

**REAUTHORIZATION OF AND POTENTIAL REFORMS
TO THE FEDERAL LAND RECREATION EN-
HANCEMENT ACT**

HEARING
BEFORE THE
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
ONE HUNDRED FOURTEENTH CONGRESS
FIRST SESSION

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REAUTHORIZATION OF AND POTENTIAL REFORMS TO THE FEDERAL LAND RECREATION ENHANCEMENT ACT

THURSDAY, SEPTEMBER 17, 2015

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The Committee met, pursuant to notice, at 10:06 a.m. in Room SD-366, Dirksen Senate Office Building, Hon. Lisa Murkowski, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR FROM ALASKA

The CHAIRMAN. Good morning. The hearing will come to order. Thank you all for being here.

We are meeting this morning to consider the reauthorization and the possible reform of the Federal Lands Recreation Enhancement Act, commonly called FLREA. For those who are engaged and in tune with this, this act provides the National Park Service, the U.S. Fish and Wildlife Service, the Bureau of Land Management, the Bureau of Reclamation and the Forest Service with limited authority to charge recreation fees. Those agencies are further authorized to keep those fees in order to maintain and improve recreation sites.

FLREA initially passed as a legislative rider on the Fiscal Year Omnibus Appropriations Bill. The original authorization was for ten years. FLREA has been extended now twice through the appropriation process. With our Committee holding jurisdiction over FLREA and with larger items like our broad bipartisan Energy bill which has now been reported from the Committee, I think this is a good time to conduct oversight as we consider this Act's future.

While I personally wish that we did not have to charge recreation fees, I am generally supportive of FLREA. I want to see the Act and its programs continue without interruption as we work on longer term reforms, but the path to accomplishing that, I think, is not always as easy as it sounds.

With FLREA's current authorization expiring at the end of 2016, I think we need to focus on two separate extensions.

The first will be a temporary one-year extension that would, ideally, be enacted before the end of this year. If we can do that, we will avoid disruptions to programs that are multiyear or that require lead time such as the annual America the Beautiful National Parks and Recreation Federal Recreation Lands Pass. The

House has already passed a one-year extension, and I think the Senate needs to do the same.

The second extension will hopefully be longer term and it may include some of the practical ideas that we are seeing to reform and to improve FLREA. Without question recreation fees have become an important part of the Federal land agencies comprehensive funding strategies to support recreation sites and services. In FY'14 nearly \$280 million was collected by the five relevant agencies. The National Park Service took in 67 percent of the revenue and the Park Service and Forest Service together collected 92 percent of the total.

Yet there still appears to be plenty of room for improvement within the fee authorities and structures. The Park Service's entrance fees are the most accepted by the public along with fees for developed sites such as campgrounds, but a number of important questions have been raised. For example, why is the Park Service charging individuals permit fees for back country access in addition to an entrance fee? Why are the cost collections skyrocketing within the agencies?

BLM and Forest Service have not fared as well as the Park Service with the public with respect to recreation fees under FLREA. The Forest Service, in particular, has drawn multiple lawsuits for its interpretations of standard amenity fees and special recreation permit fee authority. It is my understanding that the citizens challenging the fees were successful in many of those instances.

I will also mention one incident that stands out in my mind. I think members on the Committee have heard me raise this. This occurred in the Tongass National Forest a couple years ago. I actually had an opportunity to deliver this issue personally to the Chief of the Forest Service, and this related to a daycare provider who had taken her young charges for a picnic out in the Tongass. It was essentially a picnic table with a roof overhead. It was not within a cabin. It was just an open air picnic table. As a commercial day care operator, she had a commercial license. But she was actually presented with a fine from the Forest Service for operating her business, her commercial business, within the Tongass National Forest without a permit. Now what she was doing was taking her kids out to an afternoon picnic using the picnic tables there. In my mind that is a perfect example of where permitting requirements are limiting access to our public lands. I do not think that that was the intention. While we have addressed the situation with Auntie's Day Care in Wrangell, Alaska, it is examples like that that I think get the people's attention, interest and really ire.

Another issue that deserves our attention is a special recreation permit authority that FLREA provides to outfitters and guides. This authority has been particularly important in national forests and refuges and on BLM public lands, but it is my understanding that we can make these permits work better.

Our goals here can be relatively simple and straightforward. We should try to keep recreation fees as low as possible to ensure that Americans can access and enjoy their public lands, we should ensure that these fees are not being used to encumber or dissuade visitors, and we should ensure that these fees are being used ap-

propriately for maximum benefit in maintaining and improving our recreation sites.

So with that I look forward to the comments from my Ranking Member, Senator Cantwell, and we will then have an opportunity to hear from the witnesses who have joined us here this morning.

Senator Cantwell?

STATEMENT OF HON. MARIA CANTWELL, U.S. SENATOR FROM WASHINGTON

Senator CANTWELL. Well, thank you, Madam Chair, and thank you for holding this hearing this morning to consider reauthorization of the Federal Government's authority to collect recreational fees. And I welcome the witnesses.

For those of us representing states with large amounts of Federal land, outdoor recreation is an important part of our local economy. Senator Wyden and I, just prior to the gaveling down, were talking about those very activities within our two states and how much it means to us. I did not know that the Senator had traveled to the seven wonders of Oregon. So I think, maybe next year, as we celebrate our centennial we will have to do something similar in Washington.

Recreation fees have helped the land management agencies better provide and protect Federal lands and provide important, improved visitor services. In general I support the extension of the authority for Federal recreation fees so long as fees are kept at reasonable levels and they do not discourage the public from accessing the public lands. We must also ensure that fee revenues continue to be used to enhance visitor experiences on those Federal lands.

For example, last year recreation fee revenues enabled the Forest Service in partnership with the Washington Trail Association to maintain and improve 92 miles of popular hiking trails across our state including portions of the Quinalt National Recreation Trail System, the Duckabush Trail, and the Upper Big Quilcene Trail. These recreation fees collected in the Olympic National Forest enabled the Washington Trail Association to donate 11,000 hours of servicing these trails. Fee revenues have enabled Mount Rainier National Park to build a new ranger and visitor station at Carbon River, fund numerous trail and campground and picnic area repairs, and improve and help restore some of the park's subalpine meadows.

Where there is a direct connection between the fee and the benefit to the public, recreation fees can improve both the management of the Federal land and the visitor experience. It is also worth noting that next year will mark the 100th anniversary of our National Park System and the Park Service collects over \$180 million in fee revenues each year. That is, by far, the largest amount of any of the Federal agencies.

Several of us have been working to develop a National Park Centennial bill, and I certainly want to work with the Chairman on that. This bill would provide the Park Service in its second century with additional tools to enable and better manage our National Park System. I think we should consider extension of fee as an important way to improve the Federal services and address the deferred maintenance backlog.

While these recreation fees can help, I also just want to put a reminder in that it is important that we make sure that we extend the Land and Water Conservation Fund. Money from that conservation fund helps provide important outdoor recreation opportunities on Federal land, so I hope that we will take advantage and get an agreement reached in the Committee, so that we can continue to push that forward.

I also believe, as the Chair mentioned, that Federal agencies need to look for innovative ways to access public lands for recreation. I will give an example. For the past few years, the YWCA of Seattle has been trying to get the Forest Service to issue a permit to allow the YMCA to bring young people to national forests for the very first time. Because the Forest Service treats the YMCA as a commercial entity, their required permit has been held up. We have discussed this with Under Secretary Bonnie, as well as the Forest Service, and I am happy that the Forest Service as a first step is trying to fix this problem and has provided the YMCA a temporary user day authorization. But for me, this is a fundamental issue as well. We need to make sure that we are encouraging more people to visit our national parks and not obstructing them to get there.

Finally, I just want to mention that I would like to highlight some of the issues of how we treat different users of the public lands. The entrance fee at Mount Rainer in my home state increased this year from \$15 to \$20 and will increase again next year to \$25. This represents a 67 percent increase in two years. I recognize the Park Service had not instituted fee increases for several years and these are comparable with other outdoor recreation fees; however, the public seeking to visit national parks on Federal land should not be the only ones paying higher fees. While park visitors are being assessed higher fees on public lands, fees charged for other issues like extraction on public lands remain historically low. If we are going to ask the public to step up and fund increased recreation fees, then we ought to be asking those who are doing coal, hard rock mining, and other extractions on Federal lands to also see an increase.

With that, I look forward to hearing from the panel and the opportunity to discuss these issues in more detail so that we can move forward on continuing to have great resources that the public can access.

Thank you, Madam Chair.

The CHAIRMAN. Thank you, Senator Cantwell, all certainly pertinent issues. And I think, again, timely as we are exploring this reauthorization and the need for a little bit of modernization, but also rationalization.

This morning we are eager to welcome our panel. We will provide each of you an opportunity for about five minutes of comments. Your full testimony will be included as part of the record. After you have each given your statements we will have an opportunity for the members to ask questions of each of you.

We will begin with Ms. Peggy O'Dell. Ms. O'Dell is the Deputy Director for the National Park Service.

She will be followed by Ms. Mary Wagner, who is the Associate Chief for the U.S. Forest Service at Department of Agriculture.

We have Ms. Kitty Benzar, who is the President of the Western Slope No-Fee Coalition. We welcome you to the Committee.

And Mr. David Brown, who is the President of the American Outdoors Association.

We look forward to the comments from each of you this morning and for the effort that you have made to be here to provide testimony.

We will begin with you, Ms. O'Dell. Welcome.

STATEMENT OF PEGGY O'DELL, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR

Ms. O'DELL. Good morning.

Thank you, Chairman Murkowski, Ranking Member Cantwell and members of the Committee for the opportunity to appear before you today. And thank you for your opening comments in support of fee legislation in general. We look forward to discussing the specifics with you.

Every year over 500 million Americans and travelers from around the world visit our national parks, national forests, wildlife refuges and public lands to enjoy the recreation opportunities offered. Recreation activities on Federal lands contributed an estimated \$22.1 billion in economic output to the surrounding communities and supported an estimated 197,000 jobs in communities surrounding these sites in 2013.

The Federal Lands Recreation Enhancement Act (or FLREA) provides our agencies with recreation fee authority which has allowed us to enhance visits to Federal lands by leveraging the fees to implement thousands of projects that directly benefit visitors.

In 2014 Interior's bureaus collected approximately \$230 million in recreation fees. FLREA ensures that efficiency and consistency in fee collection and also provides needed flexibility for our agencies, each with unique authorizations, geographies and management responsibilities to operate effectively. The ability to spend recreation fees without further appropriation and over multiple fiscal years permits the agencies to expend funds for large projects that require significant investment.

Each agency has developed procedures and tools to ensure accountability in the administration of the recreation fee program. We share the objectives of fair and transparent revenue collection, controlling the cost of collection while maintaining high levels of service and avoiding the accumulation of unobligated revenues.

Our agencies also provide an interagency pass that covers many recreation opportunities across Federal lands. These passes provide a simple and cost effective way for visitors to pay their entrance and standard amenity fees. The pass program includes an annual pass, senior pass, access pass and volunteer pass. It also includes a military pass available since 2012 which provides free access to all current military members and their families. And as of September 1st it now includes the Every Kid in a Park fourth grade pass which provides fourth graders and their families nationwide free access to our Federal lands.

The recreation fee program also supports recreation.gov, the Federal website which provides convenient, one stop access for those

making reservations, securing permits and building itineraries for travel to Federal recreation sites around the country. Since its launch, recreation.gov has received nearly 1.2 billion page views and has processed over 7.5 million reservations.

Recreation fees collected under FLREA have funded thousands of projects that directly benefit visitors. A few recent examples include: A partnership with the Montana Conservation Corps to build fencing and repair and improve facilities at three campgrounds in the BLM managed Little Rocky Mountains; providing additional opportunities for hunting and enhancing fishing facilities at Wallkill River National Wildlife Refuge; the rehabilitation of 12 miles and relocation of seven miles of the Copper Lake Trail at Wrangell St Elias which restored wetlands and facilities, hiking, camping and fishing; and providing law enforcement service at New Melones Lake Recreation Area through a partnership with the Tuolumne County Sheriff's Office.

Visitor support and public participation are integral to the recreation fee program. Visitor satisfaction surveys conducted in the past six years have found that about 90 percent of respondents are satisfied with the level of amenities and services provided and believe that the recreation fees they pay are reasonable. FLREA promotes visitor satisfaction by requiring the reinvestment of fee revenue at the site where the fees were collected.

While recreation fees provide a source of funding to support recreation at many developed and popular areas, our agencies continue to offer a huge number of recreation opportunities at no cost.

The Bureau of Land Management manages over 245 million acres and charges recreation fees on less than one percent of that acreage. Over 93 percent of the 464 Fish and Wildlife Service refuges that are open to the public have free entry. Of the 408 units of the National Park Service, 227, more than half, do not charge any FLREA fees. Reclamation currently charges fees authorized by FLREA at only one site, New Melones Lake.

The Department supports the permanent authorization of FLREA. The authority for FLREA is scheduled to sunset September 30th, 2016. And if it is not reauthorized the lapse in authority will detrimentally impact the agency's ability to support projects and improve visitor safety, experiences and recreation opportunities.

Furthermore, beginning this fall the agencies will be faced with challenging decisions as we try to anticipate the future of the program and make decisions about ongoing operations such as issuance of the annual pass or future campground reservations.

Ms. Chairman, this concludes my testimony, and I would be happy to answer questions from the Committee.

[The prepared statement of Ms. O'Dell follows:]

**STATEMENT OF PEGGY O'DELL
DEPUTY DIRECTOR, NATIONAL PARK SERVICE
U.S. DEPARTMENT OF THE INTERIOR
BEFORE THE
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
REGARDING THE FEDERAL LANDS RECREATION ENHANCEMENT ACT**

September 17, 2015

Chairman Murkowski, Ranking Member Cantwell and Members of the Committee, thank you for inviting the Department of the Interior to appear before you today to discuss the Federal Lands Recreation Enhancement Act (FLREA) and the recreation fee program.

Every year, over 500 million Americans and travelers from around the world visit our national parks, national forests, wildlife refuges and public lands to hike, bike, fish, camp and otherwise enjoy the abundant recreation opportunities offered on our federal lands.

Not only do these visitors take their positive experiences home and benefit from the physical activity that promotes health and quality of life, but recreation is a significant contributor to the national economy and the economies of the communities that surround the lands we manage. In 2012, recreation activities on federal lands generated approximately \$51 billion in spending, which translates to 880,000 jobs. And, with respect to federal recreation fee sites in particular, approximately 223 million visitors contributed an estimated \$22.1 billion in economic output to the surrounding communities, and supported and estimated 197,000 jobs in communities surrounding these sites in 2013.

The enactment of FLREA in 2004 enabled us to enhance these visits with greater recreation opportunities and services by leveraging recreation fees to implement thousands of projects that directly benefit visitors. Fee revenue is largely retained at the sites where it is collected to support recreation visitor projects.

In 2014, Interior's bureaus collected over \$230 million in recreation fees to support over 1000 projects. These projects support public safety, maintain recreation sites, provide eye-opening educational experiences, build informational exhibits, fund interpretive programs, and offer a wide range of recreational and cultural opportunities.

The authority for FLREA is scheduled to sunset September 30, 2016, and, if it does, no agency will have explicit recreation fee authority because FLREA repealed the recreation fee provisions previously provided in the Land and Water Conservation Fund Act and Recreational Fee Demonstration Program statutes. We are concerned that a potential lapse in this authority will detrimentally impact the agencies' ability to support projects that improve visitor safety, experiences, and opportunities. Furthermore, although the authority will be in place through September, 2016, beginning October 1st, the agencies will be faced with challenging decisions as we try to anticipate the future of the program and make decisions about ongoing operations such as issuance of the annual pass.

RECREATION FEE PROGRAM OVERVIEW

Enacted in December 2004, FLREA authorizes five agencies to collect and expend recreation fees on lands they manage: the Department of the Interior's Bureau of Land Management (BLM), Bureau of Reclamation (Reclamation), National Park Service (NPS), and U.S. Fish and Wildlife Service (FWS), and the U.S. Department of Agriculture's Forest Service (USFS). Each of the agencies has a distinct mission. However, all the agencies share the goal of providing quality recreation experiences to the public. By providing a single recreation fee authority for the agencies and authorizing an interagency annual pass, FLREA has enhanced customer service, efficiency, and consistency in fee collection and expenditure and establishment of national fee policies, such as fee-free days.

FLREA also provides needed flexibility for these agencies, each with unique authorizations, geographies and management responsibilities, to operate effectively. NPS and FWS entrance fee sites typically encompass entire management units, such as Glacier National Park in Montana, and Ridgefield National Wildlife Refuge in Washington. BLM, USFS, and Reclamation standard amenity recreation fee sites typically consist of sites within management units that have been significantly developed in response to visitors' demand for facilities and services, such as the accessibility amenities at BLM's Pumphouse recreation site on the Upper Colorado in Kremling, Colorado, and the boat launching, camping and day use amenities at Reclamation's New Melones Lake Recreation Area in California.

In addition to "entrance fees" charged at sites managed by FWS and NPS, and "standard amenity recreation fees" charged at sites managed by BLM, Reclamation, and USFS, the agencies also charge "expanded amenity recreation fees" for certain amenities and services. FLREA also authorizes the agencies to issue special recreation permits for specialized recreational uses, such as use of off-highway vehicle trails, recreation events, and outfitting and guiding, and to charge fees for those permits.

The agencies also provide an interagency pass that covers many recreation opportunities on lands managed by each of the agencies across the nation and simplifies the way in which the public can access public lands and pay for amenities. Visitors can use a single pass to visit all five agencies' sites. Beginning January 1, 2016, the U.S. Army Corp of Engineers will also participate in the interagency pass program. This interagency program includes the Annual Pass, the Senior Pass, the Access Pass, and the Volunteer Pass. It also includes the Military Pass, available since 2012 to all current military members and their families. Although this military pass is not available to veterans, many veterans are eligible for other discounted passes, such as the Senior Pass granting lifetime access to U.S. citizens over 62, and the Access Pass granting free lifetime access for permanently disabled U.S. citizens. And, beginning September 1, 2015, the agencies implemented the Every Kid in a Park 4th Grade Pass that provides fourth graders and their families nationwide free access to our federal lands.

Visitor support and public participation are integral to the recreation fee program. Visitor satisfaction surveys conducted in the past six years by BLM, FWS, NPS, and USFS have found that most visitors (about 90% of respondents) are satisfied with the level of amenities and

services provided and believe that the recreation fees they pay are reasonable. FLREA promotes visitor satisfaction and enhances recreation facilities and services by authorizing fee collection and reinvestment for these amenities and services.

While recreation fees provide a source of funding to support recreation at many developed and popular areas, the agencies continue to offer a huge number of recreation opportunities at no cost. BLM manages over 245 million surface acres of the United States, and charges recreation fees on less than 1% of that acreage. Over 93% of the 464 FWS refuges that are open to the public have free entry. Of the 408 units of the National Park Service, 227, more than half, do not charge any FLREA fees. Reclamation currently charges recreation fees authorized by FLREA at only one site, New Melones Lake.

The recreation fee program also supports Recreation.gov, the federal website which provides convenient one-stop access for those making reservations, securing permits, and building itineraries for travel to federal recreation sites around the country. There are thousands of facilities on Recreation.gov and each year the inventory is growing. The rapidly expanding use of internet and social media for access to recreation, travel and tourism information makes Recreation.gov an important tool for customer service, as well as providing important marketing exposure for gateway communities. The NPS also uses Recreation.gov for several lottery drawings and permits, including the White House Christmas Tree Lighting event and the White House Easter Egg Roll. Recreation.gov supports the National Travel and Tourism Strategy by offering international visitors access to travel itineraries and easy-to-find information about destinations on our public lands and waters. Since its launch, Recreation.gov has received nearly 1.2 billion page views and has processed over 7.5 million reservations. The website experienced a 27% increase in traffic between 2012 and 2014.

