

RESOLUTION
A RESOLUTION OF THE Central Oregon Trail Alliance
Resolved by the COTA Board of Directors
RECOMMENDING RESTORING RECREATIONAL IMMUNITY RIGHTS

WHEREAS, in 1995, the Legislative Assembly declared it to be the public policy of the State of Oregon to encourage landowners to make their land available to the public for recreational purposes by limiting their liability toward persons entering thereon for such purposes, and;

WHEREAS, recreations purposes includes, but are not limited to, outdoor activities such as hunting, fishing, swimming, boating, camping, picnicking, hiking, nature study, mountain biking, outdoor educational activities, water sports, winter sports, viewing or enjoying historical, archaeological, scenic or scientific sites or volunteering for any public purpose project, including the above aforementioned activities, as well as: gardening, woodcutting and for the harvest of special forest products, and;

WHEREAS, the Public Use of Lands Act has increased the availability of land for free recreation by citizens and visitors alike by limiting liability to cities, counties, park districts, irrigation districts, schools and private landowners, including property-owner associations, farmers and timber companies that, by virtue of this act, allow members of the public to use or traverse their lands at no charge for recreation purposes, and;

WHEREAS, for twenty years, the Public Use of Lands Act has been broadly interpreted to extend this immunity from liability to apply not only to landowners but also to the landowner's employees agents, and volunteers, and;

WHEREAS, in *Johnson v. Gibson*, the Oregon Supreme Court held that when the Legislature passed the Public Use of Lands Act, it intended to immunize only the landowner, otherwise the Legislative Assembly would have included employees, agents and volunteers in the Act, and;

WHEREAS, this ruling effectively undermines a landowner's recreational immunity from tort liability under the Act because public employers are statutorily required to represent and indemnify their employees and most, if not all, landowners who allow access to their lands free of charge will ultimately be responsible for the negligence of their employees that results in injury to a member of the public or property, and;

WHEREAS, landowners will likely face substantially increased insurance premiums for this new risk exposure and/or have to close their property or amenities to Oregonians trying to recreate due to the result of this decision.

NOW, THEREFORE, let it be known that the COTA supports legislation in the 2017 Oregon Legislative Assembly promulgated to restore recreational immunity to

landowners and their officers, employees, agents or volunteers who are acting within the scope of their employment or duties so to allow Oregonians to access their lands for recreational use and enjoyment.

ADOPTED by the Board of Directors of **COTA** on **3/31/2017**.

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Woody Keen
COTA Board of Directors

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