HSHA Files Historic Lawsuit to Protect Sequoia & Kings Canyon NPs

On September 30, the HSHA filed a lawsuit challenging the new General Management Plan (GMP) for Sequoia & Kings Canyon National Parks (SEKI), and also challenging SEKI’s issuance of permits to commercial stock enterprises in violation of numerous federal laws. The HSHA has for years urged park managers at SEKI to follow the law when issuing permits to commercial businesses, and to adopt reasonable limits and controls to protect park and wilderness resources, but the Park Service has flatly refused. Having exhausted all other options, we’re now asking the courts to enforce our nation’s park and wilderness protection laws. Regardless of the outcome, this will be an historic turning point at SEKI.

Decades of Neglect & Denial

In 1971, the Park Service acknowledged the many significant impacts of stock animal use and adopted a Master Plan for SEKI that directed park managers to phase out all stock use in the sensitive higher elevations of SEKI, and to phase out open grazing throughout the parks. The plan stated, in part:

“Because of the damage resulting from livestock foraging for food and resultant trampling of soils, possible pollution of water, and conflict with foot travelers, use of livestock in the higher elevations for any purpose should be phased out as conditions permit…Livestock may be used in the lower elevations and around developed areas where it can be stabled and fed without open grazing on park lands.”

The 1971 Master Plan thus provided protection for the most sensitive higher elevations of SEKI while also allowing stock use to continue throughout much of the parks—provided that stock users carry feed for their animals, as is required in many other national parks. But due to intense lobbying by stock interests, SEKI never implemented its Master Plan. Instead, in the early 1980s, during the tenure of the infamous pro-business Interior Secretary James Watt, SEKI invented a very brief “Stock Use and Meadow Management Plan” (SUMMP) that allowed stock use to continue and grow regardless of the identified impacts. The final SUMMP, adopted in 1986, allowed stock use and grazing to continue throughout SEKI, and stated SEKI’s intention to someday amend the 1971 Master Plan to remove its restrictions on stock use. But the Master Plan was never amended; it simply sat on the shelf, gathering dust. And ever since, SEKI has issued “Commercial Use Authorizations” (with no limits) to commercial pack outfits.

The result has been continued degradation of SEKI’s high-elevation meadows and wetlands, pollution of water sources, and spread of weeds by stock animals (which SEKI now addresses via potentially harmful control efforts including the regular application of toxic chemical herbicides). Despite countless complaints from park visitors about the damage caused by stock animals, and numerous calls for reform from SEKI’s own rangers and scientists, park managers simply deny that anything is wrong.

Stumbling Backward into the Future

Instead of implementing (or amending) its common-sense Master Plan, the Park Service has now completely replaced it with a new General Management Plan

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USFS Lies in Pursuit of State Funds

The U.S. Forest Service has been caught making false claims in an attempt to secure grant funds from the State of California’s Sierra Nevada Conservancy (SNC). The USFS had requested grant funds from the SNC for the purpose of building and upgrading horse trails in the John Muir and Ansel Adams wildernesses, falsely claiming that the projects were primarily intended for “restoration” purposes. After the HSHA exposed the lies, the SNC properly postponed funding decisions for the projects, and is now taking a closer look at the USFS’s grant proposals.

The SNC was created by the State of California in 2004 to help protect, conserve, and restore the many unique resources of the Sierra Nevada region. The Conservancy doles out millions of dollars of state taxpayers’ money for a variety of projects throughout the Sierra.

One proposal by the USFS asked for SNC funding to build numerous trail improvements in the Ansel Adams Wilderness, including new horse trails to Laura Lake, a remote gem surrounded by fragile meadows and wetlands. Another proposal would result in major reconstruction (allowing for substantially increased commercial stock use) in the Chocolate Lakes area of the John Muir Wilderness.

Given California’s multi-billion dollar budget deficits, it seems ludicrous that scarce state funds would be spent to build new horse trails into remote and sensitive High Sierra wilderness. But that hasn’t stopped the USFS from pursuing SNC funding for its pet projects.

As time allows, HSHA volunteers will continue to review grant proposals by the USFS, and funding decisions by the SNC.