Finally, FLREA requires agencies to establish special accounts for recreation fee revenues, making the funding available until expended. In many parts of the United States, a large proportion of visitation, and therefore recreation fee revenue collection, occurs during the last quarter of the fiscal year (July through September), which makes it difficult to expend funds in the same fiscal year they are collected. The ability to spend recreation fees over multiple fiscal years enables responsible and effective use of fee revenue, and permits the agencies to expend funds over multiple years for large contracts, projects, and expenditures requiring significant investment for implementation.

Each agency has developed procedures and tools to ensure accountability in administration of the recreation fee program and share the objective of fair and transparent revenue collection, controlling the cost of collection while maintaining consistently high levels of service, and avoiding accumulation of unobligated revenues. Average annual FLREA revenue for each agency from over the past three fiscal years (2012-2014) is as follows: NPS – \$180.8 million; USFS – \$68.1 million; BLM – \$17.4 million; FWS – \$5.1 million; and Reclamation – \$547,000. In FY 2014, the cost of fee collection across all FLREA agencies was 13.2% of gross fee revenues.

FUNDED PROJECTS

Recreation fees collected under FLREA have funded thousands of projects that directly benefit visitors. FLREA authorizes agencies to expend recreation fees on:

- Repair, maintenance, and facility enhancement related directly to visitor enjoyment, visitor access, and health and safety;
- Interpretation, visitor information, visitor services, and visitor needs assessments;
- Habitat restoration directly related to wildlife-dependent recreation including hunting, fishing, wildlife observation, and photography;
- Law enforcement related to public use and recreation;
- Direct operating or capital costs associated with the recreation fee program; and
- Fee management agreements.

Details of the recreation fee program and specific projects funded by FLREA across the agencies may be found in the three Triennial Reports the agencies have submitted to Congress detailing the implementation of the recreation program across the agencies. A copy of the comprehensive May 2012 Triennial Report may be found at http://www.doi.gov/ppa/upload/FLREA_Triennial_Report_2012_FINAL.pdf. A fourth report, the 2015 Triennial Report will soon be submitted to Congress.

Examples of recent recreation fee projects completed and planned by the agencies and that will be highlighted in the 2015 Triennial Report include the following:

- In Montana, BLM's HiLine District, in partnership with the Montana Conservation Corps, used \$18,415 to build fencing and repair facilities at three campgrounds in the Little Rocky Mountains in Montana in FY 2013 and FY 2014.
- In New Jersey, Walkill River National Wildlife Refuge used \$17,500 to provide additional opportunities for hunting and to enhance fishing facilities in FY 2013. The Refuge provided youth archery classes and special fishing events for children and disabled veterans.
- In Alaska, Wrangell-Saint Elias National Park and Preserve has devoted \$3,363,984 from FY 2012 through FY 2014 to rehabilitate 12 miles and relocate seven miles of the Copper Lake Trail. The project establishes trail markings and signage, restores 59 acres of damaged wetlands, and facilitates hiking, camping and salmon fishing.
- In California, Reclamation has used approximately \$140,000 annually to provide law enforcement services at New Melones Lake Recreation Area through a partnership with the Tuolumne County Sheriff's office.
- In Arizona, USFS used \$45,000 in FY 2013, to improve a Salt River boat ramp within the Tonto National Forest to facilitate safe access to the river and accommodate more boats.

Recreation fees have also supported partnerships with numerous youth organizations for projects that mentor and employ youth who gain valuable experience repairing and constructing trails, and working as resource interns. And, for managing large numbers of weekend visitors, BLM has leveraged recreation fees for emergency medical services, search and rescue, education

efforts of proper use of off-highway vehicles, and law enforcement at sites such as Imperial Sand Dunes in California.

CONCLUSION

The Federal Lands Recreation Enhancement Act enables agencies to provide enhanced recreation experiences at recreation sites around the country managed by BLM, FWS, NPS, Reclamation, and USFS. FLREA strengthens the connection between visitors and the lands they cherish by requiring that the fees they pay benefit the sites they visit. Thousands of projects, large and small, have been supported by FLREA fees since 2004.

The Department supports the permanent authorization of FLREA. The sunset of FLREA would detrimentally impact agencies' ability to support many recreation fee projects that improve visitor safety, experiences, and opportunities; allow for key partnerships; and provide key programs such as Recreation.gov. Some opportunities, such as certain developed campgrounds or interpretive tours may be closed or discontinued. New facilities and upgrades to existing facilities may be delayed, resulting in a greater backlog of deferred maintenance. Law enforcement patrols may be reduced. Visitors may encounter fewer staff to educate and assist them.

The agencies have previously identified several areas where changes to the program could result in more effective service to recreation visitors and the public at large. These areas include adjustments to the BLM and USFS public participation processes, possible expansion of the program beyond the current agencies, reviewing interagency pass benefits, and utilization of existing and new technologies to improve visitor services and agency operations. While we believe that these areas should be considered as the Committee considers permanent authorization of FLREA, we believe that FLREA is highly effective as enacted.

The Department supports the recreation fee program and has found that FLREA facilitates efficiency, consistency, and good customer service by enabling interagency cooperation and public participation. Recreation fee authority has been a vital component of our Department's ability to serve as effective stewards of the public lands we treasure. We look forward to working with the Committee on reauthorization of this program.

Ms. Chairman, this concludes my testimony. I would be happy to answer any questions you or any other members of the Committee may have.

The CHAIRMAN. Thank you.
Ms. Wagner?

**STATEMENT OF MARY WAGNER, ASSOCIATE CHIEF, FOREST
SERVICE, U.S. DEPARTMENT OF AGRICULTURE**

Ms. WAGNER. Madam Chairman, members of the Committee, thanks for the opportunity to be here this morning. I appreciate your interest in the Federal Land Recreation Enhancement Act.

I'm Mary Wagner, Associate Chief of the Forest Service. I've provided written testimony for the record, so I'm going to limit my remarks to a few highlighted points this morning.

National forests and grasslands provide a great diversity of outdoor recreation opportunities connecting people with nature in an unmatched variety of settings and activities. Millions of visitors enjoy the outdoors and experiences on these lands. These activities are a significant driver of economies and are vitally important to communities and businesses across the nation.

We strive to enhance the experience of visitors to national forests and grasslands in our management of recreation facilities and programs and identify ways to continue to deliver high quality recreation services on national forests. Along with appropriated funds and contributions from volunteers, partners, private recreation providers and grants, recreation fee revenues authorized under the act are a key component of a sustainable funding for many developed recreation sites. Recreation fee revenue is often leveraged in partnership with communities, recreation groups, nonprofit organizations and businesses such as outfitter guides which are an important part of the local tourism economy.

We found that most visitors support recreation fees. Visitors consistently comment that they're willing to pay a reasonable recreation fee if they know the money will be used to improve the site that they are visiting.

In the ten years since the act was passed through public engagement, as well as recreation resource advisory councils, we've learned a great deal about what works and what doesn't. We changed as a result of that learning, and the Forest Service continues to improve how we collect recreation fees, deliver services and improve facilities. And we strive to do this within the constraints of the law. And we'd like everybody to have a great story such as the ones that you shared about the recognition of the investments and the value to the visitor for those investments.

The Department of Agriculture supports permanent reauthorization of the act. The act is an important piece of legislation that has helped the Forest Service to provide more and higher quality recreation experiences at sites across the United States. The act has strengthened the connection between visitors and the lands they cherish by requiring that the fees they pay benefit the sites where the fees are collected.

Thanks for the opportunity to share and how the Forest Service has implemented the recreation enhancement authority, and I look forward to your questions.

[The prepared statement of Ms. Wagner follows:]

STATEMENT OF
MARY WAGNER, ASSOCIATE CHIEF
U.S. DEPARTMENT OF AGRICULTURE, FOREST SERVICE
BEFORE THE
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
REGARDING
THE IMPLEMENTATION OF FEE AUTHORITY ON FEDERAL LANDS
SEPTEMBER 17, 2015

Chairman Murkowski and members of the committee, thank you for the opportunity to discuss the Federal Lands Recreation Enhancement Act (REA). I am Mary Wagner, Associate Chief of the Forest Service, testifying today on behalf of the U.S. Department of Agriculture (USDA).

REA AND RECREATION

The authorities in REA are valuable tools that allow us to improve recreational facilities and provide quality visitor experiences across National Forest System (NFS) lands. Through REA, the Forest Service and the U.S. Department of the Interior (DOI) agencies are able to invest in upkeep and improvements at sites that millions of visitors use and enjoy. Through our collective missions, we provide the American public and visitors from around the world with outstanding recreation opportunities on federal lands.

REA has been extended multiple times and is now set to expire September 30, 2016. The extensions have allowed the Forest Service and DOI agencies to proceed with normal operations without any impact on the public or our partners. They have also allowed time to continue valuable discussions on enhancing the visitor experience and identify ways to continue to deliver high-quality recreation services on federal lands.

The National Forests and Grasslands provide some of the greatest outdoor recreation opportunities in the world, connecting people with nature in an incredible variety of settings and activities. Each year approximately 147 million visitors hike, cycle, ride horses, and drive off-highway vehicles on these lands. They picnic, camp, hunt, fish, enjoy recreational shooting, and navigate waterways. They view wildlife and scenery and explore historic places. They glide through powder at world-class alpine ski resorts and challenge themselves on primitive cross-country ski or over-snow vehicle routes. These recreation opportunities contribute about \$10.3 billion to the nation's gross domestic product each year and support approximately 143,000 jobs. Many of these jobs are located in rural communities and are associated with numerous outdoor industries and small businesses.¹

We constantly strive to enhance the experience of visitors to NFS lands by maintaining high-quality recreational facilities and programs. To achieve this, we rely on five principal sources of support: (1) appropriated funding, (2) recreation fees authorized under REA, (3) private service providers such as concessioners and outfitters and guides, (4) partnerships, and (5) volunteers.

¹ Statistics are from the 2014 National Visitor Use Monitoring Report, USDA Forest Service.

REA authorizes the federal land management agencies to retain and reinvest funds received at recreation sites or areas that meet the criteria for charging recreation fees enumerated in the law, as well as the authority to retain and reinvest special use permit fees for outfitters and guides and recreation events, which helps promote small businesses.

Recreation opportunities on NFS lands range from highly developed sites to dispersed recreation in undeveloped areas that are available to the public free of charge. Approximately 98 percent of NFS lands have dispersed recreation opportunities that range from camping, hiking, fishing, hunting, and much more. There are approximately 27,000 recreation sites on NFS lands, 78 percent of which are not subject to a recreation fee. Of the 27,000 sites, approximately 3800 are subject to fees charged under REA, and 2,300, such as concession campgrounds, are subject to fees charged under another authority. Most of these 6,100 fee sites are campgrounds and cabin rentals, but they also include developed boat launches, picnic sites, off-road vehicle staging areas, swimming areas, developed recreation sites at trailheads, target ranges, and other developed recreation sites and areas.

Fee retention provides an immediate, stable, and flexible source of funding that has been and continues to be a fundamental component of a sustainable funding model, which is especially critical today when 52% of the Forest Service's budget is devoted to fire suppression resulting in reductions to all other Forest Service activities including recreation and facilities maintenance. In addition, REA revenues leverage other sources of funding, including funds from grants and work performed by volunteers. Funding collected through REA, which can be retained and reinvested at the sites where it is collected, is vastly different from funding received through appropriations. Besides being predictable and subject to obligation for future years, funding collected through REA is available for any operation, maintenance, and improvement costs at recreation fee sites. Funding received from visitor fees is thus an investment by the visitor in the sites they use. The vast majority of this funding, 80 to 95 percent is reinvested directly into the same recreation fee sites where the visitors' fees were paid.

Most recreation fee revenues are used to provide recreational services and amenities to the public, such as repair and replacement of deteriorated facilities like campsites, restrooms, picnic tables, and trails. Recreation fee revenue also are used to improve visitor centers, water and sewer systems, corrals, cabins, remote camps used by outfitters and guides, boat launches, and swimming areas. Recreation fee revenues are used for installation of recycling, solar, and other environmentally sustainable facilities, and removal of huge volumes of trash and graffiti, non-native and invasive plants, and hazard trees at recreation sites.

Over the past several years, the Forest Service has collected approximately \$66 million in recreation fee revenues annually, an estimated 20 to 25 percent of the agency's recreation budget. This total includes approximately \$39 million for use of developed recreation sites such as campgrounds, cabins, visitor centers, and picnic areas; \$14 million in fees for reservation services provided through recreation.gov; \$11 million from recreation special use authorizations, primarily for outfitting and guiding and recreation event permits; and \$2 million from the sale of America the Beautiful—the National Parks and Federal Recreational Lands Pass (the Interagency Pass).

Because REA repealed the recreation fee provisions in the Land and Water Conservation Fund Act and Recreational Fee Demonstration Program statute, REA is the sole recreation fee authority for the Forest Service. Without REA or some other fee retention authority, the agencies will face serious ramifications in terms of their ability to provide recreational services and facilities to the public. REA must be reauthorized at least 1 year before it expires to allow continuity of the Interagency Pass Program and recreation.gov, since the Annual Pass and Military Pass components of the Interagency Pass are effective for 1 year, and reservations on recreation.gov are made up to 1 year in advance. Other operations affected by the timing of reauthorization of REA include ordering, sales, and distribution of passes and the annual photography contest for the Annual Pass.

The Interagency Pass Program introduced both the Military Pass in 2012 and more recently the 4th Grade Pass in support of President Obama's "Every Kid in a Park" initiative. The Military Pass recognizes the sacrifice of our active duty military members by providing a free annual pass to members and their dependents. Every Kid in a Park strives to get every 4th grader to visit federal lands and waters. The 4th Grade Pass helps by providing free access to these youth and others with them to all sites that charge standard amenity recreation fees or entrance fees. The Forest Service intent is to reach 50,000 youth through this program in 2016.

National Forest recreation services and amenities are important to local communities for quality of life, economic growth, and job creation. Any disruption in the level of funding for developed recreation sites would impact local jobs and purchases at local business establishments. Recreation fee revenue is leveraged in partnership with communities, recreation groups, non-profit organizations, and others, often doubling or tripling the value of the dollar collected. Recreation fee revenue is often used to support seasonal employment, youth-oriented work, and volunteer opportunities. Sites maintained for recreational use are also often used to support environmental education in local classrooms. These benefits would all be lost if REA is not reauthorized.

CHANGES TO IMPLEMENTATION

We have listened to our visitors and have made changes in our approach to recreation fees. The Forest Service has a comprehensive public involvement process to introduce new recreation fee sites and fee changes in compliance with REA. This process was developed in response to years of working with recreation users, Recreation Resource Advisory Committees (Recreation RACs), local communities, and concerned citizens to provide the public with sufficient knowledge to understand proposed new fee sites and fee changes and adequate opportunity to comment on the proposals.

Since 2005, the Forest Service has submitted approximately 1,470 recreation fee proposals to Recreation RACs. The vast majority of these proposals were for fee increases at campgrounds operated by the Forest Service, but the proposals also included new or increased fees for cabin rentals and day use sites and elimination of fees at some sites. After deliberation, Recreation RACs recommended proceeding with all but approximately 30 of the proposals. The Forest Service also requires all administrative units to meet standards for public outreach and generate yearly reports on recreation fee revenues and expenditures.

In addition, as of 2012, the Forest Service has fully implemented a modernized point-of-sale system to enhance customer service and accounting of recreation fee revenue. This system modernizes and streamlines the financial process.

CONCLUSION

Continuation of REA is critical to the Forest Service's and other federal land management agencies' recreation programs. REA has enabled the Forest Service to provide consistently excellent recreational experiences at sites across the United States. REA has strengthened the connection between visitors and the lands they cherish by requiring that the fees they pay benefit the sites where the fees are collected. Thousands of projects, large and small, have been supported by REA fee revenues since 2004.

REA facilitates efficiency, consistency, and good customer service by enabling interagency cooperation and public participation.

The Interagency Pass Program requires significant up-front investment to design, produce, and ship the Annual Pass each year. Reauthorization of REA before it expires, would allow this program, as well as recreation.gov, to continue in a cost-effective manner and without disruption of visitor services.

Thank you for this opportunity to discuss the Forest Service's implementation of REA and its critical importance to recreation opportunities on federal lands. I would be happy to answer any questions you may have.

The CHAIRMAN. Thank you, Ms. Wagner.
Ms. Benzar?

**STATEMENT OF KITTY BENZAR, PRESIDENT, WESTERN SLOPE
NO-FEE COALITION**

Ms. BENZAR. Good morning.

We Westerners know how important our Federal lands and waters are to those who enjoy hiking, riding, boating, fishing, hunting and other outdoor activities. In my home State of Colorado, in Alaska, in all of your states, these lands are our backyard. I know that preserving our access to them is important to you, and I thank you for taking up this issue.

For 30 years recreation fees were governed by the Fee Authority section of the Land and Water Conservation Fund Act which contained this statement of Congressional intent, "The purposes of this act are to assist in preserving, developing and assuring accessibility to all citizens of such quality and quantity of outdoor recreation resources as are necessary and desirable for individual active participation and to strengthen the health and vitality of the citizens of the United States."

Fee demo suspended that commitment to health and vitality for eight years during which the agencies experimented with anything goes fee authority treating the natural world as a market commodity and putting a price on any experience that the market would bear. The results of the experiment clearly showed that the public willingly accepts some types of fees and actively rejects others. FLREA was Congress' attempt to apply those findings and define a framework of limits and rules on recreation fees.

When Congress enacted FLREA it again expressed its commitment to the public interest. The then Chairman of the House Resources Committee said of FLREA and again I quote, "This will put an end to fears that Federal land managers cannot be trusted with recreational fee authority because we lay out very specific circumstances under which these fees can be collected and spent."

Indeed FLREA does contain some common sense prohibitions on fees for basic access and does so in language that the Federal courts have found to be clear and unambiguous. The Forest Service and BLM, however, have evaded FLREA's requirements and restrictions, and as a consequence FLREA has failed to achieve its objectives. These agencies have repeatedly demonstrated that they cannot be trusted to honor congressional intent. For this reason it's vital that you enact new fee authority that's crystal clear in its vision and its purpose.

The national parks have always been distinctly different from other public lands with higher levels of infrastructure and services. Entrance fees for parks when kept at modest levels are generally well accepted. The rapidly approaching centennial makes it imperative that Congress deal with park fees soon.

And because the parks are so different, I don't think they've ever been a very good fit under the FLREA framework. I offer that fee authority for the Park Service could be removed from FLREA and handled in park specific legislation such as a centennial bill. Recreation fees for other agencies could then be dealt with in separately written language and in a timeframe not rushed by the centennial.

With respect to FLREA's implementation I'm deeply concerned about the way the Forest Service and BLM are privatizing our public lands by using concessionaires and private contractors to get around the rules laid down in the law. Almost all the requirements and restrictions that apply to these agencies are rendered null and void at sites where a permittee or contractor is operating a recreation facility while providing a service. This has become a get out of jail free card removing recreation policy from congressional oversight altogether. Any legislation to reform recreation fees must require that private management, where the agencies choose to use it, is transparent to the visitor.

Federal policy should be consistent. It currently is not, not even within a single agency.

I traveled to Alaska this summer and was pleased to see that with the exception of concessionaire managed sites, the Tongass and the Chugach National Forests are not charging for parking at trail heads. But when I passed through Washington and Oregon on my way home, it was quite the opposite. Hundreds of trail heads in those two states charge what amounts to a parking fee just to go for a walk in the woods.

FLREA contains what Congress and its primary authors believe were ironclad prohibitions on fees for hiking, riding, boating through undeveloped Federal land solely for parking or for general access. The Forest Service and BLM have not followed those provisions nor many others. They've become expert at taking phrases in FLREA that say one thing and twisting them to say that they mean the opposite. The legislation that replaces FLREA needs to be very clearly written and unambiguous so that not even the most clever wordsmith can contort its meaning.

Regardless of what you enact you must make it clear that Congress remains committed to a robust system of public lands where the public has access and is welcome, not as customers, but as owners.

