SESSION 5: Perspectives from Advocates

This panel will offer advocates an opportunity to provide a description of their positions and activities related to commercial use of wilderness.

Moderator: **Mark Marschall** (NPS-YOSE Wilderness)

Panelists: **Ann Lange** (Backcountry Horseman of America), **Peter Frost** (Western Environmental Law Center), **Leigh Goldberg** (American Mountain Guides Association), **Lisa Belenky** (Center for Biological Diversity), **Matt Taylor** (Virginia Lakes Pack Station), **Steve Brougher** (Wilderness Watch).

**Ann Lange, Backcountry Horseman of America**

The mid 1980’s saw both the USFS and the National Park Service initiating new Forest Planning efforts. Ann immediately became involved with those agencies. She states that her representation for continued pack and saddle stock use on public lands is generally not visible, and most people would rather be out riding and clearing trails, not sitting around the table for months on end advocating for equine use on public lands. She realized stock users had to be involved in planning processes or risk the danger of losing that use. Today, she continues to advocate for trail and wilderness areas to remain open and available to pack and saddle stock use where there is a history of that use.

Unlike other recreational uses of public lands, Ann believes the historical and cultural past of packing can only be re-created in the Wilderness where packing skills today continue to be an expression of our American heritage. The ability to pack several mules, using a Diamond, Box, or other unnamed hitch to secure a load, string the critters together, and head down the trail, deserves to be protected as living history. Nowhere, except in Wilderness can stock users experience the world of our pioneer ancestors, where, just for a brief moment, we all come together. This is the story of America; transcending time, linking the past with the future and into the fabric of our lives—yesterday, today, and tomorrow. Wilderness connects people to the land and is symbolic of the grandeur of America. Opportunities to experience wilderness travel should remain available to a wide array of visitors, not only connecting people to the land, but also connecting people to people.

**Peter Frost, Western Environmental Law Center**

**Present legal theories and case precedents related to commercial services and administrative exception provisions of the Wilderness Act.**

Mr. Frost will reflect on lessons learned from these cases to help inform the discussion of parameters for collaboration as to commercial packstock operations in wilderness. Mr. Frost and other attorneys have represented wilderness advocates seeking to enforce the Wilderness Act related to diverse activities, including the proposed poisoning with piscicides of a stream in the Carson-Iceberg Wilderness (Californians for Alternatives to Toxics v. U.S. Fish and Wildlife Service), construction of water supply structures in the Kofa Wilderness (Wilderness Watch, Inc. v. U.S. Fish and Wildlife Service), proposed renovation of check dams in the Emigrant Wilderness (High Sierra Hikers Assn. v. U.S. Forest Service), permitted search and rescue training exercises in the La Madre and Rainbow Wildernesses (Wilderness Watch, Inc. v. Bureau of Land Management), replication of a fire lookout in the Glacier Peak Wilderness (Wilderness Watch, Inc. v. Iwamoto), and authorization of commercial packstock services in the John Muir and Ansel Adams Wildernesses (High Sierra Hikers Assn. v. Blackwell; High Sierra Hikers Assn. v. Moore).
Leigh Goldberg, American Mountain Guides Association

While we are in the worst of times fiscally, we are positioned to be in the best of times creatively in how we approach public lands conservation. With shrinking federal agency budgets, climate change and growing demands on our public lands, leveraging partnerships in wilderness conservation goals is a critical success factor as we approach the 50th anniversary of the Wilderness Act. We will review examples of partnerships between local land managers and authorized outfitters, guides and concessioners as a vehicle for advancing wilderness conservation and a model for the future.

With the USFS 10-Year Wilderness Stewardship Challenge and the NPS Director’s Call to Action Report, land managers at the local level are revisiting their requirements for operations plans of outfitters and guides to help raise the bar when it comes to resource protection, educating the public and modeling appropriate wilderness ethics. One way the federal government can increase savings is by creating a more inclusive, partnership model for public lands management. Many local land managers already view their authorized permit holders as an extension of park personnel and an important human-powered resource in the wilderness terrain; however, guides and outfitters remain an underutilized resource to land managers across the country. We will highlight ways that land managers are already leveraging professionally trained AMGA Guides, Climbing Instructors and Accredited Programs in order to be part of the solution to wilderness conservation and protection. Specific examples will demonstrate how partnering with the private and non-profit sectors helps ensure that members of the public complete their wilderness experience with a newfound appreciation and knowledge of American Wilderness.

Lisa Belenky, Center for Biological Diversity

Uncommon tools: Looking at the Treatment of Pack and Riding Stock Facilities in California and the role of State in Clean Water Act permitting on Federal Lands Where CWA Compliance is Delegated to the State.

The Center for Biological Diversity focuses much of our work on impacts to endangered species and habitats from various human activities. As a result, the Center has been engaged in protecting many species in wilderness areas. These activities include, for example: protecting imperiled frogs, toads, and native fish from impacts due to fish stocking activities by the Department of Fish and Game throughout the State of California; protecting the Sierra Nevada bighorn sheep from domestic sheep grazing in habitat in the eastern Sierra Nevada mountains; and fighting for protections under the ESA for other mountain species such as the American pika and the Pacific fisher.