WHAT YOU CAN DO: Send a letter (or e-mail message) politely thanking the SNC for carefully scrutinizing all grant proposals by the U.S. Forest Service, and saying that you strongly oppose the use of any state funds to upgrade trails that would facilitate or encourage damaging horse traffic in fragile Sierra wilderness.

Address:

Jim Branham, Executive Officer
Sierra Nevada Conservancy
11521 Blocker Dr, Suite 205
Auburn, CA 95603

e-mail address:

jbranham@sierranevada.ca.gov

USFS Violates First Amendment Rights

In an effort to spread the word about HSHA and issues affecting hikers, volunteers have for years placed our membership fliers on car windshields at Forest Service trailheads. When we learned that rangers at the Inyo National Forest were both removing the fliers and also encouraging commercial packers to remove them, we politely asked the forest supervisor to investigate. But soon afterward, when our volunteers were confronted and threatened by commercial pack station employees, it became clear that a more concerted response was needed. At the suggestion of one of our members, we contacted the American Civil Liberties Union, which appointed an attorney to investigate the matter and contact Forest Service and Justice Department lawyers (free of charge) on our behalf. The ACLU insisted that the Forest Service must stop removing our fliers, and that the agency must also ensure that its commercial permittees do not remove them or harass forest visitors who are expressing their freedom of speech. The Forest Service’s lawyers agreed, promised to investigate, and assured us that these problems would not recur. Please let us know if you observe federal employees or pack station personnel removing HSHA fliers from vehicles, and/or if you are harassed in any way.

Support the HSHA

There are many ways you can support the HSHA. Here is a partial list:

Renew your membership. Simply return the coupon on the back page with your tax-deductible donation. (We’ll send a letter acknowledging your donation unless you specifically ask that we do not.)

Employer match. Some employers match charitable contributions (even for retired employees), and some will even double or triple your tax-deductible donation to the HSHA. Check with your employer about their procedure for matching donations. Our IRS Taxpayer Identification Number is 94-3361931.

Bequests. Naming the High Sierra Hikers Association in your will, trust, or other estate plans will assist us in pursuing our mission in the years to come. What better legacy can you leave for the High Sierra? It’s as simple as adding a statement to your will such as: “I give the sum of $___ to High Sierra Hikers Association, Inc., a charitable organization (Calif. nonprofit corporation C2077019; TIN 94-3361931; www.highsierrahikers.org), to use as its board of directors determines.”
SEKI: Continued from Page 1

(GMP). The new GMP calls for ever more developments to facilitate and encourage stock use at SEKI, including the construction of new commercial pack stations and new campgrounds, trailheads, and trails to be built specifically for stock users.

The GMP was ten years in the making, during which time the Park Service refused to analyze several alternatives suggested by the HSHA and others (such as keeping and implementing the stock management provisions contained in the 1971 Master Plan). In crafting the GMP, the agency also refused to evaluate the environmental harm certain to be caused by allowing multiple new developments to facilitate stock use. Our lawsuit alleges that SEKI’s failure to consider a range of reasonable alternatives, and its failure to assess the environmental impacts of its actions, violate the National Environmental Policy Act (NEPA). Our lawsuit also alleges that SEKI’s actions have allowed commercial exploitation and degradation of the wilderness character in violation of the Wilderness Act, and impairment of park resources in violation of the National Park Service’s Organic Act.

Science Swept Under the Rug

SEKI’s own scientists have for decades documented the harm caused by excessive and inappropriate stock use. In the early 1990s, one such scientist studied the harm caused by excessive and inappropriate stock use. Our lawsuit alleges that SEKI’s failure to consider a range of reasonable alternatives, and its failure to assess the environmental impacts of its actions, violate the National Environmental Policy Act (NEPA). Our lawsuit also alleges that SEKI’s actions have allowed commercial exploitation and degradation of the wilderness character in violation of the Wilderness Act, and impairment of park resources in violation of the National Park Service’s Organic Act.

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Another SEKI scientist documented the sensitivity of high-elevation meadows and recommended (in 1996) that “all meadows above 9700 feet should be closed to grazing” (2). That recommendation was never implemented by park managers, and SEKI refused to even consider it when crafting its new GMP.