I look forward to working with you to craft that legislation and restore that tradition.

Thank you.

[The prepared statement of Ms. Benzar follows:]

**Testimony
Before the Committee on Energy and Natural Resources
United States Senate**

**Kitty Benzar
President, Western Slope No-Fee Coalition**

September 17, 2015

Madame Chairman and Distinguished Members of the Committee:

I am Kitty Benzar, President of the Western Slope No-Fee Coalition, an organization that has been working since 2001 to restore the tradition of public lands that belong to the American people and are places where everyone has access and is welcome. I am speaking to you today on behalf of our supporters, on behalf of the organizations with whom we closely work, and on behalf of millions of our fellow citizens—traditional users who hike, ride, boat, hunt, and fish on federal lands and waters—who are fed up with fees for general access to our National Forests and BLM lands and with ever-increasing entrance fees for our National Parks. These fees are acting as a barrier to healthy outdoor recreation. It's time for Congress to exercise strong oversight to curb widespread agency over-reach.

In multiple appearances before committees in both the Senate and House, I have provided numerous examples of how the Forest Service and BLM are evading the restrictions on fees that are in the current statute. They have amply demonstrated their ability to use any small ambiguity or conflicting language to go far beyond congressional intent as expressed in the law and by the law's authors. Any reform or revision of FLREA must be crystal clear as to what fees are allowed and, even more importantly, what fees are not.

The fee bill introduced in the House last year by Representative Bishop fell far short of that goal. It would have deleted the prohibitions on excessive fees that are in FLREA and it was so riddled with vague and undefined language that it would have allowed the land management agencies to charge anyone to do anything anywhere. I believe that recreation fee legislation that protects the public's ability to access their lands while still providing supplemental revenue to the agencies to manage recreation is possible and urgently needed. I have provided your staff with a discussion draft of what that legislation might include, and I look forward to working with this committee to craft common-sense recreation fee legislation that will serve current and future generations of public lands users well.

Nineteen years ago the Fee Demo program introduced the "pay to play" approach to recreation by authorizing the Forest Service and BLM to charge the public simply to park their car and go hiking, riding, or boating in undeveloped areas without using any amenities. Fee Demo also allowed the Park Service to increase and retain entrance fees and to charge extra for backcountry access. "Pay to play" has transformed our National Forests and BLM lands from places where everyone has a basic right to access into places where we can be prosecuted for not having a ticket of admission. Our National Parks, where modest entrance fees have long been well accepted, are now priced at a level that makes it difficult for many families to visit them, and further increases are being proposed.

For these past nineteen years the federal land management agencies have viewed American citizens as customers rather than owners, and have increasingly managed basic access to outdoor recreation as an activity that must generate revenue, rather than as an essential service that promotes a healthy active population.

Congress gave the agencies Fee Demonstration authority in 1996 to test, as an experiment, unlimited fees and see what worked and what didn't, what the public would accept and what they would not. With this encouragement, the agencies embarked upon a new paradigm in public lands management. For the first time, the Forest Service and BLM began requiring direct payment for admission to the National Forests and other public lands under their management. Simple things like a walk in the woods or paddling on a lake at sunset became a product that could be marketed and sold to paying customers.

Opposition to Fee Demo was overwhelming and widespread. From New Hampshire to California, from Idaho to Arizona, Americans from all walks of life and all political persuasions raised their voices against a fee-based system for basic access to outdoor recreation. Resolutions of opposition were sent to Congress by the state legislatures of Idaho, Montana, Colorado, Oregon, California, and New Hampshire. Counties, cities, and organizations across the nation passed resolutions opposing the program. Civil disobedience was widespread, and in response enforcement became heavy-handed. Criminal prosecutions of people who simply took a walk in the woods without buying a pass were disturbingly frequent.

Congress terminated the experiment in 2004 by enacting FLREA to set limits and scale back on fees based on what Fee Demo had shown. FLREA's limiting language, had it been honored by the agencies, could have achieved this and might have calmed much of the public's opposition. For example, at subsection (d), FLREA prohibits fees:

"For persons who are driving through, walking through, boating through, horseback riding through, or hiking through Federal recreational lands and waters without using the facilities and services."

While the agencies made the appropriate changes in a few areas once FLREA was passed, in most places they carried on as if nothing had changed and recreation fees continued to spread to thousands of undeveloped and minimally developed areas. Americans are still being charged fees for such basic activities as: roadside parking, walking or riding on trails, access to vast tracts of undeveloped public land, and even for such fundamentals as the use of toilets. Even FLREA's straightforward requirement that a "permanent toilet" be provided before a Standard Amenity Fee can be charged has been interpreted to allow roadside porta-potties because then, according to the Forest Service, they can charge a fee for access to all the undeveloped backcountry beyond the road. Any reform of FLREA must clearly spell out that use of basic facilities like toilets, picnic tables, and drinking water, as well as access to undeveloped areas, is to be fee-free.

National Parks have always been distinctly different from other public lands, with higher levels of infrastructure and services. Entrance fees for them, when kept at modest levels, are generally well accepted. The upcoming NPS Centennial makes it imperative that Congress deal with park fees soon. Because the parks are so different they have never been a good fit within the FLREA framework, so we suggest that fee authority for the NPS be removed from FLREA and placed in park-specific legislation such as a Centennial bill.

Recreation access fees are a new tax and they are a double tax. Americans already pay for management of their federal public lands through their income tax, but these fees are an additional tax, levied directly by the agencies and distributed without congressional oversight.

For those who enjoy motorized recreation, or who hunt or fish, they are a triple tax, because after paying state license fees as well as federal income taxes, they often must also pay an access tax to enjoy recreation on their public lands.

It is also a regressive tax. It puts the burden of public land management on the backs of Americans who live adjacent to or surrounded by federal land. In rural counties in the West, where in many cases over 80% of the land is federally managed, public lands are an integral part of life. Citizens in these areas, who are often just scraping by financially, should not have to buy a pass just to get out of town.

This regressive tax falls most heavily on lower income and working Americans. Two separate studies conducted ten years apart and on opposite sides of the country reached the almost identical conclusion that fees have caused nearly half of low-income respondents, and a third of all respondents, to use their public lands less. This has been reflected in declining visitation across agencies and geographic areas. For example, the Forest Service's visitor use estimates have fallen from 214 million visits annually in 2001 to only 161 million in 2012 (the most current year available). The land management agencies tout their efforts to encourage underserved and diverse populations to visit public lands, yet those are exactly the people who are most easily deterred by fees.

Fee Demo and FLREA have been a financial failure as well. GAO reports have revealed hidden administrative costs, fees being collected far in excess of operating costs, and agencies being unable to provide accurate and complete accountability for their fee revenue. One example is the Red Rocks Ranger District on the Coconino National Forest, where nearly half of fees paid through automated fee collection devices is retained as a sales commission by the device vendor. Yet just down the road on the Tonto National Forest they are in the process of installing those same automated devices, which will presumably claim similarly high commissions. Both Forests assure the public that 100% of their fees directly benefit the place where they were paid, but that is clearly not possible when collection costs are so high. The backlog of deferred maintenance, which was the initial justification given for Fee Demo, has continued to grow instead of shrinking, and appropriated funding disappears into agency overhead instead of making it to the ground. Instead of increased recreational opportunities, sites have been closed and facilities removed if they are perceived by the managing agency as inadequate generators of revenue.

The powerful incentive embodied in fee retention has proved to be too much for the agencies to resist. They have used an undefined word here and an ambiguous sentence there to justify the implementation of policies that nullify the protections on public access that FLREA was supposed to provide. Contorted interpretations of FLREA's Standard Amenity Fee and Special Recreation Permit Fee authority have led to de facto entrance fees to hundreds of thousands of acres of undeveloped federal recreational lands.

One way to curb these abuses and restore common sense to fee policy would be to end the authority for fee retention and return fees to the Treasury for appropriation and oversight by Congress. As long as they get to keep all the money they can raise, the agencies will inevitably seek to find and exploit every weakness they can in the wording of any limiting law.

If Congress decides that fee retention is to continue, then it is imperative that the restrictions and prohibitions on where, and for what, fees can be charged must be spelled out very clearly, and there must be a procedure for citizens to challenge fees that do not appear to comply with the law. Strong congressional monitoring and regular audits must be included.

A particular concern to many people is the de facto privatization of public lands through the widespread use of private concessionaires and contractors to operate recreational facilities and programs, often outside of the bounds of FLREA. At subsection (e), FLREA says:

"Fees Charged by Third Parties- Notwithstanding any other provision of this Act, a third party may charge a fee for providing a good or service to a visitor of a unit or area of the Federal land management agencies in accordance with any other applicable law or regulation."

This has been interpreted to mean that the prohibitions in FLREA on fees for certain types of activity are null and void when a permittee or contractor is operating the facility or providing the service instead of the agency itself. In practice, this means that concessionaires, which operate more than 80% of highly developed USFS campgrounds and an increasing number of day-use sites, charge fees for things, like parking and access to backcountry, that FLREA prohibits. It also means that concessionaires are not required to accept federal Interagency Passes on the same terms as agency-operated sites, creating public confusion and reducing the value of the federally-issued passes. An agency manager can decide to transfer management to a private entity without any public process, and new fees and fee increases at privately managed sites are not subject to public notice or comment. This amounts to the privatization of public lands, excludes citizens from having a role in important management decisions, and means the Forest Service is forgoing campground revenue that would otherwise flow into its own coffers by letting concessionaires collect it instead.

Another example of privatization is requiring the public to use the reservation services contractor "recreation.gov" in order to gain access to public land. The contractor charges a service fee on all transactions, on top of the agency fee charged under FLREA. In many places where a permit is required, for example Desolation Canyon in Utah, it can only be obtained through recreation.gov so there is no access without paying their service fee. The ability to make an advance reservation is a convenience and a service fee for that may be appropriate, but those who don't need or want a reservation should not be required to pay for one.

An extreme example is the Mendenhall Campground on the Tongass National Forest, where cash is no longer accepted as payment from campers. Instead, all payments must be by credit card to recreation.gov, which adds a service charge of \$9 or \$10 depending on whether the transaction is online or by phone. Even if a camper arrives to find a site that's empty and available, they must "reserve" it and pay the contractor's fee in addition to the camping fee. This doubles the cost of a basic family site and triples it for holders of senior/disabled passes.

Any reform or revision of FLREA must create a consistent fee program, regardless of whether it is a private entity or a federal agency that is providing services. Strong protections for general public access should be spelled out and should apply even when the agencies have chosen to use a concessionaire or contractor. Otherwise, any legal restrictions the agencies don't like can be rendered moot simply by outsourcing to private contractors.

Fees for use of developed facilities such as campgrounds are reasonable and have been well accepted, and we support them. Fees are not reasonable when they are charged for access to undeveloped or minimally developed places. Legislation should ensure that the agencies do not have an incentive to add facilities just because they want to be able to charge and retain fees. Ample experience under FLREA shows that if fees are based on the presence of amenities, the agencies will charge a fee anyplace that there is any sort of facility and will build new facilities merely to justify a fee. This adds to maintenance backlogs and deters public use.

The concept of shared ownership, shared access, and shared responsibility is based on a long accepted tradition that on federal lands facilities will be basic. Federal facilities should remain basic so that we can afford to make them available to everyone and can keep maintenance costs to a minimum.

Fee authority as currently being implemented has taken ownership of these lands out of the hands of the public and given it to the land management agencies, which too often out-source it to private companies. This is a change in relationship that is most disturbing. It is time for the public, acting through our elected federal officials, to re-assert ownership of our public lands from these agencies that have forgotten that *it's not their land!*

New legislation should ensure that:

- fees are focused on use of developed or specialized facilities for which there is a demonstrated need;
- entrance fees are limited to National Parks and Wildlife Refuges;
- concessionaire fees are governed by the same requirements as agency fees;
- fees for special uses are carefully defined and never applied to private, non-commercial use of undeveloped or minimally developed areas;
- no incentive is given to the agencies that would encourage them to install facilities for the purpose of creating additional fee sites and revenues;
- ironclad agency financial accountability is established and collection costs are not allowed to exceed 15% of revenue;
- ongoing congressional monitoring and oversight, including regular audits, is required.

FLREA was Congress's attempt to replace Fee Demo with legislation that would provide the agencies with appropriate, albeit limited, fee authority. Eleven years after the passage of FLREA we can now see what its weaknesses are and where opportunities for improvement lie. I have submitted to committee staff suggested discussion language for your consideration. It represents our best attempt to ensure that the agencies are granted reasonable and well-defined fee authority, while protecting the public lands from costly unneeded development and preventing the recreating public from being confronted with an onslaught of new and ever-higher fees. I believe that this draft, based on a more than decade's worth of input from a wide cross-section of recreational visitors to federal lands, would more nearly meet the requirements listed above than FLREA currently does. It would close the loopholes in FLREA that the agencies have been able to exploit, and create an equitable recreation fee program that would enjoy wide public support. I urge you to consider it.

Madame Chairman and members of the Subcommittee, thank you for your consideration and for allowing me to testify before you today.

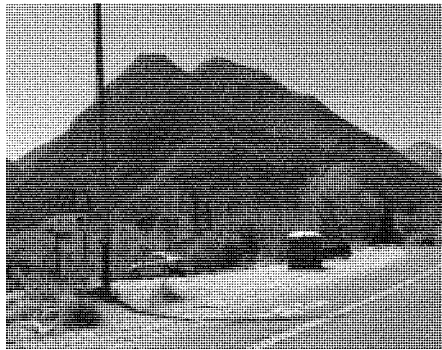
Respectfully submitted September 17, 2015

Kitty Benzar

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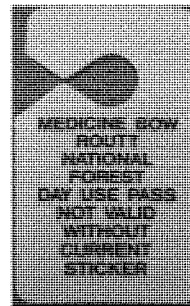
www.WesternSlopeNoFee.org

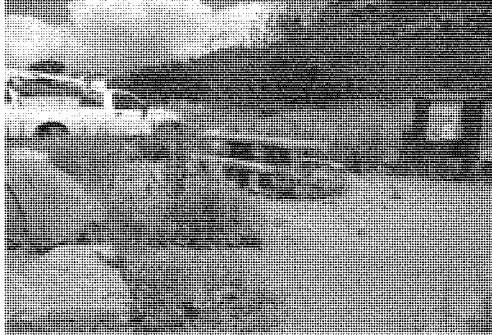
This is one of several fee trailheads in Utah leading into Cedar Mesa, a primitive, undeveloped area. Overnight use here is limited but day hiking is not. BLM gets around FLREA's prohibition on entrance fees and fees for undeveloped areas by defining all foot travel into the area as a "specialized recreation use" and requiring a permit, self-issued in unlimited numbers in the case of day hikers, to proceed beyond the fee station.



This roadside pullout on the Angeles National Forest lacks any permanent infrastructure but has required a fee for parking since 1996. The porta-potties were added after FLREA was enacted, to supposedly meet the requirement for a "permanent toilet" as one of the standard amenities at a fee site. Several of the other required amenities are still absent. This is an example of adding facilities and costs solely for the sake of charging a fee.

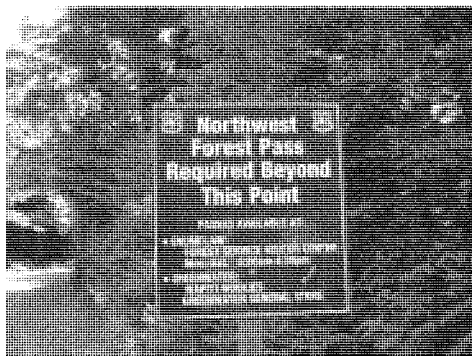
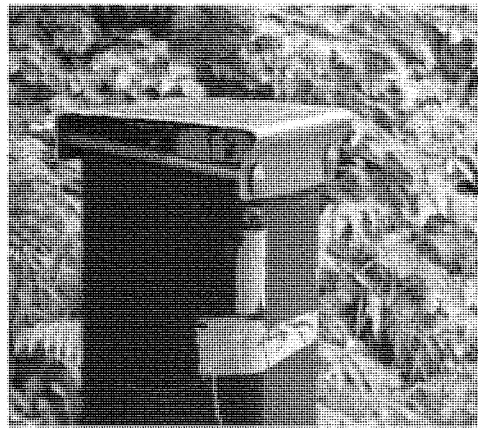
This \$30/year pass (or an Interagency Pass) is required for access to undeveloped backcountry at eight trailheads on the Laramie, Douglas, and Parks Ranger Districts and at 20 day use and picnic areas forestwide. None of these fee sites has ever been subjected to public notice or comment.





An unneeded picnic table gathers weeds at a trailhead on the Coconino National Forest in Arizona. It was installed in order to justify a fee, even though almost nobody wants to picnic there. Two more trailheads on this Forest are currently undergoing major construction in order to transform them into so-called “picnic areas” and begin charging a parking fee to all users.

This sealed and disabled fee payment tube is at a campground on the Tongass National Forest. The Juneau Ranger District no longer accepts cash from campers. Instead, they must pay for their site by credit card to a private contractor, plus either a \$9 or \$10 service fee depending on whether they pay online or by phone.



A Northwest Forest Pass (or an Interagency Pass) is required for parking at over 400 sites in Washington and Oregon, of which more than 300 are trailheads.

At Mendenhall Glacier on the Tongass National Forest, a fee is currently charged only to see the exhibits in the Visitor Center. Starting in 2016 the fee area will be expanded to include the restrooms and viewing platforms. No public comment has been sought regarding this change.



This crumbling stairway and dangerously damaged hand rail lead to an overlook at Mirror Lake on the Wasatch-Cache National Forest in Utah. Despite FLREA's prohibition on fees for scenic overlooks, this has been a fee site since 1996. Those fees have been retained by the Forest, yet serious deferred maintenance needs remain unaddressed.

The CHAIRMAN. Thank you, Ms. Benzar.
Mr. Brown?

**STATEMENT OF DAVID BROWN, EXECUTIVE DIRECTOR,
AMERICA OUTDOORS ASSOCIATION**

Mr. BROWN. Madam Chairwoman, members of the Committee, thank you for taking the time to consider the concerns and issues that are necessary to improve the Federal Lands Recreation Enhancement Act.

FLREA is the authority under which more than 8,000 recreation special use permits are issued in national forests and on BLM lands. For that reason America Outdoors Association members and our affiliate state organizations are supportive of reauthorization provided there are adjustments to the law. Since FLREA expires September 30th, 2016, reauthorization is necessary to avoid destabilization of thousands of small businesses operating on permits authorized under this law.

While the authorization of this permitting authority is important, it will become increasingly irrelevant unless we are able to streamline the permitting processes that have become so complex and costly. In fact, Federal lands are on virtual lockdown to new permitted activities because the processes are so complex and costly they often exceed the economies of scale of the field staff and the perspective permit holders. Even some existing permits are becoming obsolete in some cases because they cannot be modified to enable outfitters to adjust to changing markets.

I've prepared a chart with my testimony to give you some idea of the hoops that have to be negotiated to authorize outfitting and guiding in organized groups on national forests. Most of these same issues apply to the BLM. So while I urge you to pass FLREA, we desperately need to include provisions that streamline the permitting processes for outfitters, organized groups and special events.

The permitting authority in FLREA needs to be strengthened. The authority in the current law under Section 802-H is vague. When it is strengthened we think that this is also the opportunity to encourage efficiency in permit administration and NEPA documentation.

I just want to offer you some suggestions on streamlining.

Authorization encouragement of programmatic environmental assessments in lieu of NEPA documentation for every permit or group of permits issued should be considered.

The use of categorical exclusions should be expanded. They're being used in some cases successfully, but the tendency is to go to higher and higher levels of analysis.

The Forest Service and BLM cost recovery rule should be revised. It provides a financial incentive for the agencies to ramp up documentation requirements when they could be using CAD axis. The cost for any small group of outfitters can exceed \$100,000. For new proposed uses the costs are off the charts and are not consistent with economies of scale of the outdoor recreation industry.