Currently, the California State Water Resources Control Board (“SWRCB”) is preparing to issue a new “waiver with conditions” for impacts to water quality from activities on all National Forest Service managed lands statewide. The Center and other advocates have raised issues regarding commercial outfitting and pack stock use of the national forests in the SWRCB process. As part of my presentation I will provide some background on the legal framework that relates to this CWA delegated process as well. There is one “best management practice” provided in the draft Water Quality Management Handbook (formerly a draft Plan), for pack and riding stock facilities, BMP 4.10. This BMP provides little more than general statements that the forest service “may” authorize construction of temporary corrals and similar facilities so that “facilities will not be located immediately adjacent to streams or lakes.” Unfortunately, the BMP 4.10 is not really a “best management practice” at all but appears to give the Forest Service a pre-approval for any new so-called “temporary” facilities such as corrals and fails to address other impacts from use of large campsites and trails and grazing for pack animals in the wilderness that also all affect water quality. The language of the BMP, rather than being clear, is both ambiguous and subjective and highly unlikely to lead to protection of water quality from commercial pack stock operations in wilderness areas. Most egregiously, the BMP fails to require any changes to existing large campsites, corrals, grazing by pack animals to avoid riparian corridors in order to protect water quality (as well as the many species that depend on these areas). BMP 4.10 fails to even meet the minimal set-back standards that were provided in the seminal case, High Sierra Hikers Ass’n v. Moore, No. 00-1239-EDL (N.D. Cal. Oct. 30, 2007), where the district
court required that “[a]ll designated campsites, stock holding areas, and spot and dunnage loading and unloading areas shall be allowed no closer than 100 feet from water.” (Id., Order of May 8, 2008.) While the SWRCB and Forest Service documents recognize the impacts of many other activities on water quality, and the need to protect riparian areas in general, both the Forest Service and the SWRCB have largely failed to address the critical issue of pack and riding stock facilities in the National Forest statewide including within designated wilderness areas. The BMP is the sum total of the discussion, with the SWRCB’s Draft Waiver with Conditions and the Initial Study/Mitigated Negative Declaration both failing to address these critical issues.

Matthew Taylor, Virginia Lakes Pack Outfit

Commercial Stock Use in the Wilderness
Commercial packing provides valuable services to society. It is a means of access for a segment of the public that would not otherwise be able to enjoy their wilderness. As a small business enterprise, it provides employment and revenue to rural communities. And it enables some agency administrative functions.

Commercial packing is not an effective means of exploiting public lands for commercial gain. The business model necessary to operate a pack station requires a very poor use of capital. In 2010, Virginia Lakes Pack Outfit’s only profitable year, our pack station made about $2,000 before depreciation expenses on revenue of a little over $160,000. Ignoring the real expense of depreciation, that amounts to a profit of 1.25%. If you own a pack station you are either very bad at business or you do it because you love the work and are willing to work for next to nothing (you might even pay for the opportunity).

As a pack station owner and a fifth generation mule packer I certainly am biased towards finding ways to justify the use of livestock in the Sierra. That said, I know that there have been and continue to be abuses of the public wilderness by livestock and livestock users. In addition, I know that even when livestock users are not behaving in an abusive fashion that livestock do have an impact on the wilderness. So do humans, invasive fungi, non-native plants, climate change, …

When there is a negative impact that is occurring in the wilderness it is my impression that the reaction of the governing agency is to try to identify the sole source of the impact and eliminate it. However, thanks to the complexity of the ecosystem and our poor understanding of it, it is rarely, if ever, that easy. Without a thorough understanding of the large control knobs of the system, agency personnel turn knobs relying on anecdotal information and intuition; an acceptable strategy if there were detailed measurements prior to the changes and then years of detailed measurements following the changes. Unfortunately, it seems rare that the baseline is established and even rarer that proper follow-up occurs thanks to budget cuts and rapidly changing administrations.

In addition, at least in some agencies there is an acknowledged management process that amounts to nothing more than, “Let’s do what we have to do to avoid being sued.” I suspect that, while it may not dictate the management process in all agencies, the fear of lawsuits impacts most decisions. I am certain that the litigious process that all of us are currently engaged in is at the very least a huge waste of precious agency resources.

It is time to call a truce between environmental groups, agencies, and commercial wilderness users and start working together towards a collective definition of the goals for the wilderness and the “best management practices” to achieve those goals.
Steve Brougher, Wilderness Watch

As a former wilderness ranger and manager for the U.S. Forest Service, I had direct exposure to all aspects of commercial outfitting. My presentation will focus on my experiences with planning, permit administration and field operations, and how those are influenced by political pressure and agency culture. I will give examples of how much of commercial outfitting and guiding activities are not “necessary for activities which are proper for realizing the recreational or other wilderness purposes” of designated wilderness and discuss how the dynamic between agency and outfitters enables that, and what it means for the activist.