Instead of implementing the recommendations of its own scientists to protect high-elevation meadows from harm, SEKI contrived and has been employing a “residual biomass” monitoring (RBM) scheme in a misguided attempt to justify grazing of park meadows. In truth, RBM methods were developed for agricultural or “multiple use” settings, and are irrelevant to national park management. For example, RBM schemes measure only the amount of “forage” (i.e., grass) produced by a meadow, and ignore completely the soil compaction and other damage to SEKI’s extremely fragile high-elevation meadows, wetlands, and lakeshores due to trampling by heavy stock animals. The RBM scheme also fails to protect the sublime scenic qualities of SEKI’s mountain meadows. Park visitors and SEKI’s own rangers have for decades decried the despoiled appearance of cropped meadows littered with piles of odorous manure. Yet SEKI continues to spend countless taxpayer funds promoting a smoke-and-mirrors RBM scheme that ignores the primary mandates of the Park Service’s Organic Act to “conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.”

Eat, Drink, and be Wary

In recent years, researchers from the U.C. Davis School of Medicine have documented significant water pollution at SEKI due to stock animals. Their studies, conducted throughout the Sierra Nevada, compare water quality in areas grazed by cows, to areas grazed by recreational (i.e., pack & saddle) stock, to areas visited by hikers only. Bacterial contamination was found in 96% of the areas grazed by cows, 63% of the areas grazed by pack stock, and only 18% of the areas visited by backpackers (3,4). To date, SEKI has failed to consider adequate actions to mitigate the pollution, such as requiring that stock animals be kept away from drinking water supplies and/or requiring stock animals to wear manure catchers, which are inexpensive and readily available (5).

Emerging Threats

Another budding issue is the spread of invasive weeds, which infest meadows, crowd out native plants, contribute to soil erosion, and degrade habitat for wildlife. Livestock are the primary culprit in importing weeds into wildland areas because weed seeds can easily attach to animal coats and also pass through their digestive systems. But feasible measures can be taken to reduce the importation and spread of weeds by horses and other pack animals, such as grooming animals to remove seeds before entering the parks, feeding them weed-free pellets (thereby allowing them to excrete any weed seeds in their gut) before they are brought into the parks, and requiring all stock to be tied up (and provided weed-free feed) rather than allowing them to roam and deposit seed-containing manure in park meadows and wetlands. However, SEKI does not require any such practices, and did not consider such mitigation measures when developing the GMP.

Instead of requiring preventive measures, SEKI focuses on controlling weeds after they become established. Such control efforts now include regular applications of chemical herbicides in the SEKI backcountry. While the Park Service claims that it uses only poisons that are “among the safest herbicides for humans and the environment,” the agency has not conducted any public environmental assessment of its weed-control programs, or notified park visitors about the specific locations, timing, or extent of its pesticide applications. Currently, SEKI controls weeds with herbicides containing...
glyphosate, which has recently been shown to be highly toxic to amphibians and other wildlife at extremely low doses (6–9).

The western foothills of SEKI are unique, in that they are perhaps the only large preserved remnant of the Sierra’s foothill ecosystems. (Other protected areas of the Sierra begin at higher elevations, and most of the Sierra foothills are privately owned and subject to development.) Because of its range of habitats—from lowland foothills to alpine peaks—SEKI has been designated by the United Nations as an international “Biosphere Reserve.” But SEKI’s low-elevation foothills are also extremely vulnerable to invasive weeds that are introduced by stock animals. (Many weed species cannot live at high elevations, but can become easily established at low and middle elevations.) The HSHA and others therefore insisted that the Park Service must evaluate the harm due to invasive weeds that would be caused by the GMP’s direction to construct multiple new developments (i.e., pack stations, campgrounds, trailheads, and trails) specifically to encourage and facilitate more stock use. The agency refused to take a hard look at this issue, and the new GMP—without any analysis of the impacts—directs park managers to build numerous such developments for stock users in precisely those parts of SEKI that are most susceptible to weed invasions. Our lawsuit alleges that SEKI’s failure to address this issue violates NEPA.