Temporary permits should be authorized for new uses. BLM doesn't have a temporary permit. The Forest Service limits their 200 service days. CQ guidance supports the use of categorical ex-

clusions for temporary permits, and this can be a way to test new uses in national forests and on BLM lands.

We also suggest eliminating the needs assessment for commercial services unless that process is a statutory requirement.

One of the other issues that has come up is some of the executive orders related to Department of Labor issues, and we think a provision in FLREA which makes it clear that Forest Service and BLM permits are not subject to the Service Contract Act is needed.

I want to wrap up with some perspectives on FLREA and recreation fees in general.

For these fee initiatives in FLREA to survive we must have better accountability. We recommend requiring an annual report to be published on amenity fee collections and expenditures at each fee site not at each forest. Within 90 days of the close of the physical year each collection site should provide an annual accounting of fees collected and how amenity fees were spent. Failure to provide the report should result in the loss of fee authority for that resource. If 80 percent of the fees are indeed being returned to the site where they are collected this reporting should not be problematic.

Once FLREA is reauthorized we just ask that you plan to conduct regular oversight hearings to ensure the intent of FLREA is realized. We support a ten-year reauthorization, not a permanent reauthorization.

I've offered a number of other suggestions in my testimony including a strategy to dramatically improve trail clearing which is so important to access.

I look forward to answering any questions you have about this and other issues covered by my testimony. Thank you again for the opportunity to testify.

[The prepared statement of Mr. Brown follows:]

Testimony on the Federal Lands Recreation Enhancement Act
 David L. Brown
 Executive Director, America Outdoors Association
 Committee on Energy and Natural Resources
 United States Senate
 September 17, 2015

Madam Chairwoman and members of the Committee thank you for taking the time to consider the concerns and issues that are necessary to improve the Federal Lands Recreation Enhancement Act (FLREA). Since FLREA is the authority under which outfitter and guide permits are currently issued and those fees retained by the managing agency, America Outdoors Association members and our affiliate state organizations are supportive of reauthorization provided there are adjustments. In addition to permit fees authorized under FLREA, many outfitters are also paying amenity fees. My testimony will cover issues and needed adjustments for both types of fees.

America Outdoors Association is a national, non-profit trade association representing the interests of outfitters and guiding companies, many of which operate on federally-managed lands and waters under permits authorized by the FLREA.

One of the greatest accomplishments of a revised and reauthorized Federal Land Recreation Enhancement Act would be to streamline outfitter and guide permitting processes. Federal lands are on virtual lockdown to new recreation activities offered by outfitters and organized groups because the cost and complexity of issuing permits for new activities or even making simple adjustments to existing permits to adapt to changing markets has become prohibitively expensive. Attached is a chart (Exhibit 1), which reveals all the processes and analyses necessary to issue permits for new activities in National Forests. This is a picture of a dysfunctional process. Permit language has also become increasingly hostile to small businesses and nonprofits due to the imposition of Department of Labor clauses in permits which have the potential to wipe out many multi-day trips.

FLREA is the authority under which more than 8,000 recreation special use permits are issued in National Forests and on BLM lands. These permits are issued for special events, competitions and outfitting and guiding. FLREA expires in September 30, 2016 along with the authority for issuing these permits and the agencies' retention of associated fees. If FLREA expires or is repealed, fees will remain in place, but they will go back to the Treasury and that will result in the elimination of recreation access for many recreation users. Agency personnel have suggested recreation capacity will be diminished without permit and amenity fee retention. Already, agencies are trying to figure out what to do with annual passes which are issued for terms that now expire after FLREA's expiration. The future of recreation access is dependent upon passage of FLREA. FLREA also offers the opportunity to accomplish needed reforms.

While we support reauthorization of FLREA, changes are essential to ensure enduring support for the recreation programs supported by recreation fees.

We offer the following suggestions and perspectives on FLREA and recreation fees in general.

1. **Include a provision in FLREA which makes it clear that Forest Service and BLM permits are not subject to the Service Contract Act (SCA).** The U.S. Department of Labor uses the SCA to justify imposition of provisions prescribed by Executive Orders which are not appropriate for multi-day, backcountry outfitting operations. FLREA should make it clear that the SCA and the potential requirement for "prevailing wages" are not appropriate for the outfitting and guiding industry.
2. **A provision should be added to the authority for recreation special use permit fees for outfitters and group activities to restrict permit fees to activities which take place on federally-managed lands.** The current Forest Service fee policy allows the agency to base fees on the entire cost of a trip even when a small portion of the trip accesses or occupies National Forests. The Forest Service has basically established a tax on activities on private lands, which the U.S. District Court in Alaska ruled to be illegal. Still, the agency persist with this fee policy in some Forests in the lower 48 states. For example, a youth camp or

guest ranch may conduct most of its activities on their own property with food, lodging and other activities taking place on private land. If the group spends one day out of a ten day stay hiking on a National Forest, some Forests base the permit fee on the overall price for the entire stay instead of on the one-day of hiking. Then the agency applies an off-Forest discount that is not proportional to the time spent outside the Forests. This aspect of the Forest Service fee policy was challenged successfully in Federal Court in *Tongass Conservancy v Glickman* (October 6, 1998) and the Alaska region was forced to revise their fee policy as a result. However, the Forest Service still persist with this illegal fee policy in some Forest.

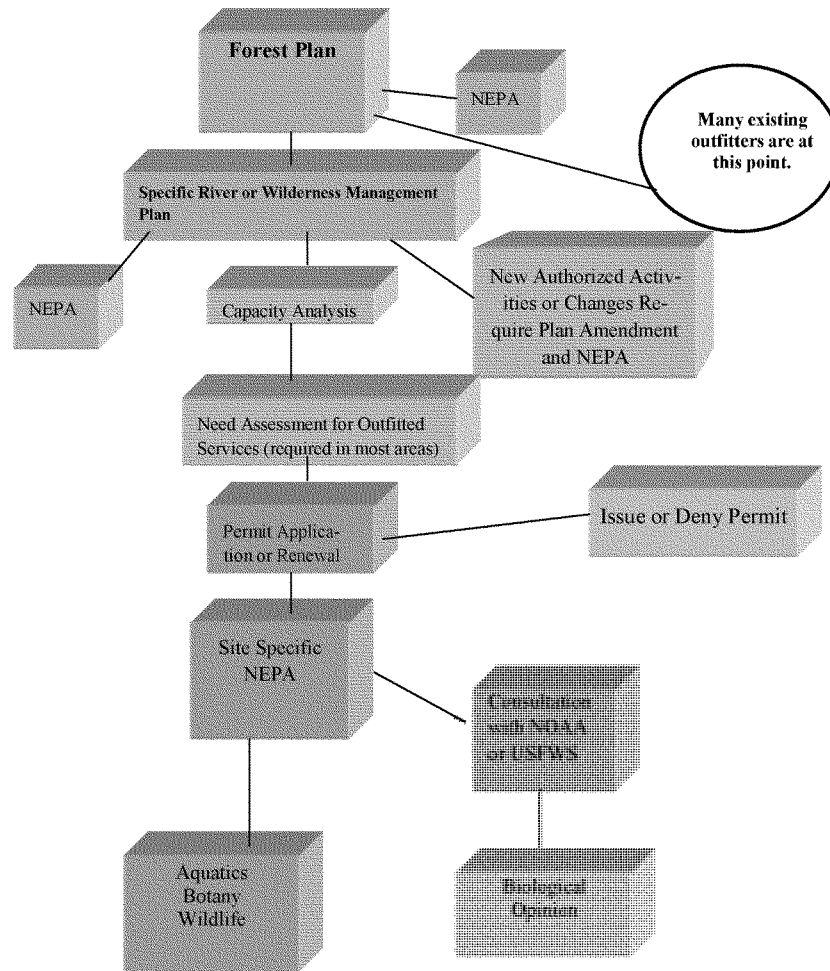
3. **Authorize flat fees for day uses.** Agencies should have the authority to charge flat fees for day use, which would resolve the problem of how to calculate fees for trips that are conducted partially on private lands or which cross agency boundaries. The Forest Service eliminated flat fees in 2008 except for minimal fees for temporary permits which are issued for no more than 200 service days.
4. **The provisions in the current FLREA law which prohibit additional charges to permit holders for road use (SEC. 803(d)(2)) and for monitoring endangered species (SEC. 808(b)) should be retained.** FLREA should also prohibit layering fees onto permit holders, who are easy targets for agency fee initiatives. Permit holders should not be charged road use fees unless other users are also charged. Requiring permit holders to pay road use fees to cover the costs for road maintenance for all recreation users is unfair and unsustainable since outfitters are the minority users of those roads.
5. **Streamline permit documentation.** Language should be included in FLREA reauthorization to encourage efficiency in permit administration and NEPA documentation. The use of categorical exclusions should be expanded.
 - a. Authorizing categorical exclusions provided there is no significant change in the permitted activity will help remove some of the uncertainty about the use of categorical exclusions. FSH 1909.15 enables the use of categorical exclusions for permits but suggests limiting their use when extraordinary circumstances are present which include: "Congressionally designated areas, such as wilderness, wilderness study areas, or national recreation areas; (4) Inventoried roadless areas or potential wilderness areas."
 - b. Elimination of a "needs assessment" prior to authorizing permits for new activities outside of designated wilderness would eliminate another bureaucratic hurdle and may enable more permits for new uses.
 - c. Authorize the use of programmatic environmental analyses or environmental assessments in lieu of NEPA documentation for every permit issued.
 - d. Authorize temporary permits for new uses, which are eligible for categorical exclusions under CEQ guidance. The BLM does not have a temporary permit and the Forest Service restricts their temporary permit to 200 service days. Expanded authority for temporary permits would allow the agencies to authorize new commercial and group uses provided they are not inconsistent with Forest or Resource Management plans.
 - e. Revise the Forest Service and BLM cost recovery rule, which goes to full cost recovery after 50 hours, with no credit given for 50 hours. Documentation costs for a group of outfitter permits can easily exceed \$100,000, which cannot be sustained by a small group of outfitters.
6. **Provide the BLM and the Forest Service with the authority and encouragement to concession-out facilities which are not sustainable in today's budget environment.** Unless these agencies move to concession-out some facilities which are not self-sustaining, recreation fees are likely to be collected from visitors who do not use these facilities and transferred to support and maintain properties which are budget black holes. Whether it is done in FLREA or a separate bill, this is an important strategy to hold down fees and the costs of operating and maintaining facilities where the function is marginal to the agencies' core mission.
7. **Require an annual report to be published on amenity fee collections and expenditures at each fee site.** Agencies should be more transparent about the use of fee revenues. Within 90 days of the close of the fiscal year, each collection site should provide an annual accounting of fees collected and how amenity fees were spent. Failure to provide the report should result in loss of fee authority for that resource. Routine audits of a certain number of fee sites with reports going to the Committee should be conducted. We do


not believe that 80% of the fees are always being returned to the site where they are collected based on our conversations with field staff.

8. **Once FLREA is reauthorized, please plan to conduct regular oversight hearings.** Regular oversight hearings are essential to ensure that the intent of FLREA is realized.
9. **We concur with others that fee RAC's have not been effective.** Recreation users who pay fees should have the opportunity to provide recommendations on how fee money is spent. Public meetings and annual accountability should be mandated in lieu of a formal fee RAC.
10. **Once projects are completed at fee sites or there are no services provided, amenity fees should be removed or diminished.** Some attention needs to be given to situations where more fee revenue is collected at popular sites than can be cost effectively or appropriately used. Instead of transferring those fees to other locations to benefit users who are not paying recreation fees, they should be eliminated or reduced.
11. **Establish a fee set aside for river and trail maintenance.**
Since the Forest Service is only able to maintain approximately 30% of its trails on an annual basis, an alternative strategy is required. We suggest revising the authority in SEC. 807 of the current law, which was never implemented. A fund could be established from the 20% fee set aside for agency-wide use to provide micro contracts to outfitters and other groups which have demonstrated capability to clear trails and river corridors.

Thank you for the opportunity to testify on this important legislation. I look forward to answering any questions you might have.

Why Authorization of Outfitted and Guiding Activities Are Exceeding the Scale of Small Businesses and Threaten Access



 Require Cost Recovery unless time required is less than 50 Hours or unless activities are programmatic.

The CHAIRMAN. Thank you, Mr. Brown.

Thank you, each of you, for your comments this morning.

I think the interest here from the Committee is clearly from those of us in the West. Thank you, Senator Manchin, for joining us and giving us a little geographic distribution here around the country. [Laughter.]

I think for so many of us our public lands, our national parks, our Forest Service lands, this is our backyard. And as you point out, Ms. Benzar, we use them. We are out there every day whether it is walking the dog or going skiing or cross-country hiking or running. We are using our parks.

I do not think that there is much push back on fees, again, so long as you can see the benefit back to your park. But what we are seeing is an increasing cost or a rise in the fees for various uses. I think you have pointed out some areas where perhaps they are not consistent with the criteria set out in FLREA.

Ms. Benzar, you have outlined some, but a big part of the concern that I have is what we are seeing with this rising percentage of administrative costs. That is something that the public sees no benefit to.

Ms. O'Dell, within the National Park Service we saw last year the cost of fee collection was about 18 percent of fee revenue. You spent about five percent on management agreements, above that reservation services as well, another five percent for administration and overhead. So by my calculation that's about 28 percent of all fees doing nothing to benefit the parks.

Ms. Wagner, within the Forest Service it looks worse. For the last several years we have seen about 32 to 34 percent of fee revenue that went toward administration, overhead and fee collection. That is a third of the fees where the public sees no benefit. Somehow or other it is going into administration. Twenty-four percent of fees went just toward fee management agreements and reservation services. Your testimony suggests that you reinvest, what, 80 to 95 percent in recreation fee sites where the visitor fees were paid. I need to understand because there is a clear discrepancy there.

Back to you, Ms. O'Dell, looking at the percentages of the fees going to administrative costs. Last year the Bureau of Reclamation spent approximately 56 percent of fee revenue on cost of collection and administrative costs. You have to help me out here because you will not have the support from the public for increasing fees. I do not care if we are going from \$3 at the Mendenhall Visitor Center to \$5 which most people would say is insignificant. If they are looking at this and seeing a third of your fees are going for administrative purposes and 28 percent of fees of the Park Service are going for administrative purposes, and at the Bureau of Reclamation, 56 percent is going for administrative purposes. I am not going to buy it, and I do not think anybody else would.

Tell me what we can do to reduce the overhead involved here because it is going, clearly, in the wrong direction.

We will start with you, Ms. O'Dell, and then we will go to you, Ms. Wagner.

Ms. O'DELL. Thank you for your concern, Senator.

In the National Park Service we put a great deal of emphasis on staffing our entrance stations to national parks, so we are employing a lot of people to greet visitors as they come in, to take their fee, to give them orientation materials, to help them understand how best to use the park, where to find their campground or their lodge. We see that that provides a huge benefit to the visitor. Sometimes that is the only employee they will see and have a direct personal relation, interaction with during their time at the park.

The CHAIRMAN. But do you think we want to see more employees or do we want to see our parks? It sounds to me like what you are doing is you are putting more employees there to collect the fees.

Ms. O'DELL. Well.

The CHAIRMAN. Are you going to—

Ms. O'DELL. I would say we are putting more employees there to help visitors have a safe and enjoyable visit and to help them manage getting around in a place that they are not familiar with.

The CHAIRMAN. Okay. I will let you finish your comments here. Go ahead.

Ms. O'DELL. Thank you.

And funding the recreation.gov service has been extremely valuable to visitors so that there is one place to go to make reservations, for all of the uses that they would like to do in national parks and in forests and refuges. It's an interagency service.

The CHAIRMAN. But does that bring down our costs?

Ms. O'DELL. Well, it costs money. That's a contractor.

And so we—

The CHAIRMAN. But that level of efficiency ought to bring down the cost. What we are seeing is just the opposite, so it causes me to question how good this is.

Ms. O'DELL. Well, I would say that having one contractor do that for all of our agencies has minimized the cost rather than every agency doing, creating their own system and trying to manage their own system—

The CHAIRMAN. Let me go to Ms. Wagner because my time is expired here, but I think it is important that we understand our Forest Service side as well.

Ms. WAGNER. I'm interested in understanding the numbers that you're looking at and the numbers that—

The CHAIRMAN. One third.

Ms. WAGNER. That I'm provided. So the data that I have shows that the cost for collections for the Forest Service in 2005 ran about \$8 million. In 2014 it's running about \$4.8 million, about 6.7 percent of the expenditures that we're making under the fee authority. So the cost of collections is not considered an overhead cost, per se, it is the cost of having a fee program.

So when I look at 2014 expenditures in the Forest Service we spent \$48 million of fee revenue. Eighty-six percent went into visitor services, ten percent to the cost of collections, three percent to overhead and administration and one percent for habitat restoration and fee management agreements.

So I am curious, given your data, to do a comparison and kind of unpack that. It makes me very curious.

The CHAIRMAN. We are wildly apart on this because as we look at the numbers for the administration, the overhead and the fee collection, basically the stuff that will not go out to either help with interpretive or maintenance or just enhance the quality of the visitor experience out there, about a third of it by our calculations, the visitor does not see.

I would be happy to have our folks sit down with you and look at your numbers, because this is something that if we are going to be looking at in a FLREA reauthorization I need to have the assurance that the people that are visiting the parks in Alaska or elsewhere are having a better experience and not just paying for somebody to sit in an office here in Washington, DC.

Let me go to Senator Cantwell.

Senator CANTWELL. Thank you, Madam Chair.

Continuing on that same point, this is to Ms. O'Dell and Ms. Wagner. I understand that if somebody uses the recreation.gov website to make a reservation for a campsite or purchase a recreation permit on Federal land that the site adds a \$9 service fee in addition to the price of the recreational permit. If a typical campsite reservation is \$20, adding that is a very significant increase. Does the agency take into account that service fee in establishing the price?

Ms. WAGNER. It is a service fee indeed, for the convenience.

Senator CANTWELL. At \$9?

Ms. WAGNER. A \$9 fee to acquire a permit, to make sure the reservation is there for your event, your activity, your camping spot. And it is a fee that is charged by the contractor to provide that service.

Senator CANTWELL. I think we need to make sure that whatever these prices are, you are taking that into consideration about what is a reasonable price. To me, I mean, I am sure it is a sweet deal for the contractor, but I have no idea whether that is the price value for putting that in place.

Again, I do not know, to me, if this is like what I would call domain expertise, which I would, because we are in the business of giving people access to the park system, like building your own system and having it administered by somebody at the Park Service as opposed to an outsource contractor.

I see I have got my colleague, Senator Daines', attention as someone who has been involved in software.

That this would be a better way to go and that adding \$9 onto a \$20 fee does not sound like a reasonable price to me. Does anybody have any further comment on that?

Ms. O'DELL. The recreation.gov contract does expire in 2016, I believe. I believe we can extend it additional years, but we would be happy to engage in more conversation about how to have a system that gives the guarantee that visitors are looking for as they are coming to their public lands, that they will have a campsite when they get there rather than having to sit in a line and not get one for the night. So we'd be happy to engage in more conversation about that.

Senator CANTWELL. I get that using automation, just as opposed to having so many people just old-fashioned phone reservation taking, you know, shows it is a good idea. Automation is a good idea,

but if it is a core competency by the agency it is probably better just to build that into our system as opposed to having some contractor throw on \$9. It just sounds like a lot for processing. I mean, even the credit card people aren't doing that, even Comcast is not doing that on their crazy, you know, pay by phone or pay online thing. I don't know, what, there is this \$5 or something. If you talk to somebody.

The CHAIRMAN. We can get an airline ticket and it reserves—
Senator CANTWELL. So anyway, okay.

I understand that the Mount Baker and Snoqualmie Forests have been designated as a pilot test—this is to Chief Wagner—to test ways to improve the issuance of permits, and so I hope the Forest Service will use this to help the YMCA get the permits. Can I get your commitment to work with me to resolve this issue so that it is not just a temporary pilot?

