

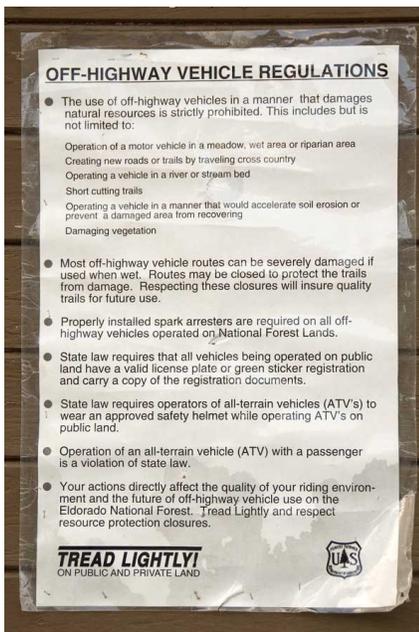
## Attachment B

# Report on Rubicon Trail Conditions Field Trip 27 May 2008

With the continuing snow melt runoff and return to a wet weather pattern, the Trail is wet and muddy in most sections. It is a running streambed in many places. Motorized vehicle use is occurring at the time the Trail should be under a wet season closure for road and resource protection.



Photo of conditions in the area east of Ellis Creek



This sign has been posted on the Kiosk at the Ellis Tie Trailhead. It asks users not to operate a vehicle in a manner that causes resource damage and lists, among others items, the following examples:

**“Operation of a motor vehicle in a meadow, wet area, or riparian area”**

**“Operating a vehicle in a manner that would accelerate soil erosion”**

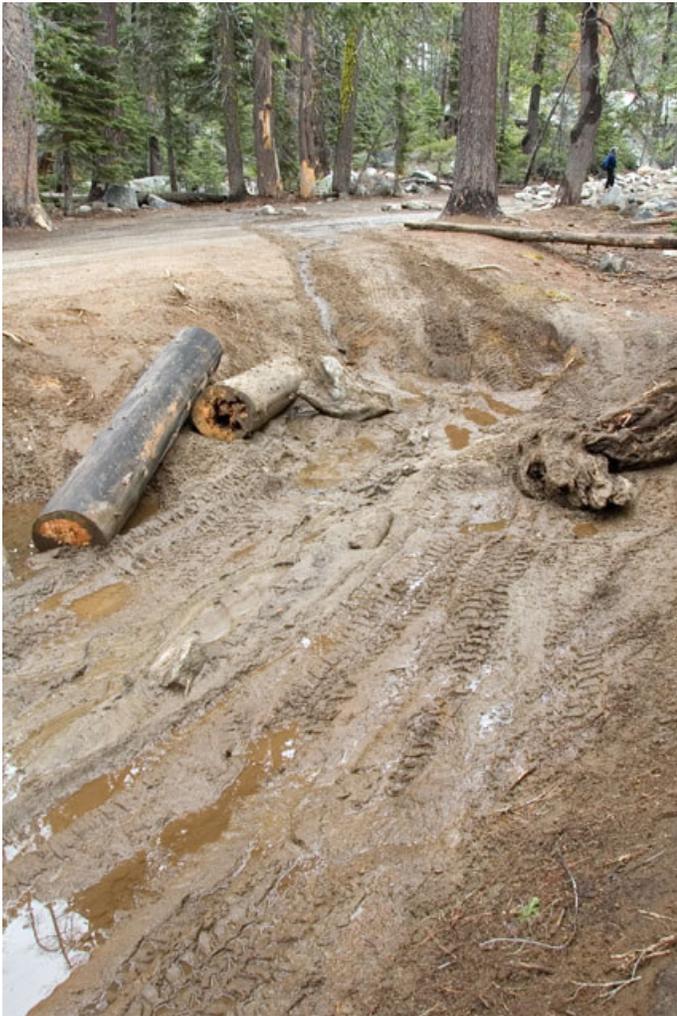
**“Operating a vehicle in a river or stream bed”**

The sign also makes this statement:

**“Most off highway vehicle routes can be severely damaged if used when wet”**

With El Dorado County’s jurisdiction over the Ellis Tie and Rubicon Trail and its failure to manage the trail through a Rubicon Trail Master Plan, none of these management standards are enforceable.

It would be hoped that this sign would help make the 4x4 users aware of resource damage issues and causes and help promote responsible citizenship. Unfortunately, the sign has now been removed from the Kiosk.



