recreationists the full amount of gas tax paid by OHV recreationists in the form of funding specifically earmarked for enhanced and expanded OHV Programs.

Furthermore, at the national level, RTP was funded at a \$50,000,000 level in fiscal year 2002 (Reference 5). The maximum amount made available to OHV projects by RTP funds is no more than 70% (split of funds is authorized at 30% motorized recreation, 30% for non-motorized, and

40% for diverse trail use, Reference 6). If an estimated 50% (probably high given current circumstances) were returned to OHV recreationists through the RTP program, then the total amount returned to OHV recreationists at the national level would be about \$25,000,000.

Table 7.1 in Reference 1 reports the total annual gallons of gasoline used nationally by all off-road recreationists is about 1,882,191,331 gallons. Most states limit a refund of excise tax on gasoline to off-road use to agricultural or commercial off-road use and specifically do not allow a gas tax refund to OHV recreationists. Therefore, about \$470,547,832 (assuming a minimum state and federal gas tax rate of \$0.25 per gallon times 1,882,191,331 gallons per year) is paid in fuel taxes by all off-road recreationists in the country each year. The present worth of this annual amount over the past 30 years is about \$8,135,772,000. At a national level, the amount returned to OHV recreationists by the RTP program is no more than 5% of the actual state and federal gas tax paid by OHV recreationists. This small percentage of return is not equitable. We request that revisions be made to state and federal programs in order to return the full amount of the gas tax paid by OHV recreationists to programs that benefit OHV recreationists.

OHV recreationists have significant needs that have gone unmet for many years due to the lack of adequate funding. The lack of adequate funding and attention to these needs has also contributed to some concerns associated with OHV recreation. An adequate level of funding, as discussed above, would address all needs and concerns associated with OHV recreation including environmental protection and mitigation projects, education and safety programs, the enhancement of existing recreation opportunities and, the development of new OHV recreation opportunities necessary to meet the needs of the public. We request the development of a funding mechanism that equitably returns gas tax revenues directly to OHV recreationists.

11. Additional funding is needed for expanded and enhanced OHV programs to effectively address the concerns and needs of OHV recreationists including programs:
  - a. To provide greater promotion of responsible OHV recreation,
  - b. To provide greater promotion of OHV tourism,
  - c. To provide greater promotion of an OHV Safety program and distribution of safety educational materials,
  - d. To provide greater promotion and distribution of educational materials on land use and visitor ethics,
  - e. To provide greater promotion and distribution of educational materials on OHV and hunting ethics,
  - f. To actively promote and support the development of local OHV organizations in all areas of the state to further promote OHV educational and awareness programs,
  - g. To promote greater registration of OHVs which will produce greater support for the OHV Program,
  - h. To develop and distribute a monthly or quarterly newsletter to all registered OHV owners,
  - i. To develop and distribute OHV information including maps and listings of OHV recreational opportunities,
  - j. To develop multiple-use recreation opportunities on public lands as allowed under existing laws,
  - k. To develop and operate a collection and distribution point for OHV recreational and educational information, links to OHV clubs, etc.,

- l. To provide a Trail Ranger program that supports OHV recreationists similar to the State of Idaho's,
- m. To mitigate all existing concerns with OHV recreation on public lands in cooperation with federal and state agencies and in conformance with all existing laws and a Memorandum of Understanding dated February 25, 2002 between U.S. Department of Agriculture, Forest Service and the Blue Ribbon Coalition, and
- n. To develop and promote all reasonable OHV recreation opportunities on public lands in cooperation with federal and state agencies and in conformance with all existing laws and a Memorandum of Understanding dated February 25, 2002 between U.S. Department of Agriculture, Forest Service and the Blue Ribbon Coalition.

Note that an OHV Trust Fund should be set up to collect and hold OHV gas tax monies paid by OHV recreationists in the past but not returned to them. This trust fund could also be used in the event of delays in the start-up of OHV Programs and to accommodate the scheduling of NEPA actions for on-the-ground OHV projects.

In summary, we cite a common principle of law articulated in the Montana Codes Annotated "1-3-212. Benefit -- burden. He who takes the benefit must bear the burden." We agree with that principle and the necessary obverse, "He who bears the burden must receive the benefit." We request that all gas tax revenue generated by OHV recreationists be returned to OHV recreationists for their benefit and used to address; through education, mitigation, enhancement, and development projects; all of the concerns and needs associated with OHV recreation.