Ms. WAGNER. Absolutely. And if I could add, I think the experience on the Mount Baker-Snoqualmie is something that we should look at expanding across a number of regions in a number of forests.

So Mr. Brown's comments about are there opportunities for outfitting and guiding. Outfitters and guides, they offer a professional service. They are a means to connect people to the land and outdoor experiences, and they make it easier for people to do that. They value the natural resources. The natural resources are their backdrop and setting to offer that experience, and they want to offer a quality experience in a quality setting.

We're committed to taking the experience from the Mount Baker-Snoqualmie and expanding that to make sure that we can simplify and create access and streamline procedures and processes and prepare the workforce to work that way.

Senator CANTWELL. Thank you. We will work with you on that, it is very important.

The Mount Rainier fee increase will be 67 percent over a two-year period. We have not changed fees charged for coal leasing and hard rock mining on Federal lands since 1872. Do we believe that this needs to be changed if the public is paying more for access to Federal land? Should those mining resources on Federal land pay an increase?

Ms. WAGNER. We'd be interested in working with you on that particular issue.

Senator CANTWELL. Okay.

Thank you, Madam Chair.

The CHAIRMAN. Senator Daines?

Senator DAINES. Thank you, Madam Chair.

I have a question, Mr. Brown. I frame this in the context of during the August recess the highlight was spending time with my wife and our dog, Ruby, miles and miles into the Absaroka-Beartooth Wilderness there, just outside of Yellowstone National Park, enjoying our tremendous public lands that we love and cherish in the State of Montana.

I also recognize that outfitters and guides are important partners to our Federal land management agencies by helping to ensure public access to public lands. I am grateful for these guides that, you know, a horse looks better and better as you get older and

older oftentimes to get into some of the back country. I say this as somebody who grew up climbing a lot of mountains as a kid, but as the knees start to go, the lungs start to go. Again, I am grateful for what outfitters and guides can do in so many ways across our great state. But could you elaborate on the benefits and values that this partnership brings to the visiting public as well as the managing agencies?

Mr. BROWN. Well, thank you, Senator. You know, I want to say that this has been one of the most successful programs in the Federal agencies and I used to work for the Federal agency. So I think the outfitting and guiding program and the permitting program, over the years, has been one of the most successful in providing access to people who would otherwise not have the opportunity to experience some of these great resources.

So it's been a success. It's been a good partnership. I do think we're starting to collect some additional overburden of regulation and cost as we're discussing in other aspects of the fee program that need to be addressed in order for us to be able to continue this partnership.

Senator DAINES. Maybe we could have you elaborate on that. I have heard concerns regarding some of the challenges surrounding permit renewals on Federal lands, certainly in my home State of Montana. In fact in your testimony before the House Natural Resources Committee you said the permit renewals sometimes face and I quote, "runaway analysis from NEPA." Unfortunately permittees are required to recover those costs from the agency like a blank check according to one Montana outfitter. How much of that uncertainty for the outfitters and the agencies could be fixed by streamlining NEPA? That is kind of the first part. The second part is would you have any recommendations on how to create more certainty for those who facilitate access to our public lands?

Mr. BROWN. Well I think, the use of categorical exclusions would help reduce some of those costs. When permits come up for renewal they have to be, they have to have NEPA analysis currently. As you know in Montana, the Bob Marshall, those costs were \$100,000 for a group of small businesses which, you know, is hardly significant.

We don't know what the end game will be in terms of analysis. The beginning is environmental assessment. And the Passaic Wilderness they went all the way to a 700-page EIS for about 1,600 people to go into the Passaic Wilderness. Now cost recovery didn't apply there because they started the process after or before the cost recovery rule went into effect. But if that 700-page EIS was billed to those outfitters, they wouldn't exist or certainly the permits wouldn't be issued to them.

So, you know, these are the kinds of things that I think we've got to address. And there are a number of suggestions in my testimony about how we can streamline the processes and lower the cost for the renewal of those permits and even issuing new ones.

Senator DAINES. Now you have made calls for more transparency in use of fees. How does that call for transparency and use of fees differ from what is being done currently?

Mr. BROWN. Well the current reports, it depends from agency to agency and even, probably, forest to forest. But generally you'll get

a glossy report about some of the projects that have been done in a forest. And we just recommend that each fee site report on how much they collected and where that money has gone.

To give an example, in Idaho permits were coming up for renewal. The Forest Service wanted cost recovery. We said, well what happened to that more than \$1 million the outfitters had paid in fees over the last five years? We couldn't get the report. Now we finally got it, and discovered they had spent \$200,000 one year, counting river users, 10,000 river users. So we need transparency to make sure that kind of thing doesn't happen and the fees get used more appropriately.

Senator DAINES. One last question. I am going to be out of time here.

We are in the midst of and coming through one of the worst wild-fire seasons in the Western U.S. in history, and that is why forest reform is one of my top priorities here in Congress. These wildfires create closures, oftentimes, sometimes the back country in our national parks as well as in our wilderness areas and Federal lands, other Federal lands. Could you expand, and you are going to have to do this quickly because I am out of time, how better and more active forest management might be able to facilitate more access to Federal land?

Mr. BROWN. No, I think in general and I'm probably getting off into an area that I'm outside, a little outside of my expertise. But I think at some point you do have to look at the way the agency spends money in general. Whether it's efficient, whether the four tier organizational structure is appropriate verses a three tier organizational structure.

And so those kinds of issues are on a larger scale and outside of FLREA, but those are things that I think have to be looked at to make sure that the overhead, because each year the bureaucracy is going to take a cut of any appropriation. So you don't get as much to the ground. And therefore, you can't have as much access and certainly as much recreation access and other programs unless those efficiencies are improved.

Senator DAINES. Alright, thank you.

The CHAIRMAN. Senator Wyden?

Senator WYDEN. Thank you very much, Madam Chairman.

Before he leaves I just want to commend Senator Daines for mentioning this question of wildfire because, of course, you cannot enjoy your treasures if you have infernos going on in the neighborhood. So I appreciate your saying that.

I think colleagues know the 11 Western Senators said before we left for the August break that priority one for the West this September was to fix this broken system of fighting fire. There are a number of pieces to the puzzle, but certainly it starts with ending the fire borrowing.

I commend my colleagues. Senator Gardner is here, Senator Murkowski. All 11 Western Senators said we were going to get this done this fall because this has been the longest running battle since the Trojan War. So I appreciate my colleague mentioning that.

On this question that we talk about today I think it is also worth noting that as we go into the end of the Fiscal Year budget debate

during this counterproductive government shutdown what was learned indisputably is how much the American people revere their treasures. They looked at the closure of government and said, ehh. Maybe this agency, that agency, we will see. But what they cared about the most were the special places. Whether it was the Western treasures or the ones in the East, it sent a very powerful message. I think this is not by accident. I mean, recreation is a major economic engine for the country.

Industry people say it approximates close to \$650 billion worth of spending, and it is not hard to see where the numbers come from. Mention was just made of guides and people using equipment and getting in the car and hotels and restaurants. It is a big economic multiplier.

I saw that this summer. Senator Cantwell made mention of the fact of the tour I made of Oregon's seven wonders. We started with Crater Lake and a number of our treasures. I was struck again and again that the accounts because every time we went to a treasure we would have a meeting with the recreation leaders the day before or hours before.

I want to ask you, Ms. Wagner, about an account I heard from the outfitters. Because they said they were facing hardships at the beginning of the season when they have to purchase all of their permits up front when they have not made any money from the trips. And then if the season was not particularly good—certainly in the West we saw drought this year, rivers running low, forest fires close areas—the guides get stuck with permits they have paid for but cannot use.

I would be interested in your thoughts, Ms. Wagner, and your thoughts, Ms. O'Dell, because look it is quite obvious that at your agencies you do not get up in the morning and say let's spend our day being rotten to guides and outfitters. We get that.

But clearly, as our colleague mentioned, a lot of what has happened in the development of this staggering recreation engine, the rules and the procedures have not kept up with the times. So for you, Ms. Wagner and you, Ms. O'Dell, what can you do to help these outfitters and these guides, with a permitting system that actually works here on Planet Earth?

I know that we have all these scenarios and discussion from agencies, but what can you do to try to address those two kinds of concerns? Because I think those are really representative of what I heard as I made my way in seven days through the seven wonders.

Ms. Wagner?

Ms. WAGNER. Senator Wyden, I am glad that you got out to experience America's great outdoors. And thank you so much for your leadership on wild land fire management and your colleagues as well.

So an exciting development is the Outdoor Industry Association has started a group called the Outdoor Access Working Group. And David is part of that as well as a number of nongovernmental organizations and industry players as well as Federal agencies. And I think that is a group that can come together and really start collaborating on what are some ways to more successfully offer outfit-

ting and guided experiences on public lands. So I'm really looking forward to that.

Senator WYDEN. My time is short. I know about the working group. I share your view, but exactly how would you, because you are hearing these for the first time, I assume. How would you go about trying to address the examples I gave?

Ms. WAGNER. For the required purchase of——

Senator WYDEN. Yes. I mean——

Ms. WAGNER. Permits upfront?

Senator WYDEN. The first is they have to buy them up front, but they have not made any money. And then if they have problems, they are stuck with permits they paid for but cannot use.

Ms. WAGNER. And Senator——

Senator WYDEN. What would you do about that?

Ms. WAGNER. Senator, I'm going to have to get back with you on that because I'm not familiar with that requirement to purchase up front. But I will look into that and get back with you and would offer ideas and suggestions for improving that after that staff meeting.

Senator WYDEN. When could I have the answers to that?

Ms. WAGNER. Quickly.

Senator WYDEN. Like within a week?

Ms. WAGNER. Absolutely.

Senator WYDEN. Okay.

Senator WYDEN. Thank you, Madam Chair.

The CHAIRMAN. Thank you, Senator Wyden, and know that this is an issue that I, too am concerned about. We have the exact same situation with our air taxi operators in the Tongass and the need to require their permits well in advance. They do not know what the summer season is going to do in terms of keeping their float planes on the ground, so know that I am with you on this one.

Senator BARRASSO?

Senator BARRASSO. Thank you, Madam Chair.

To Ms. O'Dell and Ms. Wagner, the purpose of the Federal Land Recreation Enhancement Act is to provide an element of user pay while also limiting what the agencies can and cannot charge a fee for.

In Ms. Benzar's testimony she characterizes the land management agencies implementation of the law as agency overreach and evasion of the restriction of fees and treating citizens as customers rather than owners. Citizens are the owners. She further describes hidden or high administrative fees, the practice of creating facilities in order to justify a fee. Her testimony essentially contains about eight examples of instances where she believes a situation is questionable for fees being assessed. And from each of the examples under her or under your respective jurisdiction would you provide a written explanation to this Committee and to me for why the agency has the authority under the Federal Land Recreation Enhancement Act to take the action outlined in each of the situations that Ms. Benzar makes reference to?

Ms. O'DELL. Certainly, Senator.

Senator BARRASSO. Thank you.

Senator BARRASSO. Ms. Benzar, in the written Forest Service testimony Ms. Wagner highlighted what is called the Comprehensive

Public Involvement Process which uses input from Recreation Resource Advisory Committees for fee and fee site changes. In your written testimony you state that the reauthorization must include, you describe, a procedure for citizens to challenge fees that do not appear to comply with the law. Do you believe that the Resource Advisory Committees really constitute a comprehensive public involvement process? And if not, what type of public process do you believe needs to be implemented?

Ms. BENZAR. Thank you, Senator.

I certainly do not think the Recreation Resource Advisory Committees have achieved that. They've been nothing but a rubber stamp for agency policy. They've held their meetings on weekdays in the middle of the day when ordinary citizens can't really meaningfully participate.

The Forest Service chartered committees of which I think there were five, none of them have met for several years now. They're all defunct because everybody's terms expired, and I'm not sure why they haven't been refilled. But the rumor is that they can't get enough applicants. Nobody wants to sit on those. But that's okay because all they did was rubber stamp things.

Anyway, they've approved 97 percent of the proposals that have been presented to them, and when the rate of approval is that high I question the need for any advisory committee at all. And I think that any fee legislation authority should be so clear that they don't have to seek advice on what the law allows them to do. They know what the law allows them to do because the law says so.

So I think there are many other ways that we could involve the citizens. A big one would be to make sure Congress is notified well in advance of any proposed changes to the fee programs and that the public is notified in a meaningful way. And then we, as citizens, can have a dialog with you, as our elected officials, if we think that there's a problem looming. And we can ask you to look into it.

Senator BARRASSO. Thank you.

Mr. Brown, the Department of Labor uses the Service Contract Act to apply executive orders to those who have contracts to operate on Federal land. In your testimony you state that the Forest Service and BLM permits for outfitters and guides should not be subject to the Service Contract Act.

Can you give us some examples of the types of small operators who are impacted and why you believe it is not appropriate to apply the Service Contract Act to these permit holders?

Mr. BROWN. Well the implementation of Executive Order 13658 required increasing the minimum wage to \$10.10 an hour for employees of outfitters or anyone that held a permit or Federal contracts. That was applied precipitously on some outfitters this year after they had already sold trips attached to their permit, so it had a big impact.

The Department of Labor uses the Service Contract Act as justification for imposing this on permit holders. As you know the Service Contract Act also requires prevailing wages which, you know, we don't have any prevailing wages in the outfitting industry but it's a factor that we certainly don't want to have to endure in the future.

So our concern is what's going to happen down the line? And there are some real, and I can't get in the weeds on this, but technical issues with interpretation of the Fair Labor Standards Act that makes it difficult for any outfitter operating the back country to determine what their overtime standard is.

Senator BARRASSO. I am going to followup with the two from the agencies on that, if I could, with both of them.

Ms. O'Dell and Ms. Wagner, in both your testimonies you highlight the economic revenue and the jobs for local communities that recreation provides as well as the importance of the fees for the agencies. Take a look at what we just heard about the minimum wage, the impact of this on the outfitters and guides, the permit holders, and they are going to go out of business. And I hear that at home in Wyoming. They cannot comply with what you are asking or what the President is asking through his executive order. So it doesn't really matter what the President is doing, isn't he making it harder for the public to get recreational opportunities when these folks have to go out of business? Does it make it harder for local economies to survive harder for people that are trying to hire? Aren't jobs going to be lost?

Your agencies are going to collect less fees in recreation areas because there are going to be less people able to provide services because of the thing that Mr. Brown testifies about. Currently, seasonal employees of ski businesses are exempt from the Fair Labor Standards Act so wouldn't it be good to exempt, if we are going to exempt ski areas which I agree, shouldn't we also exempt people that are providing river rafting and horseback riding and guides?

Ms. WAGNER. That is a conversation we would invite with Department of Labor in examining the implementation of the executive order and their rule. We certainly have concerns about the impacts to the outfitter guide community.

Senator BARRASSO. Okay.

Ms. O'Dell?

Ms. O'DELL. And we are in the same position. So the Department of the Interior continues discussions with Department of Labor to try and understand how it might apply to outfitters.

Senator BARRASSO. Thank you.

Thank you, Madam Chairman.

The CHAIRMAN. Thank you, Senator.

Senator King?

Senator KING. Thank you, Madam Chair.

Ms. O'Dell, last winter I made myself somewhat obnoxious which isn't very difficult for me. [Laughter.]

In questioning Secretary Jewell about why the Park Service did not have a mobile app and an ability to buy passes online and have an app that would allow you to get into the parks and join the 21st century. I followed up with a letter to the Secretary last spring. Where are we on that? Are we making any progress?

Ms. O'DELL. Oh, Senator, I am so happy you asked that question because we are prepared to tell you that we hope to have a pilot program up and running in several parks, Acadia among them, by January 2016 to test out that kind of application.

Senator KING. So you are on it?

Ms. O'DELL. We're on it, sir.

Senator KING. I appreciate the coincidence that Acadia in Maine is one of the places.

Ms. O'DELL. I know. Isn't that amazing?

Senator KING. It is astonishing. [Laughter.]

No, but seriously, I think that is great. I am delighted to hear that because I think it is important. One of the things that has concerned me in many parks, there are so many access points that people that want to pay do not know where to pay—there is no place to collect. Acadia is one of those where there are many access points. So I think this could be a boon to the Park Service and to our parks in terms of revenues available.

The other piece on this that I, based upon my experience at Acadia, but I am sure this is the case in other parks, is allowing local businesses to sell passes. One of the problems I have heard in Acadia is businesses saying we would love to, you know, hotels, bed and breakfasts, like to have the pass right on the desk. You pay for it. But it has been difficult because it is either not available or the business has to pay in advance for 100 passes which they really cannot or do not want to do. So I hope that is another area that you can look into because, again, if you have people that want to pay and we need revenues in the park, let's not leave money on the table. I hope you will look into that as well.

Ms. O'DELL. Yes, sir, we are.

Senator KING. Thank you.

Thank you, Madam Chair. I think we are about to have a vote, so that is all I have.

The CHAIRMAN. Thank you, Senator King.

It is my understanding that we are too. But until we get the word here, I am going to continue with a few questions.

I appreciate what you are saying about the fees and leaving money on the table, but I also recognize that when we push it too far in that sense we make it uninviting for a visitor.

I was recently at the Mendenhall Visitor Center in Juneau. This is operated by the U.S. Forest Service. Now there is a situation there where the fees are very, very minimal. It is \$3, and basically you can park and use the visitor's center. They are looking to do an increase to \$5. Not unreasonable. I do not think anyone would suggest it is so. But now if you want to bypass the visitor's center, you do not want to go to the restroom, you do not even want to park your car, if you just want to go to the trail—and I am reading the article from the Juneau Empire here, which reports that if you just want to go to the photo point trail, we are going to charge you the \$5.

When I was out there I said, "Well logistically how do you make this happen? Are you going to be chasing everybody?" You had to have your band that was the color of my sweater here so that everyone would know that you had paid your fee. The Forest Service suggested we are going to have some kind of a vending machine application, and there is not going to be a focus on enforcement initially. But again, I do not want to go to my Mendenhall Visitor Center and go hiking on the great trails that we have out there and feel like I am going to have somebody from Forest Service chasing me down the trail to pull up my multiple rain jackets to see if I have a wrist band on.

So making sure that there is a reasonableness with all of this, I think, is very, very important to how people feel about their treasures and their backyard. I worry about this, and I appreciate the fact that you, Senator Barrasso, asked both you, Ms. O'Dell, and you, Ms. Wagner, to respond to the very specific issues that were raised in Ms. Benzar's testimony because I would agree. I think that there is interpretation here that goes above and beyond the contours that are set out FLREA in terms of those allowable charges for recreation sites.

Again, I would suggest that perhaps what we are seeing here with the proposal at the Mendenhall Glacier may be one of those areas that does not, in fact, comport with FLREA in terms of the given fee authority. I would like to see, specifically, how you can confirm that in fact these increases do fit within what is outlined within FLREA.

Another area and this is primarily, I guess, on BLM lands, they charge a special recreation permit fee at a trail head. They justify it by classifying hiking as a specialized recreational use. Now in my view, special recreational permits were supposed to be used for things like group activities or recreation events or motorized recreational use. So at what point did we get to that spot where hiking became a specialized recreational use? I do not think any of us would suggest that is the case. So again, I want to know where you believe you have the authorities because I think you are pushing it to beyond what was understood within the confines of FLREA.

Let me ask you, Ms. O'Dell, with regards to Park Service we have been in a situation where it has been a number of years. We went from 2006 until 2014 before you updated the entrance fee structure. I understand you are now in the process of reviewing and updating the commercial tour fee structure for the first time since 1998. These are significant periods of time.

I think it is a fair question to ask whether or not you have plans to regularly revisit fee structures. Senator Cantwell here mentioned the increase at Mount Rainier, a pretty significant increase. I think she said a 25 percent increase over the past two years.

I understand that we are all looking to update things, but it seems that we have got some considerable periods of time where we are just not doing an assessment. We are not doing an analysis. I am curious to know if you have plans to look at our fee structures within our Park System on a little bit more regular basis than since 1998?

