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## **FAIR More Info Content**

The FAIR campaign was catalyzed by recreation access restrictions on the Deschutes National Forest, but we believe similar issues and concerns exist in other national forests, as well as national parks, Bureau of Land Management (BLM) lands, and other public lands.

As the campaign unfolds, we will add content regarding legal, management, and related issues in recreation access. *The following information reflects our information and perspective; we are not lawyers or technical advisors.* Our goal is to encourage citizens to ask questions and hold public servants accountable for their decisions. After all, we pay them to manage our land.

A series of letters to the editor (LTEs) will provide information on these issues as they relate to the Deschutes National Forest in Central Oregon. We provide additional information to help those living in other locations. Email us or comment on our Facebook site if you have additional info, questions, etc.

### **Letters to the editor**

- LTE 1, Legal foundation

### **Legal issues**

On the Deschutes National Forest, dog owner access is restricted via three local orders:

- [Deschutes River Trail access](#);
- [Three Sisters Wilderness access](#); and
- [Winter access](#).

The restrictions rely on sections of the Code of Federal Regulations (CFRs). These three local orders rely on 36 CFR 261.58(s), which states that “When provided by an order, the following are prohibited... Possessing, storing, or transporting any bird, fish, or other animal or parts thereof, as specified in the order.”

It is self-evident that this CFR does not apply to pets. We do not know anyone that goes hiking with their pet fish or mountain biking with their dog’s body parts.

Other forests may use different CFRs. Ask your forest what CFR is used to restrict your access. One Forest Service employee has indicated that no CFRs provide a legitimate foundation for restricting dog owner access. Here are some that we have encountered, all sections from 36 CFR.

§ 261.58 Occupancy and use. When provided by an order, the following are prohibited:



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(s) Possessing, storing, or transporting any bird, fish, or other animal or parts thereof, as specified in the order.

We believe this is clearly irrelevant to managing dogs and dog owner access, and the head law enforcement officer (LEO) on the Deschutes National Forest agreed. The only court case involving this CFR (US v. Billings) involved the disposal of a mule carcass.

§ 261.14 Developed recreation sites. The following are prohibited:

(j) Bringing in or possessing an animal, other than a seeing eye dog, unless it is crated, caged, or upon a leash not longer than six feet, or otherwise under physical restrictive control.

This applies to developed recreation sites, such as parking areas or developed campgrounds. It does not apply to trails. No court cases found.

§ 261.53 Special closures. When provided in an order, it is prohibited to go into or be upon any area which is closed for the protection of:

(e) Public health or safety.

This applies to hazards associated with a location (e.g., logging operations). It does not apply to specific recreation activities. Cases include US v. Glisson, US v. Fee, and US v. True.

## **Management issues**

Content to come...