- Reference 1: Report ORNL/TM-1999/100, Federal Highway Administration  
[http://www.cta.ornl.gov/cta/Publications/Reports/ORNL\\_TM\\_1999\\_100.pdf](http://www.cta.ornl.gov/cta/Publications/Reports/ORNL_TM_1999_100.pdf)
- Reference 2: <http://www.mdt.state.mt.us/administration/gastaxrefund.html>
- Reference 3: <http://www.fwp.state.mt.us/parks/trails/trailgrantapps.asp>
- Reference 4: <http://www.fwp.state.mt.us/parks/ohvgrantaward.asp>
- Reference 5: <http://www.fhwa.dot.gov/environment/recfunds.htm>
- Reference 6: <http://www.fhwa.dot.gov/environment/rtbroch.htm>
- Reference 7: <http://www.wsdot.wa.gov/KeyFacts/GasTaxRates.htm>
- Reference 8: <http://www.wsdot.wa.gov/KeyFacts/HiwayUserFees.htm>
- Reference 9: [http://www.njpp.org/archives/otr\\_gastax.html](http://www.njpp.org/archives/otr_gastax.html)
- Reference 10: <http://www.bts.gov/transtu/ts2/ts2.htm>

12. Past comments made in opposition to the Symms Act by non-motorized groups have tried to establish that the OHV portion of the Symms Act and RTP are subsidized by public funds, however, just the opposite is true. Off-road motorized recreationists do have a funding mechanism available in the form of the gas tax monies collected from their gas purchases and, furthermore, these monies may have been inappropriately used for non-motorized projects. Additionally, wilderness trails are routing maintained without a source of funding tied to the users. In contrast to that situation motorized trails are seldom maintained by the agency even though motorized recreationists generate more than adequate funding through the collection of gas taxes. We request, as a reasonable alternative, that corrective actions (an adequate mitigation plan) be taken to address to return all past and current off-road gas tax monies to OHV recreationists.

13. The lack of funding is often used as an excuse to avoid addressing problems associated with OHV recreation when in reality there is more than adequate funding. This is another example of the absence of a rational connection between the facts found and the choice made. Furthermore, the diversion of gas tax paid by OHV recreationists to other programs has contributed to many of the problems facing motorized recreationists. We request the evaluation of the impact and cumulative negative impacts that have resulted from the diversion of gas tax paid by OHV recreationists to other programs including impacts associated with reduced OHV safety, education, mitigation, and development programs. Additionally, we request that an adequate mitigation plan be included as part of this action to compensate for past cumulative negative impacts.
  
14. We have noticed that most trails in wilderness areas are adequately maintained with clearing, water bar construction and trail rerouting provided on an annual basis. All of this is done by agencies without any user-generated fees. At the same time motorized resources see very little maintenance and motorized recreationists have had to do a lot of work themselves in order to keep motorized routes open even though OHV gas tax has generated over 8 billion dollars over the last 30 years. Moreover, to top off this incredibly inequitable situation, lack of maintenance is often used as a reason to close motorized recreational resources. We request, as a reasonable alternative, that this issue be addressed and corrected by using OHV generated gas tax monies for maintenance, education, and construction of motorized recreational opportunities.
  
15. There are cases where OHV gas tax funding has been used to improve a non-motorized trail. There are also cases where OHV gas tax money has been used to improve a trail and then that trail has been closed to motorized use. The use of OHV gas tax funding for non-motorized recreation is improper. We request that these cases be identified and that they be corrected by replacing motorized recreational opportunities that have been closed with new motorized recreational opportunities of equal recreational value.



July 6, 2018

Environmental Quality council  
Legislative Services division  
Attn: Hope Stockwell  
PO Box 201704  
Helena, MT 59620

RE: Proposal OHV1 Increasing the gas tax revenue allocated to the off-highway vehicle program within the Department of Fish, Wildlife, and Parks from 1/8 of 1% to 23/50 of 1%.

The Montana Trail Vehicle Riders Association (MTVRA) represents OHV clubs and associations, individual and business members from around the State of Montana. MTVRA supports the draft OHV1 and would urge the EQC to move this concept forward.

MTVRA promotes safe and responsible use of OHV's and the maintenance of motorized trails on USFS and BLM lands. Sustainable trails are the backbone of the recreational opportunities. To provide additional funding for the maintenance of these trails, it is important to have a source of funding that is coming directly from Montana where there is local input.

The change made by the Legislature that put permanent plates and stickers on our vehicles devastated the OHV fund that had become a source for clubs and associations to participate in maintenance and educational projects with other partners. With those funds limited, we now rely heavily on the RTP funding that comes from the Federal Gas Tax. While there is a large sum available, the grant requests are many more than can be funded.

There are drawbacks to the RTP funding, especially for a small club. Since these grants are reimbursement only, the club needs a healthy bank account. The 20% match required is another hurdle. The DOT guidelines have become more restrictive, with added 'guidelines', such as the requirement that a request for reimbursement must be sent in within 9 months of the last request. The trail maintenance contractor is limited by fall closures and snow, making the fall request take place in September. This puts the next request due by June, and in many areas, there is still snow in the mountains or as is the case in the Little Belts, area trails are not open until July 1<sup>st</sup>.

MTVRA has a clean record with the grant programs operated by FWP. The reports are done on time with the proper documentation. Many small clubs struggle with the administrative side. For volunteers to assume these tasks, they must have a great dedication to the sport, and lots of time to devote to the programs. Good record/bookeeping and a good memory are a necessity.

*Creating a positive future for off-highway vehicle recreation*

The problem we identified with the 9 month reimbursement guideline has been brought to their attention, but since DOT has made the decision, there doesn't appear to be any room for change or exceptions.