Ms. O'DELL. I would say that generally, yes, that it just should be a standard operating process that you take a look at your fee structure repeatedly and tweak it. And then when you do have increases they're potentially not so dramatic.

The long duration between raising entrance fees from 2006 to 2014 was in response to the economic downturn to try and make sure that people had access to parks and didn't make it so difficult.

With the commercial tour operators we are sensitive to their concerns and their needs about advanced warning of raising fees and letting, being able to pass those costs on to their customers in an advanced notice.

So it is high time that we revisit that. We're glad that we're doing it, and we're working collaboratively with that community to try and find the right next best step.

The CHAIRMAN. I am going to look forward to the responses that you are able to provide the Committee specific to Senator Barrasso's questions, what I have raised and again, in direct response to Ms. Benzar there.

On the fee retention issues, Ms. Wagner, you state in your testimony that funding collected through FLREA is available and these are your words, "any operation maintenance and improve costs at recreation fee sites." I think it is very, very clear that FLREA does not allow that it be utilized for any operation. It can only be used for specific things, again, that are listed in the statute.

We need to make sure that that is exactly what is happening and that it is not being used for installation of solar systems, removal of invasive plants. This is not what it is designed for. It is designed for operation and projects that are specific to the visitor experience there.

We clearly have some issues that we need to look at. I think Senator Cantwell, through her example of the service fee of \$9 on a \$20 permit, I think most of us would say that is not reasonable. You mention that we have got this contract that is up for renewal next year. I do not know, but I think we all get frustrated around here because we get so used to using this phone.

Senator Barrasso and I were whispering to one another here. I can get my airplane ticket on this. I can book it on this. I can use this to go through the TSA and through the counter there. It gives me my seat. It gives me everything.

Senator KING. You are singing my song, Madam Chair.

The CHAIRMAN. I know, and we have talked about this. But the fact that you cannot get an annual pass for the Mendenhall Visitor Center through an app, we can do better than this. I do not understand how it needs to be so complicated and why it is so extraordinarily expensive. I think we are getting ripped off. I will just say it. You cannot have one contractor who has the total contract for the administration of the reservation systems, all the bookings, have them making what they are making and still charge \$9 per permit on a \$20 permit and that is a reasonable service fee. I am thinking this just is not working for us.

So anyway, we have got more that we need to talk about. I want to make sure that at the end of the day we are able to use these lands. I note with interest the number of discounted passes that are provided whether it is to kids, whether it is to seniors, whether it is to those who volunteer, whether it is to our military, and I think we appreciate that.

I also know that we leave out many, many, many Americans who look at the fee structure and say, well, I'm not going to bring my family of four if I'm paying \$50 to go out for the afternoon. I'm just not going to do it. We need to be cognizant of that. We need to be working to make sure that it is affordable and accessible. Again, that those fees go to the public lands themselves and not to some administrative black hole back in Maryland or wherever it sits.

With that, we have got votes that we will head off to. I think you had a fair amount of interest in this discussion this morning, but

unfortunately we do have some competing interests in front of us. So do not take that as a lack of interest. Know that we will be addressing this, as I mentioned in my opening comments, with an effort to extend this and to look to more comprehensive reform.

With that, I thank you all for your testimony and what you have given us this morning. We stand adjourned.

[Whereupon, at 11:21 a.m. the hearing was adjourned.]

APPENDIX MATERIAL SUBMITTED

**U.S. Senate Committee on Energy and Natural Resources
September 17, 2015 Hearing: The Federal Lands Recreation Enhancement Act
Questions for the Record Submitted to Deputy Director Peggy O'Dell**

Questions from Senator John Barrasso

Question 1: In her testimony, Ms. Benzar discussed the hidden administrative costs of the Federal Land Recreation Enhancement Act as revealed by the GAO. She also mentioned the \$9 or \$10 campground reservation service fee on Recreation.gov. What was the cost of creation of the website, and what portion of recreation fee funds above and beyond the service fee has been diverted for the creation and maintenance of Recreation.gov?

Response: Recreation.gov is an interagency program that was initiated under President Bush's Quicksilver E-Government initiative in 2002. It is a one-stop shop that provides information, trip planning and advanced reservation services for federal recreational lands and activities (camping, cabins, tour tickets and permits). This reservation service is administered under a USDA contract with the Active Network (ReserveAmerica), which was awarded through a full and open competitive process.

Under the terms of the contract, the initial costs to build the reservation service, including providing on-line and call center support, database management, information security, centralized reporting, content development and marketing, were borne by the contractor. The contractor is paid on a per-reservation transaction model, and the fee structure varies based on what is being reserved and the method by which it is reserved. The payment is provided either as an add-on reservation fee or is built into the fee itself, is designed to amortize the cost of a reservation over the length of stay.

Question 2: You also testified that traffic to the Recreation.gov website increased 27% in two years. Did the use of these funds result in a corresponding increase in visitors to your recreation fee sites?

Response: Enhancements to the Recreation.gov website have contributed to the increased use of the site. For example, since 2009, the agencies have added approximately 480 facilities to the reservation service, an 18% increase. This new inventory supports visitors to the sites, who increasingly prefer to reserve a campsite and activities rather than using the first-come, first served option. The Recreation.gov website has also been expanded to provide lottery tickets for the National Christmas Tree Lighting Ceremony and the White House Easter Egg Roll, processing nearly 128,000 lottery applications in 2014. Also in 2014, the public reserved over 1 million tickets for locations where only a convenience fee is charged to make the reservation. However, for privacy and other reasons, we are unable to track whether these increased visits to the Recreation.gov website correlate to actual visitation to the recreation fee sites.

Question 3: The GAO estimates deferred maintenance backlogs of \$11.5 billion for the National Park Service and \$5 billion for the Forest Service for Fiscal Year 2014. Has there been any decrease in the deferred maintenance backlogs of your agencies as a result of the Federal Land Recreation Enhancement Act funds?

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Response: Since the full implementation of the Federal Land Recreation Enhancement Act (FLREA) funding in 2006, the NPS has devoted \$714.9 million of FLREA funds to deferred maintenance projects through FY 2014, plus approximately \$60 million in FY 2015. The NPS' deferred maintenance backlog, estimated at \$11.5 billion at the end of FY 2014, would be larger if these FLREA deferred maintenance projects had not been completed. FLREA funding has been particularly critical in supporting deferred maintenance projects linked to visitor services; for example, FLREA funds supported the rehabilitation of 12 miles of the Copper Lake Trail at Wrangell-Saint Elias National Park and Preserve, and the repaving of over 114,000 square feet of the Mazama Campground loops at Crater Lake National Park.

Question 4: In your testimony, you highlight the economic revenue and jobs for local communities that recreation provides as well as the importance of recreation fees. During questioning, you expressed interest engaging in a conversation about the impacts the DOL's regulations may have on outfitters and guides. What steps are being taken to engage the Department of Labor?

Question 5: Are your agencies moving forward to impose the Department of Labor's interpretation of the President's minimum wage executive order on outfitter and guide permit holders?

Question 6: How far into an outfitter or other permit holder's operation would you expect the minimum wage requirement to extend? Where do you draw the line of who is connected to the permit and who isn't?

Question 7: Do you see any policy reason for not extending the same exemption from the Fair Labor Standards Act that currently applies to ski areas to other seasonal recreational businesses like river rafting or horseback riding?

Response to Questions 4 – 7: Questions about how the new minimum wage requirements are to be interpreted and applied are best answered by the Department of Labor.

With respect to the NPS, all commercial use authorizations (CUAs) and concession contracts awarded to outfitters and guides after January 1, 2015, contain language regarding the new minimum wage requirements. If an employee of a concessioner or CUA holder notifies the NPS of a potential violation of the wage requirements, the NPS will submit that information to the Department of Labor for enforcement. BLM contracts similarly contain a requirement that the contractor comply with all applicable laws, regulations, and policies

Question 8: In her testimony, Ms. Benzar noted public concern that concessionaires who operate on public lands are not required to follow the Federal Land Recreation Enhancement Act procedures. Given that concessionaires are not subject to the requirements and fee limitations of

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the Federal Land Recreation Enhancement Act, should concessionaires be required to accept the federal Interagency Pass as they operate on public lands?

Response: Concessionaires provide a wide variety of valuable services and activities on federal lands, from operating iconic lodges, to providing hunting, fishing, rafting and other recreational opportunities. On federal lands managed by the Interior agencies, concessionaires do not charge for entry, but for specific services or facilities, which often require private investment. Requiring a pass acceptance in these concession cases would limit the agencies' ability to partner with these organizations and provide these services and amenities. The Interagency Pass is valid for standard amenity fee sites on BLM-administered lands. To further clarify authorities for concession operations, the BLM would like to work with the committee on stand-alone recreational concessions authority for the agency.

Question 9: The purpose of the Federal Land Recreation Enhancement Act was to provide an element of user pay while also limiting agency fee authority. In Ms. Benzar's testimony, she characterizes the land management agencies' implementation of the law as agency overreach, evasion of the restriction on fees, and treating citizens as customers rather than owners. She further describes hidden or high administrative fees and the practice of creating facilities in order to justify a fee. Her testimony contains eight examples of instances where she believes the law has been inappropriately applied. These examples are not exhaustive but representative of a larger disputed application of the law.

For each of the examples under your jurisdiction, will you provide a written explanation for the authority the agency has under the Federal Land Recreation Enhancement Act to take the described action?

Response:

The only example identified in Ms. Benzar's testimony under the jurisdiction of the Department of the Interior is the Cedar Mesa area, managed by the Bureau of Land Management (BLM).

The BLM does not issue recreation permits by activity type and does not charge fees for specialized uses; rather it issues permits and charges fees for categories of use as defined in the regulations at 43 CFR § 2930.5. All the BLM's special recreation permitted uses are governed under section 6802(h) of FLREA. Under 43 CFR § 2932.5 (most recently revised in October 2002 with extensive public input), "*Special area means:* (1) An area officially designated by statute, or by Presidential or Secretarial order; (2) An area for which BLM determines that the resources require special management and control measures for their protection; or (3) An area covered by joint agreement between BLM and a State under Title II of the Sikes Act (16 U.S.C. 670a *et seq.*)" The Cedar Mesa area is considered a special area under criterion 2.

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While visitors can park at any of the Cedar Mesa canyon trailheads and hike for free across the vast majority of the land in the Cedar Mesa area (the mesa top), the BLM charges a \$2 fee for in-canyon use. Cedar Mesa has long been identified with world class Ancestral Puebloan cultural remains and excellent day hiking and backpacking opportunities. Grand Gulch itself has been managed to protect these values since 1970 when the Secretary of the Interior designated it as a Primitive Area. The modern day Hopi, Navajo, Ute and Pueblo tribes all have a deep connection and heritage to the area. These resources are incredibly fragile, and even small touches can cause irreparable damage, as happened when a part of a wall was lost at Monarch Cave this year due to a visitor leaning on it. Heavy visitation can take a toll on important archaeological sites and visitor contact is prioritized with use of fee revenue.

The \$2 fee for day use of the area has proved to be an important motivator for visitor registration. Even a small monetary value placed on a permit improves registration compliance, and it is during the registration process that BLM is able to provide important information on the use and care of the area and resources. Registration also provides the only method for accounting for visitors, which has proved extremely important for initiating search and rescue operations, monitoring use patterns, and law enforcement.

If an area meets the special area criteria it must be described in the governing Land Use Plan (LUP) subject to the full rigors of the National Environmental Policy Act (NEPA) and public input. The subject area then undergoes additional planning through the development of a recreation area management plan with public input and comment. The final step is the development of a fee business plan and Federal Register notification, following all of the public outreach and consultation requirements of FLREA.

The Grand Gulch Plateau Cultural and Recreation Area Management Plan and EA covered both the Cedar Mesa special recreation management area and the Grand Gulch area of critical environmental concern, along with several overlapping wilderness study areas. The March 30, 1993 environmental analysis (EA) garnered more than 400 comments following more than a decade of development. The EA instituted a permit and fee system designed to protect the vast cultural, scientific, and natural resources of the area, in response to rampant looting and national exposure. Following the 1993 EA, fees were initiated in 1995 and adjusted in 1999.

100% of fees collected at Cedar Mesa are used locally. Fees are used for volunteer stipends, educational materials, and first aid and search and rescue supplies. One good example of a direct benefit to sites and visitors is the ability to post a volunteer at Moon House Ruin to provide interpretation to visitors on busy days. This both decreases the potential for site damage and enriches the visitor experience.

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September 17, 2015 Hearing: The Federal Lands Recreation Enhancement Act
Questions for the Record Submitted to Deputy Director Peggy O'Dell**

Question from Senator Jeff Flake

Question: During the shutdown in 2013, the Park Service collected entry fees at the Grand Canyon National Park. Will you please provide my office with the amounts the Park Service collected in entry fees at all park units which states paid to keep open during the shutdown?

Response: During the October 2013 shutdown, six states donated funds to the National Park Service to support re-opening national parks within their borders. Consistent with the terms of the donation agreements, the re-opened national parks operated and were managed in accordance with their standard operating procedures. At most of the re-opened parks, this included the collection of entrance fees, totaling \$0.65 million.

U.S. Senate Committee on Energy and Natural Resources
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Questions for the Record Submitted to Associate Chief Mary Wagner

Questions from Senator John Barrasso

Question 1: The GAO estimates deferred maintenance backlogs of \$11.5 billion for the National Park Service and \$5 billion for the Forest Service for Fiscal Year 2014. Has there been any decrease in the deferred maintenance backlogs of your agencies as a result of the Federal Lands Recreation Enhancement Act funds?

Answer: The Forest Service retains and spends recreation fee revenues as provided by the Federal Lands Recreation Enhancement Act (REA) (16 U.S.C. 6806 and 6807). Most recreation fee revenues collected under REA must be spent at the sites where they are collected, rather than on deferred maintenance generally. Deferred maintenance at non-recreation fee sites managed by the Forest Service is generally addressed through the use of appropriated funds. Recreation fee revenues enable the Forest Service to maintain developed recreation sites to a high standard for public enjoyment. Recreation fee revenue spent on routine maintenance at recreation fee sites prevents them from contributing to an increase in deferred maintenance.

Question 2: In your testimony, you highlight the economic revenue and jobs for local communities that recreation provides as well as the importance of recreation fees. During questioning, you expressed interest engaging in a conversation about the impacts the DOL's regulations may have on outfitters and guides. What steps are being taken to engage the Department of Labor?

Answer: The Forest Service commented on the U.S. Department of Labor's (DOL) proposed minimum wage rule. Additionally, the Agency invited DOL to participate in a meeting with the National Ski Areas Association about the minimum wage rule. The Forest Service has also consulted DOL in the development of Forest Service directives implementing the minimum wage rule for special use authorizations.

Question 3: Is the agency moving forward to impose the Department of Labor's interpretation of the President's minimum wage executive order on outfitter and guide permit holders?

Answer: As required by and consistent with the Executive Order and DOL's minimum wage rule, the Forest Service is including the minimum wage clause in special use authorizations, including outfitting and guiding permits. The Forest Service is drafting directives implementing the minimum wage rule for special use authorizations.

Question 4: How far into an outfitter or other permit holder's operation would you expect the minimum wage requirement to extend? Where do you draw the line of who is connected to the permit and who isn't?

Answer: The minimum wage rule applies to federal subcontractors. Therefore, if an outfitter and guide hires an independent contractor, the minimum wage rule would apply to the independent contractor. Recreation special use permit holders are not allowed to enter into third-party agreements for their primary operations. However, if they enter into an agreement with a

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third party to provide food service, for example, the minimum wage rule would apply to the third party.

Question 5: Do you see any policy reason for not extending the same exemption from the Fair Labor Standards Act that currently applies to ski areas to other seasonal recreational businesses like river rafting or horseback riding?

Answer: No. However, exempting these other seasonal businesses from the Fair Labor Standards Act alone will not necessarily exempt them from the Executive Order and DOL's minimum wage rule. The Executive Order and minimum wage rule are also triggered by the Service Contract Act and the Davis-Bacon Act, which could apply to seasonal recreational businesses operating on National Forest System lands.

Question 6: In her testimony, Ms. Benzar noted public concern that concessionaires who operate on public lands are not required to follow the Federal Lands Recreation Enhancement Act procedures. Given that concessionaires are not subject to the requirements and fee limitations of the Federal Lands Recreation Enhancement Act, should concessionaires be required to accept the federal Interagency Pass as they operate on public lands?

Answer: Ms. Benzar is correct that concessioners who operate on federal lands are not subject to REA per its express terms, as upheld in a recent court case. Nevertheless, concessioners operating on National Forest System lands honor the 50% discount on camping fees for holders of the Senior and Access Passes. However, concessioners do not honor the Annual Pass for free use at day use or standard amenity fee sites. Requiring concessioners to accept the Annual Pass for free use at these sites would likely make the concessioners ineligible for DOL's regulatory exemption from the Service Contract Act. Legislative change is needed to allow concessioners to honor the Annual Pass at day use fee sites without sacrificing their ability to rely on the regulatory exemption from the Service Contract Act.

Question 7: The purpose of the Federal Lands Recreation Enhancement Act was to provide an element of user pay while also limiting agency fee authority. In Ms. Benzar's testimony, she characterizes the land management agencies' implementation of the law as agency overreach, evasion of the restriction on fees, and treating citizens as customers rather than owners. She further describes hidden or high administrative fees and the practice of creating facilities in order to justify a fee. Her testimony contains eight examples of instances where she believes the law has been inappropriately applied. These examples are not exhaustive but representative of a larger disputed application of the law.

For each of the examples under your jurisdiction, will you provide a written explanation for the authority the agency has under the Federal Lands Recreation Enhancement Act to take the described action?

Answer: Please see the attached.

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Questions from Senator Jeff Flake

Question 1: On June 16 of this year Senator McCain and I sent a letter to Secretary Vilsack regarding the discrepancy over the map and text description of land conveyed under the Northern Arizona Land Exchange and Verde River Basin Partnership Act of 2005 (PL 109-110) ("the act") for use by the Young Life Lost Canyon Camp. The intent of Congress was to convey the 237.5 acres described in section 104(a)(5) of the act. The map referenced in the same section erroneously depicted only 212.5 acres.

In our June 16 letter we encouraged the Secretary to use the authority in section 102(a)(4)(B) of the act to remedy the discrepancy between the map and the description and convey the entire congressionally intended 237.5 acres. In a written response to our letter, on September 2 of this year Secretary Vilsack stated that despite section 102(a)(4)(B) of the act, the Department of Agriculture ("the Department") did not believe it had the authority to convey the full 237.5 acres, but that the acquisition of the additional 25 acres "remains a priority." Senator McCain and I have introduced S.1592 to clarify the Department's authority.

a. Specifically, why does the Secretary not believe he has authority under the act to come to an agreement with Yavapai Ranch on the 25-acre modification in accordance with the terms of section 102(a)(4)(B)?

Answer: Section 104(a)(5) of the Act referred to an area of "approximately 237.5 acres, as generally depicted on" the legislative map. However, the legislative map only showed an area of approximately 212.5 acres to be conveyed, and the area shown on the legislative map clearly excluded the approximately 25-acre parcel now sought by Young Life Lost Canyon Camp ("Young Life").

Section 102(a)(4)(B) of the Act provides that, "[i]n the case of any discrepancy between a map and legal description, the map shall prevail unless the Secretary and Yavapai Ranch agree otherwise." Yavapai Ranch dropped out of the exchange in 2011 and is not a party to the conveyance to Young Life. The Secretary determined that the Act did not authorize conveyance of any 25-acre parcel excluded by the legislative map, as the legislative map controlled over the reference to approximately 237.5 acres.

b. Does the Department view S.1592 as giving it authority to convey the full 237.5 acres?

Answer: The Department views S.1592 as giving it the authority to convey an approximately 25-acre parcel that was excluded from the legislative map in the Act, bringing the total number of acres authorized to be conveyed to Young Life to approximately 237.5.

c. Will the administration commit to supporting the passage of S.1592?