**This is the area where the controversial wooden bridge was constructed by the 4x4 users. It is evident the users prefer to drive around the bridge and through the water and mud.**



**This is the Rubicon Trail just west of the Walker Hill area. The lighter colored oval areas are where a vehicle spun all four wheels further digging out this area.**



**This is the Rubicon Trail approaching the area known as the “Soup bowl”. As you can see characterizing sections of the Rubicon Trail as a running stream bed is not an exaggeration. Below is a 4x4 user Internet posted photo of a vehicle in this area on 30 May 2008.**



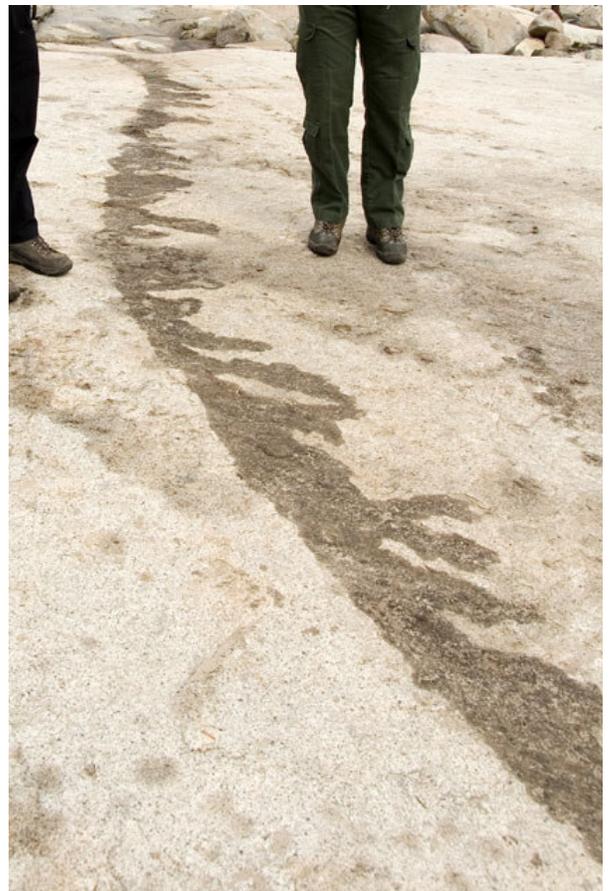


**This area is just west of the “Little Sluice Box” and is an extremely impacted area of the Trail as is the dispersed camping area. Photos of this area were used in “Mud on the Rubicon”. The Trail is along the right of the photo—it looks like and is a stream. The large log was moved by users over the Memorial Day weekend and now blocks the Trail. Trail use is now diverted up the bank into the camp area and down the other side. As the photos show all the steep banks are now becoming a short hill climb area greatly accelerating erosion especially in these wet conditions.**





**These photos were taken near the Ellis Tie Trailhead. From the spillway area leading down to the trail section known as “gatekeeper” there is much evidence of vehicle use well out of the county’s easement for the Trail and off onto Eldorado National Forest land. These photos are of what appears to be evidence of an off trail vehicle roll over with resulting large oil spill with oil trail leading away from the area along with scattered trash and equipment.**





**These two photos are on the Ellis Tie trail section. There is evidence of continuing off trail vehicle use past and right over USFS posted no vehicles signs**



**On Trail sanitation continues to be a problem. 4x4 user built and installed outhouses appear in heavily used dispersed camping areas. They also appear to move around from place to place. This one has appeared in the Ellis Creek crossing area on the Rubicon Trail. It is on the west bank of Ellis Creek just up above the creek.**





**In the “Little Sluice Box” area there are new oil spills. The above photo is new oil in the trail travel way. The photo on the right is off trail above the sluice box. This spill is heavy gear oil, based on it’s smell and feel.**



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<sup>1</sup> 17 USCA § 107.

<sup>2</sup> *Robinson v. Random House, Inc.*, 877 F.Supp. 830, 840 (1995).

<sup>3</sup> *Id.*, *Fisher v. Dees*, 794 F. 2d 432, 435 (1986).

<sup>4</sup> *National Rifle Ass’n of America v. Handgun Control Federation of Ohio*, 15 F.3d 559, 562 (1994). See also, *Consumers Union of United States, Inc. v. General Signal Corp.*, 724 F.2d 1044 (1983).

<sup>5</sup> *Lamb v. Starks*, 949 F.Supp. 753, 757 (1996).

<sup>6</sup> *Elsmere Music, Inc. v. National Broadcasting Co., Inc.*, 482 F.Supp. 741, 745 (1980).

<sup>7</sup> *Amsinck v. Columbia Pictures Industries, Inc.*, 862 F.Supp. 1044, 1048 (1994). See also, *Love v. Kwitny*, 706 F.Supp. 1123 (1989) (effect of use upon the potential market for or value of the copyrighted work); *National Rifle Ass’n of America*, supra (effect of use upon potential market for or value of copyrighted work).

<sup>8</sup> 17 USCA § 107; *Metro-Goldwyn-Mayer, Inc. v. American Honda Motor Co., Inc.*, 900 F.Supp. 1287, 1299, 1300 (1995). See also, *Lewis Galoob Toys, Inc. v. Nintendo of America, Inc.*, 780 F.Supp. 1283 (1991); *Twin Peaks Productions, Inc. v. Publications Intern. Ltd.*, 996 F.2d 1366 (1993). See also, *CSM Investors, Inc. v. Everest Development, Ltd.*, 840 F.Supp. 1304 (1994); *American Geophysical Union v. Texaco Inc.*, 802 F.Supp. 1 (1992).