MTVRA asks that you consider the comments from others in the OHV community who have sent in comments. MTVRA thanks you for the opportunity to comment on the draft OHV1 and ask the EQC to support moving this draft to the full legislature.

Sincerely,



Ramona Ehnes  
Secretary/Treasurer

For  
Mike Jeffords, President

**From:** Darryl James  
**To:** [Stockwell, Hope](#)  
**Subject:** Comments on OHV1 / Snowmobile 1 / AIS Program Funding bill drafts  
**Date:** Monday, July 09, 2018 5:08:54 PM

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Ms. Stockwell –

The Montana Infrastructure Coalition respectfully submits the following comments to apply broadly to the following proposals in front of EQC:

- **OHV1** – increasing the gas tax revenue allocated to the off-highway vehicle program within the Department of Fish, Wildlife, and Parks from 1/8 of 1% to 23/50 of 1%
- **Snowmobile 1** - increasing the gas tax revenue allocated to the snowmobile program within the Department of Fish, Wildlife, and Parks from 15/28 of 1% to 9/10 of 1%
- **Aquatic invasive species (AIS) program funding**: The EQC proposes a new funding structure for Montana’s AIS programs. Currently, hydroelectric fees provide \$3.7 million in annual funding and the Aquatic Invasive Species Prevention Pass purchased by anglers generates about \$3 million per year. The EQC instead proposes using a combination of general fund, gas taxes generated by motorboat use, and angler and watercraft fees to provide future funding. Hydroelectric fees would not be collected.

The Infrastructure Coalition opposes any attempts to divert fuel tax revenues for any purposes other than those explicitly allowed under our state Constitution, namely roads and bridges. As the Council will recall, the Infrastructure Coalition worked extensively with the Legislature in 2017 to increase the gasoline and special fuels tax by modest amounts to provide a long-overdue increase in revenues for Montana’s aging transportation infrastructure. This increase was proposed in response to an undeniable need (represented in both the state’s abysmal safety statistics as well as sheer backlog of deferred maintenance as documented by national third-party research), an inability to meet federal match requirements for state system roadways, and an inability for local governments to generate revenue for local roadway projects.

These bill drafts propose to divert revenues from Montana’s core residential, business, commercial and industrial transportation needs and direct that money to exclusive recreational uses. Leaving aside the perplexing prioritization of wants over needs in these bills drafts, there appears to be a disconnect in the rationale for the increase. To date, proponents of these three bills have pointed to dated research conducted by BBER to justify increased revenue for recreational facilities. It is important to note that over the last 15 years, fuel tax revenues have increased by roughly 18 percent. The allocation to the Highways Special Revenue account has increased by about 17 percent, while the allocations to the OHV account and the Snowmobile account have increased by 15 and 17 percent, respectively. Thus, the allocations to these two accounts has increased at or very near the same rate as the overall increase in fuel tax revenues. With this perspective, there is no justification for a larger percentage diversion to the OHV or Snowmobile accounts.

It is also troubling to the Infrastructure Coalition that proponents of this diversion are prioritizing increased expenditures on recreational facilities but did not support an increase in funding for local roads and bridges critical to the safe and efficient movement of Montana residents and businesses. The cumulative rationale would seem to support a zero (0) percent increase for local transportation

and an increase in recreational spending at a rate higher than that either collected or spent on statewide transportation needs. The Coalition views this as a dramatic departure from the explicit language in the Constitution.

To the greatest extent possible, the Infrastructure Coalition has supported revenue generation for infrastructure that connects the cost to the cost-causer. The fuel tax is a direct user fee. The Coalition understands and appreciates that some gasoline is being consumed by vehicles other than cars and trucks on our state and local roads and bridges. The question is one of priorities, and whether users are being appropriately taxed for their impact and/or the actual cost of the facilities provided. With the fuel tax increase provided by HB 473, the state of Montana will still be left with a transportation infrastructure deficit. Additional revenues will be required within the next 10 years. The legislature will need to take a harder look at fuel taxes, registration fees, licensing fees, and possibly other funding mechanisms to keep pace with the rate of decline in both revenues and the physical state of our transportation infrastructure. The Coalition would likely support legislative measures that connected the cost of the impact to OHV and snowmobile trails directly to those users, such as increased licensing and registration fees, but will stand opposed to further diversions of revenues intended for critical roads and bridges.

The Coalition stands opposed to using fuel tax revenues for AIS program funding as well, and for very similar reasons. The revenues for Montana's critical transportation infrastructure is already insufficient. If there is growth in tourism around the state, then new revenue sources should be sought that target those recreational users.

In the end, the Coalition has demonstrated to the legislature that infrastructure funding in general is insufficient to address the mounting needs. Splitting an already undersized pie into smaller pieces does not solve any problem in the long run. The Infrastructure Coalition stands ready to work with legislators to craft long-term solutions to address priority projects with the understanding that sound infrastructure provides the foundation necessary for safe and healthy communities to raise our families and to grow businesses and a vibrant economy.

Thank you for the opportunity to provide comment. We look forward to further discussion on this and other important infrastructure matters.

Respectfully,

**Darryl James, Executive Director**  
**Montana Infrastructure Coalition**

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