Answer: The Department supports legislation to authorize Young Life Lost Canyon ("Young Life") to acquire approximately 25 additional acres of Kaibab National Forest land lying north of

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the parcels authorized by Section 104(a) of the Northern Arizona Land Exchange and Verde River Basin Partnership Act of 2005 (Public Law 109-110) as depicted on the attached map entitled “Yavapai Ranch Land Exchange, Young Life Lost Canyon, Additional Parcel”, dated September, 15, 2014, provided such legislation meets the following two conditions. First, the legislation should provide authority to acquire from Young Life an access easement for Forest Service personnel and contractors beginning on Young Life’s existing property in Section 4, T.21 N., R. 2 E., Gila and Salt River Meridian (“GSRM”) at Perkinsville Road (Coconino County Road 73) and continuing northerly to the east line of the NE1/4NE1/4 of said Section 4, following the approximate route shown on the attached map entitled “Young Life Land Sale, Kaibab National Forest, Exhibit C,” dated September 14, 2015. Approval of final alignment of the easement centerline and the form and terms of the access easement should require agreement of both the United States and Young Life. Second, the legislation should reserve by the Secretary unto the United States an unrestrictive and non-exclusive access easement 66 feet in width, extending 33 feet each side of the centerline of a Forest Road that would be surveyed and built following the approximate route shown on the attached “Young Life Land Sale” map. This easement would be located in **Lot 4 Section 3, T.21N., R.2E., GSRM** and proceed in a northeasterly direction, gradually turning in a northerly direction until intersecting with the northern line of the **S½NE½SW¼SW¼, Section 34, T22N, R2E, GSRM**. Final alignment and design requirements should be required to be approved and accepted by the Forest Service, and the final alignment of the centerline surveyed and shown on a recordable record of survey. The easements described above have been included in the Agreement of Intent for a Land Sale between the Forest Service and Young Life since it was initially drafted.

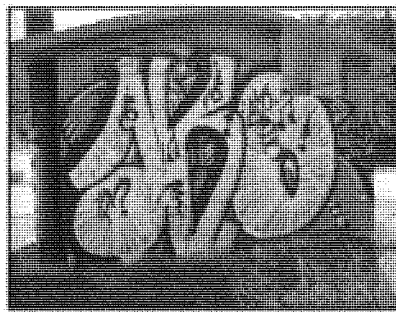
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Angeles National Forest

The standard amenity recreation fee site in the Angeles National Forest referenced in Ms. Benzar's testimony is located near the privately owned and operated Mt. Baldy Trout Pools. The Forest Service-operated Mt. Baldy Trout Pool Day Use Site is not a pullout as described in the testimony. The site contains all six amenities required for charging a standard amenity recreation fee under the Federal Lands Recreation Enhancement Act (REA), 16 U.S.C. 6802(f)(4). The site is heavily used during the summer months, as it is close to the Los Angeles basin and serves as an access point for recreation in the San Antonio River and Canyon and a picnic spot for people cooking and eating their catch at the Mt. Baldy Trout Pools.

Because of its heavy use, the Mt. Baldy Trout Day Use Site sustains a significant amount of visitor impacts such as compaction of vegetation, littering, vandalism, and overcrowding. To address these concerns, the Angeles National Forest uses facilities and materials that cost less to maintain and replace, which reduces operating expenses and recreation fees. Toilet facilities are always present at the Mt. Baldy Trout Day Use Site and are regularly serviced. The amenities at this site not only support recreational activities; they keep the nearby sensitive riparian area free of human waste and garbage.

The following two photographs depict vandalized recreational facilities in heavily used areas in the Angeles National Forest like the Mt. Baldy Trout Day Use Site. These photographs demonstrate why less expensive facilities and materials are employed at heavily used recreation sites to minimize replacement and operational costs and the importance of having recreation fee revenues to maintain developed recreation sites. The Angeles National Forest has learned that failure to remove graffiti immediately results in more destructive behavior that can damage facilities beyond repair. Recreation fees, which are principally retained and spent where they are collected, are used to clean up and repair defaced and damaged facilities at recreation fee sites.



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Medicine Bow-Routt National Forest

Like the Forest Service as a whole, the Medicine Bow-Routt National Forest cannot and does not charge admission fees under REA, including fees for access to the backcountry. Recreation fees are charged in accordance with REA. In particular, recreation fees are charged at developed recreation sites only if they have all the amenities required by the statute. The recreation fee sites in the Medicine Bow-Routt National Forest referenced in Ms. Benzar's testimony contain all the amenities required for charging a standard amenity recreation fee under REA.

Contrary to the implication in the testimony, public notice and comment are not required for all recreation fees charged under REA. Public notice, not public comment, is required for establishment of a new recreation fee site, establishment of a new recreation fee, and a change to a recreation fee. Existing recreation fee sites in the Medicine Bow-Routt National Forest are not subject to the public notice requirement under REA, since they predate REA and since their recreation fees have not changed since enactment of REA.

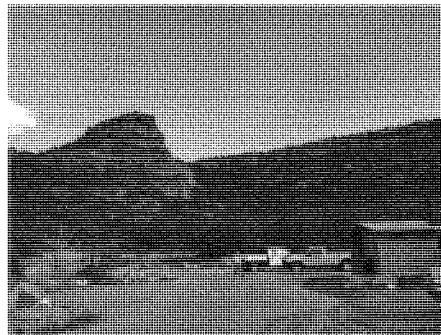
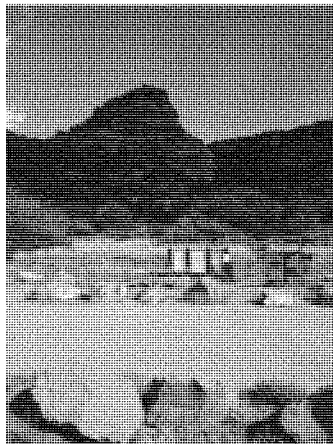
Recreation fee sites developed in the Medicine Bow-Routt National Forest since enactment of REA have been subject to public notice and review by a recreation fee advisory board, consistent with REA. Specifically, a *Federal Register* notice was published before development of eight recreation fee sites in the Laramie Ranger District after enactment of REA. In addition, the recreation fee proposal was submitted to the state-sponsored Wyoming Recreation Action Team (REACT) for review. The Governor of Wyoming requested a state exemption from establishing a Recreation Resource Advisory Committees pursuant to section 6803(d)(1)(C) of REA. REACT is a consortium of state and federal land management agencies that obtain public input regarding recreation fees and identify opportunities and address issues affecting recreation and tourism in Wyoming. Few public comments were received in response to these efforts. Most public comments recommended that recreation fees be consistent throughout the Forest, which is the case.

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Coconino National Forest

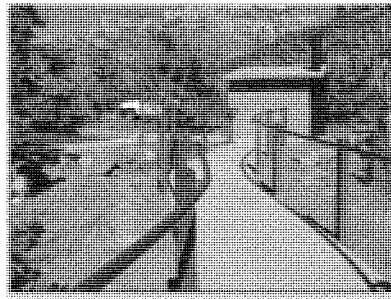
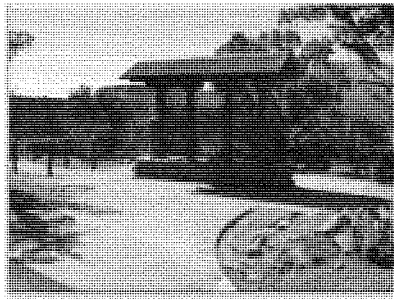
The standard amenity recreation fee site in the Coconino National Forest depicted in the photograph included in Ms. Benzar's testimony is called Doe Mountain Trailhead Site. This site is located in the heart of the red rock landscape and has some of the most spectacular views in the Red Rock Secret Mountain Wilderness. The Doe Mountain Trailhead Site contains all the amenities required for charging a standard amenity recreation fee under REA. Visitors can also use this developed recreation site to access three trails. Available parking along the adjacent road allows free access to the trails.

All amenities at recreation fee sites in the Red Rock Pass Program are used to varying degrees, depending on the season and time of day. The photograph included in the testimony was presented to the Forest Service nearly two years ago. The photograph was taken when the Red Rock Ranger District had a temporary lapse in recreation fee area personnel and rapid growth of vegetation in response to heavy rain. The photographs below provide a recent depiction of the overall context of the Doe Mountain Trailhead Site, including its extensive development (note the addition of new interpretive panels in the photo on the left compared to photo provided in the testimony).

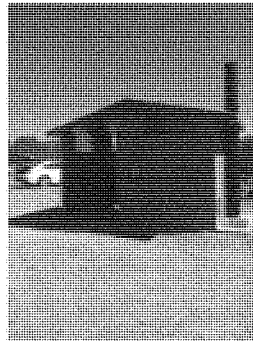


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The testimony correctly notes that two standard amenity recreation fee sites, the Dry Creek Vista Picnic Site and the Fay Canyon Trailhead Site, are under construction in the Coconino National Forest. Newly constructed facilities at these sites are shown below. As required by REA, public notice of these new recreation fee sites will be published in the *Federal Register*, and a proposal for these recreation fee sites will be presented to the Arizona Bureau of Land Management Recreation Resource Advisory Committee for review. Both sites will contain all the amenities required for charging a standard amenity recreation fee under REA. Recreation fees will not be charged until the required public involvement process has been completed.



Newly constructed Dry Creek Vista Picnic Site amenities



Newly constructed facilities at the Fay Canyon Trailhead Site

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Tongass National Forest: Mendenhall Glacier Campground

Mendenhall Glacier Campground has all the amenities required for charging an expanded amenity recreation fee under REA. In 2015, all campsites in Mendenhall Glacier Campground were placed in the National Recreation Reservation System, accessed at Recreation.gov, to lower the operating costs for the site. Recreation.gov is expressly authorized by section 6805(a)(1) of REA, which provides for “a fee management agreement, including a contract, which may provide for a reasonable commission, reimbursement, or discount . . . for the purpose of obtaining fee collection and processing services, including visitor reservation services.”

The administrative cost associated with accepting cash at one campground is significant and would reduce the amount of recreation fee revenues available for servicing and maintaining the campground. Using the reservation services provided by Recreation.gov saves administrative costs. Campers who plan ahead using Recreation.gov are assured that they have a campsite when they arrive. Recreation.gov also offers same-day bookings to accommodate those arriving without a reservation. Most campers have easily transitioned to Reservation.gov, and many have stated that they prefer the new system.

The cost of camping at Mendenhall Glacier Campground remains very inexpensive. The tent camping fee for the Mendenhall Glacier Campground is \$10 per night. Amenities present at Mendenhall Glacier Campground include tent and trailer spaces, picnic tables, warm showers, access roads, multiple restrooms, campfire rings, and bear-proof refuse containers. The \$9 reservation fee is assessed per reservation, rather than per night. A two-night stay, including the reservation fee, costs \$29. Senior and Access Pass holders, who are entitled to a 50% discount on camping fees, would pay \$19 for a two-night stay. In contrast, a two-night stay at Spruce Meadows, a nearby private campground (<http://www.juneaurv.com/rates.php>), which other than WiFi access has comparable amenities, would cost a tent camper \$44. Even with the reservation fee included, the Mendenhall Glacier Campground tent camping rate is substantially less than the tent camping rate at Spruce Meadows Campground.

Tongass National Forest: Mendenhall Glacier Visitor Center

Section 6802(f)(3) of REA authorizes a standard amenity recreation fee for destination visitor centers like Mendenhall Glacier that provide a broad range of interpretive services, programs, and media. The Mendenhall Glacier Visitor Center meets these criteria for charging a recreation fee. Recreation fee revenues collected at the Mendenhall Glacier Visitor Center have funded significant improvements at this popular site, including upgrades and additions to several trails and fish and bear viewing platforms, new outdoor restrooms, extended operating hours, more interpretive guides, a new film with state-of-the-art projection and sound equipment, and improvements to exhibits.

The Tongass National Forest is proposing to increase the recreation fee for the Mendenhall Glacier Visitor Center from \$3 to \$5. The proposed fee increase would cover some but not all of the cost of planned improvements at the site, such as additional wildlife viewing platforms,

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parking lot enhancements, and outdoor restroom facilities. The remainder of the cost would be covered by appropriated funds. These improvements have been requested by visitors and the local community and would address changes in public use patterns and increasing concerns for visitor safety and convenience. Recreation fees are not required for hiking and other recreational activities along the Nugget Falls Trail, the Trail of Time, East Glacier Trail, and the Nugget Creek Trail in the Tongass National Forest.

Counter to Ms. Benzar's testimony, the Tongass National Forest provided extensive notice of the recreation fee proposal for the Mendenhall Glacier Visitor Center to the public, local government, and outfitters and guides. Specifically, in December 2014, the Juneau Ranger District of the Tongass National Forest provided notice of the proposal via public service announcements; e-mails to the Juneau City Manager, members of the Juneau Economic Development Council Visitor Products Cluster, over 600 members of a list server with identified interests in Mendenhall Glacier events, Alaskan Congressional staff, and all Forest Service employees in Juneau; letters and e-mails to 27 tour operators, as well as 75 visitors who provided their e-mail address for additional information; and posting of the proposal on the website for the Tongass National Forest.

Comments were accepted until January 30, 2015. Thirty-two comments were received, of which 18 were fully or mostly supportive, 12 were opposed, and 2 were neutral. A public meeting on the proposal was held on January 13, 2015. Four additional written comments, all of which supported the proposal, were received at that meeting.

Pursuant to section 6803(d)(1)(C) of REA, the Forest Service, in consultation with the Governor of the State of Alaska, determined that there was insufficient interest in serving on a Recreation Resource Advisory Committee to ensure that the Committee would be balanced in terms of points of view represented and functions to be performed. The Forest Service submits recreation fee proposals for the State of Alaska to an Alaskan Region Fee Board for review, consistent with section 6803(d)(1)(D) of REA. Representatives from the State of Alaska serve on the fee board. The Forest Service submitted the Mendenhall Glacier Visitor Center recreation fee proposal to the Alaskan Region Fee Board for review with a positive recommendation to proceed.

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Northwest Forest Pass

The Forest Service does not charge a recreation fee for parking. The Forest Service charges a standard amenity recreation fee for developed recreation sites, including trailheads that have all the amenities required by REA. One of the required amenities is designated developed parking. Therefore, visitors who are parked in a standard amenity recreation fee site are subject to a recreation fee under REA. This principle was recently upheld by a federal district court. The court ruled that the Forest Service has the authority to charge a recreation fee for use of any required amenity, including designated developed parking, in a standard amenity recreation fee site.

Most trailheads in national forests in the States of Washington and Oregon are available to the public free of charge. Of the estimated 1,519 trailheads in national forests in these two states, only 279 are standard amenity recreation fee sites under REA. The Northwest Forest Pass or any of the Interagency Passes can be used as a form of payment for a standard amenity recreation fee in these states.

Uinta-Wasatch-Cache National Forest

The steps and a handrail depicted in a photograph included in Ms. Benzar's testimony are not part of a recreation fee site. The photograph shows the Provo River Falls steps, which lead down to the main falls area. Provo River Falls is a scenic overlook. Consistent with section 6802(d)(1)(F) of REA, the Uinta-Wasatch-Cache National Forest does not charge a recreation fee for scenic overlooks, including this site. Maintenance of this scenic overlook is funded with appropriated dollars. Forest Service personnel are working on repairing the portion of the handrail shown in the photograph.

Through signs and visitor contacts, the Uinta-Wasatch-Cache National Forest strives to ensure visitors are aware that no fees are required at scenic overlooks. However, some visitors still choose to display their pass at this site because they are traveling through many sites along the Mirror Lake Highway, and it is more convenient to keep their pass visible in their vehicle.

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Questions from Senator John Barrasso

Question 1: In your testimony you stated that one way to curb agency abuse of the Federal Land Recreation Enhancement Act would be to end the authority for fee retention and return fees to the Treasury for appropriation and oversight by Congress. In your view, why does the ability for agencies to retain fees incentivize land managers to push the limits on fee collection activities?

A: Americans are the owners of our public estate and we are proud of our system of National Forests, Parks, and other federal lands. As citizens we understand that the agencies that manage these shared lands on our behalf need resources to do their job. Those basic resources have historically been provided from our tax dollars so that access can be available and affordable for everyone. At the same time, limited fees for the use of developed facilities and specialized services are appropriate and have a long history of being well accepted when there is a demonstrable need for them. Before fee retention, the agencies claimed that they did not always see such fees returned to them in their appropriated budgets. Direct retention, first authorized in 1996 under Fee Demo, was viewed as a way to close this perceived gap.

Fee retention provided the agencies with a new tool for managing our lands, but also with a new way to seek to enhance their own interests as any bureaucracy tends to do. Until fee retention, the agencies had no incentive to push beyond the reasonable limits that people are willing to accept. With fee retention they were given a strong incentive to go beyond those limits and pursue their own interests at the expense of the public. By tying the authority to charge and retain fees to the provision of developed facilities and specialized services, FLREA has set up a “build it and they will pay” incentive that the agencies have found irresistible.

This has changed the dynamic between the agencies and the public. They have come to view us not as owners but as customers. Instead of thinking of recreation as a public good, they now see it as a product that belongs to them and that they can sell at whatever price the market will bear. Instead of providing extra facilities and services only where there is a demonstrable need, they have added them merely to justify charging fees.

FLREA was an attempt by Congress to place reasonable limits on recreation fees, but fee retention has caused the agencies to push against those limits. The result has been fees that are not reasonable and not well-accepted. This agency over-reach creates an adversarial relationship between citizens and government, fosters disrespect for the law, and undermines the concept of public lands as places where everyone has access and is welcome.

Fee retention should be discontinued unless strict, unambiguous, and enforceable limits can be established that the agencies can’t find ways around.

Question 2: In your testimony, you provided several examples of questionable fee collection authority scenarios. Are there additional instances you can provide in which you believe fees assessed for recreating on federal land fall outside the parameters set forth in the Federal Lands Recreation Enhancement Act?

A: The most frequently violated provisions of FLREA are the prohibitions on fees for certain activities. That section reads:

The Secretary shall not charge any standard amenity recreation fee or expanded amenity recreation fee for Federal recreational lands and waters

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administered by the Bureau of Land Management, the Forest Service, or the Bureau of Reclamation under this Act for any of the following:

(A) Solely for parking, undesignated parking, or picnicking along roads or trailsides.

(B) For general access unless specifically authorized under this section.

(C) For dispersed areas with low or no investment unless specifically authorized under this section.

(D) For persons who are driving through, walking through, boating through, horseback riding through, or hiking through Federal recreational lands and waters without using the facilities and services.

(E) For camping at undeveloped sites that do not provide a minimum number of facilities and services as described in subsection (g)(2)(A).

(F) For use of overlooks or scenic pullouts.

In order to give an overall picture of how widespread the evasion of these prohibitions is, we created an interactive map showing hundreds of places across the U.S. where the Forest Service and BLM are charging for undeveloped areas. The map can be viewed at

http://maps.yourgmap.com/v/z_1ao_Public_Lands_Access_Fees_-_Forest_Service_and_BLM.html

Here are some specific examples, in addition to the ones cited in my hearing testimony:

- Designated wilderness areas where all entry requires a fee include: Aravaipa Canyon Wilderness, Paria Canyon-Vermilion Cliffs Wilderness, Gunnison Gorge Wilderness, Desolation Wilderness, and Boundary Waters Canoe Area Wilderness.
- Arapaho National Recreation Area and the San Joaquin River Gorge require a fee for entrance, regardless of whether any developed facilities are used.
- Horseback riding in the Hoosier and Wayne National Forests requires a “specialized use” pass.
- Parking passes are required at hundreds of trailheads on National Forests, including the Angeles, Cleveland, Los Padres, San Bernardino, Mt Baker-Snoqualmie, Olympic, Gifford Pinchot, Willamette, Siuslaw, Coronado, Coconino, White River, Cibola, Deschutes, Wallowa-Whitman, Umatilla, Tonto, and White Mountain.
- Imperial Sand Dunes Recreation Area requires all visitors to purchase a 7-day “specialized recreation permit” for entry, whether they plan to stay a week and use the specialized OHV facilities and services or just want to stop for half an hour and view the sand dunes.
- In southern California parked vehicles must display an Adventure Pass while the occupants are engaged in snow play activities like sledding or building a snowman.