**Broken Promises, Vanishing Credibility**

In 2002, the tide seemed finally to be turning. Park managers reached out to the HSHA and sent us three separate letters promising that SEKI would complete, by the end of 2005, a comprehensive environmental study to consider the impacts caused by commercial packtrains, and to specify meaningful limits and controls on commercial stock enterprises to protect the parks from harm. It appeared that SEKI had at last long decided to follow the law and fulfill its mandate to safeguard the parks from exploitation by commercial outfits. Indeed, in an internal e-mail, Park Service staff admitted as far back as 2004 that they had been “stalling” on complying with federal laws requiring environmental analysis of commercial stock use in the parks.

From 2002 to 2004 we patiently waited for the results of the environmental study. But at a meeting between HSHA volunteers and SEKI staff in the spring of 2005, agency representatives flatly informed us that they had changed their minds. There would be no such environmental study, and no new regulations to limit or control stock use. Instead, they told us that SEKI would write a new Wilderness Management Plan—someday—and the issues would be addressed at that time.

We were stunned. Not only had SEKI reneged on its multiple written promises from 2002, they hadn’t even told us until we raised the subject in 2005. We had believed all along that SEKI staff was working on the environmental study, when in fact it had never even been started. Worse was the news that none of our legitimate grievances would be addressed until some unknown future date—if ever.

In an attempt to mollify our concerns, SEKI offered more promises. They said that until the environmental study was completed, SEKI would not issue any new permits for commercial stock operations, and that existing permits would be reissued for short terms of only one year at a time. These assurances would ostensibly limit commercial stock operators to existing permit holders, and allow the Park Service to add requirements to existing permits on an annual basis if any problems were identified. Such promises were entirely unsatisfactory, because SEKI has never included adequate limits or conditions in its commercial stock permits, and SEKI has a long history of inadequately regulating the packstock enterprises—often failing to take enforcement action even when commercial packers are caught violating park regulations. For example, when the HSHA sued SEKI in 1994 to overturn its decision to increase the maximum number of stock animals allowed per group from 20 to 25, the government’s lawyers trotted out the same claims. They argued that there would be no harm in increasing the size of stock parties, declaring that the Park Service always takes appropriate action whenever problems are identified. But after we presented numerous examples of the Park Service doing little or nothing in response to violations committed by, and harm caused by, the commercial outfits, the judge concluded that: “the evidence demonstrates that SEKI management’s discretion may be too heavily impacted by political factors to have a predictable ability to protect the environment.”

Unfortunately, SEKI’s failures are not isolated, but appear systemic. The Interior Department’s Inspector General, Earl Devaney, in testimony to Congress in 2006, commented on “the culture at the Department of Interior that sustains managerial irresponsibility and a lack of accountability.” After noting that he’d been the IG at Interior for seven years, he testified:

> “I have observed one instance after another when the good work of my office has been dynamically disregarded by the Department. Simply stated, short of a crime, anything goes at the highest levels of the Department of the Interior... [A]pppearances of impropriety, favoritism, and bias have been routinely dismissed with a promise ‘not to do it again.’ Numerous OIG reports...have chronicled such things as complex efforts to hide the true nature of agreements with outside parties; [and]
intricate deviations from statutory, regulatory and policy requirements to reach a predetermined end… This failure to hold the leadership of the Department accountable sets the stage for the remainder of the workforce.”

In the end, our representatives left that 2005 meeting feeling betrayed and angry, having little to show for our years of effort but SEKI’s assurances that it would not consider issuing any new or long-term permits until the legally required environmental studies had been performed. But it was not long before SEKI broke those promises, too.

Early in 2006, an announcement appeared on SEKI’s website calling for bids on three new 10-year commercial stock permits. The HSHA was never notified, there was no mention of the promises made earlier, and there was no indication that the Park Service intended to conduct any environmental study, as required by NEPA, prior to issuing the new permits.

After the HSHA protested and insisted that SEKI must at minimum prepare an environmental impact study prior to issuing any such new permits, the Park Service backed off. But it became painfully clear that promises or assurances from SEKI are empty words that have no meaning. Put simply, the Park Service at SEKI cannot be trusted to tell the truth or to protect the parks.

Ten Years and Counting…

HSHA members and volunteers have been very involved in issues surrounding the GMP since SEKI initiated the planning process in 1997. Throughout the years, hundreds of HSHA members commented on the plan, and the HSHA sent numerous letters including hundreds of pages of exhibits that document the harm caused by excessive and inappropriate stock use at SEKI. But the Park Service has made it extremely difficult for our comments and concerns to be heard and considered.

When Park Service staff summarized the public comments for their managers to consider, they completely mischaracterized many of the comments. For example, one commenter expressed in great detail the offensive impacts of stock use and asked for a modest network of “foot travel only” trails so that hikers could enjoy a stock-free experience. SEKI staff summarized that letter as follows:

“Do not separate users since it does not support the parks [sic] goal to ‘promote and educate and foster better understanding between user groups.’ Separation lays the foundation for animosity and conflict.”

How can park managers ever address public concerns if our letters are thus summarized? (We’re hoping it was just shoddy work, and not a deliberate misrepresentation of the public comments, but either way, this is just one example of the mischaracterized comments that we brought to the attention of park managers.)

Another example of roadblocks to meaningful public involvement was the so-called “public meetings” conducted in July 2004 regarding the Draft GMP. Despite our clearly stated interest in this planning process, the HSHA did not receive notification of the meetings until after the session in Three Rivers had already occurred, and only two days before the meetings in Sacramento and San Francisco were held. Given the short notice, we were not able to attend any of the meetings, or alert our many interested members about them.

But by far the most egregious roadblock to public participation was SEKI’s response to our March 2005 Freedom of Information Act (FOIA) request asking for copies of records related to the GMP. We asked for copies of all comments received on the Draft GMP (so that we could conduct our own summary and analysis of the comments), as well as certain other internal agency records related to the GMP. Staff at SEKI responded by demanding that we pay more than $8,000 for the requested materials, even though we clearly were entitled under the law to receive the records without charge. We then appealed to the Department of Interior in Washington, D.C., which quickly ordered SEKI to timely provide the requested documents without charge. But SEKI dragged its feet for three more years. After waiting patiently and sending numerous reminders and appeals—many of which went unanswered—we filed a lawsuit in February of 2008 to compel SEKI to provide the records. Faced with a lawsuit, SEKI finally produced the documents.

Such antics and foot-dragging by SEKI only reinforce our long-held view that the Park Service is more interested in serving commercial businesses that exploit our national parks for private gain than everyday citizens who simply want to see the parks protected as Congress intended. The take-home message for all is that we citizens must be diligent if our national parks are to be preserved for future generations.

Still Seeking a Balanced, Law-Abiding Approach

If, as we expect, the court agrees with us that the GMP and existing commercial permits were issued unlawfully, the usual legal remedy would be to invalidate the permits, meaning that the commercial operations would have to cease until the Park Service complies with the law. However, our lawsuit makes clear that we do not seek to shut down the commercial packers. Instead, we’re asking the court to: 1) throw out the illegal GMP and require the Park Service to consider a broader
range of reasonable alternatives and honestly evaluate the environmental impacts of its actions; 2) allow current permit-holders to continue operating until the agency prepares a new plan; and 3) issue a mandatory injunction imposing appropriate limits and controls on stock use to protect these magnificent parks from further harm.

In sum, we simply want the Park Service to follow the law, and to do the job it’s been hired to do—that is, to prevent the exploitation of SEKI by commercial businesses, to consider reasonable alternatives to business-as-usual, and most of all, to ensure that the parks are protected from harm.

**What Happens Next?**

The case will be assigned to a federal district judge, probably in San Francisco, and briefings and hearings will occur over the next year or more. The wheels of justice often turn slowly, but we’re committed to seeing these issues through. Future generations deserve our best effort.

We would like to express our sincere thanks to our attorneys at Morrison & Foerster, who have agreed to take this case on a pro bono basis. (“Pro bono” means “for the public good.”) Attorneys’ fees have been generously waived, but the HSHA will need to cover all direct expenses, such as court filing fees, and copying and travel expenses, so your donations are always welcome. Together, we can make a difference!

To view a copy of our 32-page lawsuit, see: www.highsierrahikers.org/seki09.pdf

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**References**


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**Book Reviews**


*Luminous Mountains* is, cover-to-cover, an amazing journey through the Range of Light by award-winning author and photographer Tim Palmer. From the stunning cover photo of Lone Pine Peak to the parting shot of alpenglow on granite, this new book will provide many hours of rapt enjoyment to any friend of the High Sierra. It contains 135 striking photographs of the Sierra Nevada, covering every life zone from the Sierra’s western oak woodlands to alpine glaciers to the eastern desert’s edge.

If you could have only one picture book of the Sierra Nevada, this would be a great choice. It conveys the dazzling essence and multi-faceted uniqueness of the range, and experienced Sierra travelers and newcomers alike will have a hard time putting it down.

*Luminous Mountains* would seem to be a life’s work that would make even the most accomplished photographer proud, yet it is only one of Palmer’s seventeen books. This impressive collection is highly recommended. It is published by Heyday Books in collaboration with the Yosemite Association. For more info, see www.heydaybooks.com.

**Splendid Mountains: Early Explorations in the Sierra Nevada**, Compiled and edited by Peter Browning (2007, Great West Books). ★★★★★

“...all the splendid mountains away off north and east of Paradise Valley, where the map shows nothing, were beautiful exceedingly...”

So wrote Bolton Coit Brown in 1895, from near the summit of Mount Clarence King. Brown and most other early explorers of the Sierra Nevada were private individuals, rather than members of government expeditions. The more literate ones had accounts of their achievements, adventures, and mishaps published in newspapers and journals, often accompanying them with photographs, drawings, and hand-drawn maps.

**Splendid Mountains** compiles in one place, from numerous sources, the remarkable stories, maps, and drawings of Brown, Dusy, Gibbs, Hutchinson, LeConte, McClure, Solomons, Wales, Wallace, Wright, and others. It’s a captivating assemblage of hard-to-find history, and a valuable addition to any Sierra lover’s bookshelf. For more info, see www.greatwestbooks.com.
Dear High Sierra Hikers Association,

I took this picture of some horse shit just for your group of hypocrites. This is all your beef with us packers amounts to. Horse Shit! You see it all over the Sierra don’t you. Well, what are you looking at now? When you put your little backpack on and go out into the wilderness I want you to count all the piles of shit on the trail and remember this e-mail as well as me. You remember prank? unlike him I don’t try to reason with an idiot I treat them like they treat me on the trail. Like shit! That’s all it amounts to too jug heads.

Respectively,

Packer

Hi folks,

I discovered you this morning while searching the internet for an organization devoted to preserving the Sierras from overuse and abuse, especially under the hooves of the pack horses which have become so ubiquitous over the years.

My husband and I have been backpacking every year in the Sierras for many years (about 45, in his case) and have become increasingly appalled and angered at the destruction of the trails. Tired of breathing pulverized manure and stumbling over dislodged rock, we have wondered every year if there is someone out there who shares our concerns.

Without believing that it is just to deprive all people with stock from using the wilderness, it is quite clear to us that all sane notions of limiting negative impact have been abandoned. Having accepted for years the need to control access by backpackers with entry quotas and other restrictions, I repeatedly observe the passage of pack trains, any one of which rototills and soils the trail to an extent that could not be achieved by 500 humans on foot. So many times I have bitten my tongue while almost convulsing with angry laughter at the absurdity of a ranger explaining to me with a straight face that I must pack out my used toilet paper, while I know full well that within hours I will be picking my way along a trail strewn with ten pound piles of steaming horse turds.

It is not fair for horse people to leave trails in a condition which makes their enjoyment impossible by anyone not riding a horse, but for large stretches of trail this seems to have become the case.

I was surprised and excited to find an organization that so perfectly understands our concerns and seeks ways to act to limit or reverse the damage. Please accept this contribution and add us to your mailing and email lists and let us know if there are other ways that we might help out.

Sincerely,
Yes! I would like to join the HSHA.

Patron ($1,000 or more/year)
Benefactor ($100/year)
Sustaining Member ($50/year)
Regular Member ($25/year)
Low income Membership ($10/year)
New Member
Renewal

Mail to: HSHA • P.O. Box 8920 • South Lake Tahoe, CA 96158-1920

Email
Address
Name

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