Question 3: Following significant review by the Forest Service and the discontinuation of fee collection at High Impact Recreation Areas (HIRAs), how has the fee collection procedure changed in these areas?

A: The review that the Forest Service conducted in 2011 mainly changed the terminology used to refer to fee sites. Very few changes were actually made to on-the-ground implementation or collection procedures, and very few fees were eliminated.

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“HIRAs” were a Forest Service invention under FLREA; no such designation appears in the law. There were 96 HIRAs designated, encompassing 1.4 million acres and more than 600 trailheads, dispersed camping areas, and other non-developed access points. The HIRA designation erected a pay wall in front of undeveloped and backcountry areas, forcing visitors to pay for amenities they didn’t need or want and that might be located miles away.

The 2011 review (and decisions adverse to the Forest Service in the 9th Circuit Court of Appeals and in federal magistrate court at about the same time) resulted in the agency eliminating use of the term HIRA, but little else changed. The most common recommendation that came out of the review for each individual HIRA was “Remove the area designation and convert to standalone SAF or eliminate fees.” Very few fees were eliminated, however. Instead most individual trailheads were designated as standalone SAF (Standard Amenity Fee) sites, and fees continued to be required to park there and enter undeveloped areas. At some sites the Forest Service added a picnic table to close what the review termed an “amenity gap” even though the site is seldom or never used for picnicking. In other cases an “amenity fee” was converted to a “specialized recreation use fee” so that a fee could continue to be charged even though no amenities are present.

In sum, fee collection procedures at what used to be termed HIRAs have changed little since the agency review.

Questions from Senator John Barrasso

Question 1: The Department of Labor uses the Service Contract Act to apply Executive Orders to those who have a contract to operate on federal land. In your testimony you stated that Forest Service and BLM permits for outfitters and guides should not be subject to the Service Contract Act. Will the additional regulatory compliance under the Service Contract Act cause small seasonal operators to go out of business or limit services? What would be the impact to the local economy if operators are no longer booking trips?

The Department of Labor uses the Service Contract Act (SCA) as one of several justifications for applying Executive Order 13658 to Forest Service permits. The Service Contract Act requires prevailing wages although none are currently established for the outfitting industry. Compliance with DOL clauses and the necessary recordkeeping become conditions of permit compliance. The Service Contract Act is an additional overburden of regulation which was not applicable to Forest Service permits prior to the issuance of E.O. 13658 and the DOL's rule-making which applies the SCA to Forest Service permits.

The E.O. also applies to permits which authorize the use of federal land to provide services to the general public. Therefore, simply eliminating the applicability of the SCA to outfitted services alone will not abate the negative impacts of E.O. 13658. However, it should be made clear the SCA does not apply to recreation special use permits.

The overall impact of Executive Order 13658 and the application of the SCA, if prevailing wages are applied, will be devastating for many outfitters. Guides are often in the backcountry for several days and in some cases two weeks at a time. Many will be forced out of business or required to modify and shorten their trips. Many local economies will be harmed because visitation to those communities will be significantly reduced. The loss of visitation will ripple through local economics.

Question 2: In your testimony you explained how the Forest Service has "basically established a tax on activities on private lands". How does agency policy for permit fees result in fees being levied on activities taking place on private land?

According to the Forest Service Handbook on Fee Determination for outfitters, the permit fee is based on "Gross Revenue" which includes:

*"c. Revenue from goods or services provided off National Forest System lands, such as lodging and meals, unless specifically excluded."*¹

The Forest Service fee policy allows their fee calculations to be based on the total cost of the trip, including services delivered outside the boundaries of public lands. The agency then discounts the fee based on the time spent on the Forest, but that discount is not proportionate to the time and services delivered off the Forests.

¹ Forest Service Handbook, Fee Determination, FS 2709.11, Chapter 30, page 66.

The discounted fee schedule as it appears on page 74 of the Forest Service Handbook (2709.11), Fee Determination is as follows:

Percentage on NFS Lands	Fee Reduction
Less than 5 percent	80 percent
5 to 60 percent	40 percent
Over 60 percent	None

If outfitter's trip spends 39% of its time on private land, which would include food and lodging services, the outfitter still pays the full Forest Service permit fee on the entire cost of the trip. An outfitter's trip which spends 6% of its time on Forest Service lands will pay 60% of the permit fee (40% reduction).

The Forest Service Handbook of Fee Determination states:

*"Duration of Outfitted or Guided Trip. The period that begins when the client first comes under the care and supervision of the outfitter or guide, including arrival at the holder's headquarters or local community, and ends when the client is released from the outfitter's or guide's care and supervision. Duration of the outfitted or guided trip is used to calculate client days, which in turn are used to determine the average client-day charge and the adjustment for use off the National Forest System lands. See section 37.21c for related direction."*²

Question from Senator Steve Daines

Question: Montana just experienced a severe wildfire season that resulted in massive public lands closures. These closures and the greater suffering of the health of our forests directly impact local communities, those seeking to recreate on federal lands, our state's economy, and more specifically, those whose livelihoods depend on access to those lands. In your testimony, you discuss the critical importance of public access to federal lands for recreational and commercial purposes. How can active forest management improve access to federal lands?

Active forest management is proactive in mitigating threats from catastrophic fires by executing managed, surgical logging that removes accumulated fuels, thins and restores forests and creates a healthy environment for wildlife. We believe steps need to be taken to eliminate the frivolous lawsuits that tie up active management practices for years at a time and ultimately prevent timber sales from taking place. Active management also requires that a source of funding be identified

² Ibid, page 66.

that will be available to fight catastrophic fires without depleting and diverting the very limited resources generated by recreation fees.

We also support micro contracts let in an expedient manner for trail clearing, which will provide better and safer access to the public's national treasures.

Put simply an actively managed forest is a healthy forest that is less prone to burn, extends safe public access to federal lands and user fees collected are used for the purpose they were intended; to serve the visiting public and not be diverted to firefighting.

From: gaye adams <gayeadams@hotmail.com>
Sent: Wednesday, September 30, 2015 3:42 PM
To: Ripchensky, Darla (Energy)
Subject: statement for FLREA Oversight Hearing

I am opposed to the deconstruction of our public lands system, as it is being aggressively privatized.

The trend is toward business interests rather than traditional concerns (preservation, science, and nature).

I hope Congress will ensure that concessionaires follow all Federal guidelines, not currently the case.

"Public," by definition, means everyone.

I further advocate for ongoing public access. That is access to natural, UNDEVELOPED areas for ALL members of our community at large, regardless of their financial situation.

Gaye Adams
2202 E. Water St.
Tucson, AZ 85719

STATEMENT BY DERRICK CRANDALL, PRESIDENT, AMERICAN RECREATION COALITION, ON EXTENSION OF AND REVISIONS TO THE FEDERAL LANDS RECREATION ENHANCEMENT ACT FOR THE SEPTEMBER 17, 2015, HEARING OF THE U.S. SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

Mr. Chairman and Distinguished Members, the American Recreation Coalition (ARC) appreciates the opportunity to applaud the interest of Members of this committee and others in continuing and enhancing the experiences of the public as they visit a great American legacy – the federally managed lands and waters covering nearly one-third of the surface of this nation. There are many reasons to strengthen the connection between today's and tomorrow's Americans and the outdoors, and the topic of this hearing is a key means to pursue this connection.

The American Recreation Coalition's more than 100 national organizations represent virtually every segment of the nation's \$650+ billion outdoor recreation industry, and tens of millions of outdoor recreation enthusiasts. Our organization has played an active role in federal recreation policy since its creation in 1979, especially on funding federal recreation programs. ARC played an active role in the President's Commission on Americans Outdoors in the 1980's, which served as the catalyst for a variety of important and successful funding initiatives ranging from expansion of the Dingell-Johnson program to the Recreational Trails Program and the Fee Demonstration Program of 1996, precursor to FLREA.

Outdoor recreation is a vital and positive force in our nation today. Many Americans participate in outdoor recreation today, and a major catalyst for this involvement is the marvelous shared legacy of our Great Outdoors – one in three acres of the surface of the nation managed by federal agencies and hosting well in excess of a billion recreation visits annually. Americans spend some \$650 billion annually on fun outdoors – and our Great Outdoors is a vital element in attracting international tourists.

The benefits accruing from recreation participation are significant, and the appreciation for these benefits is growing. The economic significance of outdoor recreation is obvious in communities across the nation, and especially those communities proximate to federally managed lands and waters. From boat dealers to campground operators, from RV manufacturers to ski rental shops, from retailers selling outdoors goods to guides and outfitters, tens of thousands of businesses and millions of Americans are supported by the expenditures on recreation by American families. And increasingly, America's recreational opportunities are a key factor in luring international visitors to enjoy the world's best systems of parks and forests, refuges and other public sites.

The role of recreation in addressing serious concerns about the increasing inactivity-related obesity of the American people, especially our young people, is also significant. According to the Department of Health and Human Services, seven in 10 deaths are attributable to preventable, chronic diseases – like diabetes, heart disease and some forms of cancer – associated with obesity and inactivity. In addition, a national study has shown that nearly 20,000 children and adolescents in the U.S. are diagnosed with diabetes every year. A critical cause is the tripling in the rate of obesity among young people since the 1970's. We believe that the average of eleven hours of daily screen-

STATEMENT BY DERRICK CRANDALL
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time is a major contributor. An important antidote to this alarming picture is more active fun through outdoor recreation. We also believe that recreation opportunities on our nation's public lands, including our national parks, are an essential asset in the effort to encourage people to change their behavior and start enjoying the outdoors.

Mr. Chairman, the recreation community generally supports the Federal Lands Recreation Enhancement Act (FLREA), which this committee helped to shape prior to its enactment in December 2004. FLREA authorizes the collection and retention of entrance and recreation fees for most of the major federal recreation providers: Bureau of Land Management, Bureau of Reclamation, National Park Service, U.S. Fish and Wildlife Service, and the U.S. Forest Service. While management of recreation on our federal lands remains funded primarily by appropriations of general funds, FLREA supplements those appropriations with more than \$300 million annually in entrance fees, campground fees and other recreation-related charges.

We applaud the Congress for labeling this legislation appropriately. We testify today not in favor of fees, but in favor of **Federal Lands Recreation Enhancement**. Fees are one important tool to help reach this goal – but FLREA fees are neither the only tool nor a goal in themselves. Recreationists pay for good recreation opportunities in many ways. Boating and fishing enthusiasts buy licenses and register boats and pay federal and state gas tax on the fuel used in their activities – and most of these special user fees help to provide access to public waters, support water quality and fisheries improvements, manage the enjoyment of these activities and more. Recreationists also aid the quality of recreation in other ways, including volunteerism and philanthropy. FLREA-authorized fees must be considered in this context.

Our support – and in fact overall public support – for well-designed and well-understood federal recreation fees is strong. In 2012, the agencies reported to the Congress visitor satisfaction with fees at rates that ranged from 83% (Forest Service) to 94% (National Park Service). However, recreation fees can cause controversy. In particular, some Forest Service and Bureau of Land Management fees have generated enough opposition to prompt senior and influential Senators from both political parties to introduce legislation to repeal FLREA.

We believe that most controversies surrounding FLREA-authorized fees result from agency failures to appreciate the role of fees as a tool, and not as an end in itself. Where the public seeks good facilities and services and finds them available at a federal recreation site, support for fees is high. In particular, support for retention of most collected fees for use at and near the collection point is high.

Attitudes toward FLREA have been complicated by federal budgets and agency decisions which have reduced recreation access and services. The recreation community believes that much of the revenue collected under FLREA is simply offsetting reductions in general funding of federal recreation programs. This does not reflect the nature of the agreement when FLREA was created ten years ago. FLREA was to help in expanding the quantity and quality of recreation offerings on federal lands

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and waters: better trails and better campgrounds, easier access to public waters and more interpretive and educational opportunities.

Based upon nearly twenty years of experience with legislation which authorizes collection and retention of recreation fees, we support continuation of this authorization. We have worked with a large and diverse coalition of recreation, conservation and tourism organizations to articulate core principles which we feel should guide federal recreation fee policy. These principles have been submitted to the committee and are also attached to my testimony. I include them here, as well:

1. Federal recreation sites should be authorized to collect and retain fees for entrance to parks and selected other areas and for recreational services and visitor facilities involving significant investments and operational costs.
2. Collected fees should be used principally at sites where the fees were collected, serving those who paid the fees, and collected fees should be spent within a reasonable amount of time.
3. The US Army Corps of Engineers, the largest single federal provider of recreation experiences, should be included under FLREA to unify federal fee programs and eliminate current complications for visitors.
4. The federal recreation fee collection process should be as transparent as possible, allowing all interested parties the chance to see annual information on fee collections and use.
5. Expenses of fee collection are a legitimate use of fee revenues but all efforts should be made to minimize these costs.
6. Federal recreation site fee efforts can and should be integrated where possible with other fee collection programs, including of other federal sites and agencies and with state recreation fees and licenses. State fee programs should be encouraged which support recreation on federal lands - including trail programs. Models for this include the Winter Park Passes in several northwestern states and programs like the California "green sticker" program.
7. Public involvement in federal recreation site fee programs is vital. The first step is better notification of fee program proposals. Notification of new and changed fees should be made to all obviously affected organizations and local citizens, and should also be made through: (1) the Federal Register and (2) alerts to individuals and organizations requesting notification through www.recreation.gov, registering their interest in types of fees, geographical regions, agencies and

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other appropriate categories. Formal comment opportunities should be required and can include Recreation Resources Advisory Committees and Resource Advisory Committee requirements, but Congress should allow the Forest Service and BLM to develop alternative public involvement models, submitted to the appropriate Congressional committees. The committees shall have not less than 90 days to consider these proposals. A submitted model may be disapproved by vote of either committee or by a joint letter by the Chair and Ranking Member of one or both of the committees.

8. Fee payment should be as convenient as possible to visitors. Use of commonly-used non-federal payment systems, such as EZ-Pass and PayPal, should be tested. Prepayment of entrance fees through inclusion in reservations for campsites, lodge rooms and other reserved services, and by sales in gateway communities, should also be encouraged.
9. Reauthorization of the federal recreation fee program should be for a minimum of six years and not more than ten years.
10. Fees collection by concessioners and third parties, including other governmental agencies and organizations which operate and maintain recreation services and facilities, should be authorized.
11. Fees for special recreation uses and events may be required but should not unreasonably deter legitimate uses of federal recreation sites nor discourage partnerships with third-party organizations.
12. Agencies that receive funds through FLREA are encouraged to fully utilize Public Lands Corps Act authority to complete FLREA-funded projects that meet FLREA objectives such as enhancing visitor services. Use of conservation corps on these projects is likely to deliver lowered costs and will provide jobs for local young people and veterans and connect younger Americans with the Great Outdoors.

There are three additional issues we urge you to consider as you prepare FLREA to meet the needs of the 21st Century.

First, Americans gain little from great places that are invisible to them. And much of the Great Outdoors is not on the radar screens of younger, more urban and more diverse Americans. Greatly improved websites, use of social media and a redirected www.recreation.gov can help us deal with federal site visitations that have lagged far behind population growth. For years, federal recreation programs have declined to

STATEMENT BY DERRICK CRANDALL
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partner with gateway communities, with concessioners and permittees and with others on outreach and promotion, perpetuating and exacerbating patterns favoring well known sites and peak periods. We are heartened by the participation of most major federal recreation providers in the IPW show, attracting millions of visitors to the US annually. We are heartened by the Find Your Park and Every Kid in a Park programs created in conjunction with the National Park Service's 2016 Centennial, which will help invite Americans to visit and benefit from their Great Outdoors. Yet we too often hear that advertising and promotion by federal land agencies are prohibited by law. We strongly disagree. The restrictions we see simply require notice to the Congress about use of appropriated funds for advertising – paying for ads. We see no prohibition on partner-based promotional activities designed to shift demand to lesser visited sites or to non-peak periods. And in fact we would appreciate this committee making it clear to the agencies that building awareness and promotion are legitimate uses of a portion of FLREA receipts. In the private sector, and even in some state parks, a percentage of gross receipts used for promotion is seen as vital. Perhaps a portion of overall www.recreation.gov revenues should be earmarked for partner-based promotion efforts.

Second, we support providing senior Americans with special benefits associated with the Great Outdoors. We believe the current benefit of lifetime free access for a one-time fee of \$10, with an additional benefit of 50% reductions of campground and certain other fees, no longer represents the best use of deferred fees. This benefit effectively imposes excessive costs on others, including families with young children. We would support changes in the special benefits offered to seniors in one or more of the following ways:

- a. 50% discount of the annual America the Beautiful (ATB) Pass;
- b. Changing the age of eligibility for a senior pass to the age at which an individual is entitled to full Social Security benefits.
- c. Maintain the lifetime provision but at the higher cost: the current annual price of the America the Beautiful pass.

Third, we support the annual free pass for America's active duty servicemen and servicewomen. They put their lives in harm's way to protect the values which are reflected in our Great Outdoors. This is now done under the discretionary authority of the Secretaries of Agriculture and the Interior. We support codifying this and adding one more provision. We believe all recipients of a Purple Heart should qualify automatically for a lifetime disability pass. The costs associated with this provision will likely apply only to recent Mideast conflicts, since honorees for service in Vietnam and before are now virtually all eligible for lifetime senior passes. Approximately 50,000 Purple Hearts have gone to those injured in the Persian Gulf War, in Afghanistan and in Iraq. Any awardee with permanent injuries would be eligible for the existing free pass for any disabled American – this would simply eliminate the need to prove disability.

Fourth and finally, we support adding provisions to FLREA which will enhance the ability of concessioners and permittees to provide appropriate visitor services in the Great Outdoors. Public/private partnerships are a tradition on federal lands. Private investment has built ski areas which provide an estimated 60% of all downhill skier days

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in our nation each winter – and thanks to action by this committee in 2011, is now expanding non-winter outdoor active fun in national forests. Concessioners in national parks provide lodging, food, retail services, outfitting and guiding, transportation and more in our national parks, serving an estimated one-third of all park visitors with a workforce of more than 20,000, and annual sales of \$1.3 billion. But current legislation and regulations constrain investments and addition of visitor services – including those utilizing new technologies to enhance Great Outdoors fun. The attached document by the National Park Hospitality Association outlines changes it recommends, and we urge consideration of those suggestions as new elements of FLREA.

We believe these changes would be valuable, win/win components for revitalized federal recreation programs that succeed in providing benefits to all Americans in the 21st Century. Thank you for your interest and your actions to assist enjoyment of America's Great Outdoors. We urge rapid action on legislation to achieve the goal set forth in the title of the ***Federal Lands Recreation Enhancement Act***.

Derrick Crandall, President
American Recreation Coalition
1200 G Street, N.W., Suite 650
Washington, DC 20005
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202-682-9530, FAX 202-682-9529

Attachment: **Concessions Changes Will Aid Visitors and Parks**



CONCESSIONS CHANGES WILL AID VISITORS AND PARKS

America's national parks are a marvelous, unifying legacy deserving celebration. As the National Park Service (NPS) reaches its Centennial year, we can celebrate and continue contributions by leaders from both parties who created this special collection of natural, historic and cultural places – and to invite all to share in their benefits.

But the excitement of a Centennial must not hide the reality that America's national parks need help. Our parks need new resources and new strategies. Vision and action shaped our national park system even as America fought and recovered from our Civil War. Vision and action advanced our national park system even in the depths of the Great Depression. Vision and action today, even as we confront global terrorism and other great challenges, can strengthen America's national park system.

America's national parks face big challenges today. National park visitation has been unchanged over 25 years despite a growth in the US population of more than 30%, a surge in international visitors and the addition of dozens of new park units. Stagnant park visitation reflects more leisure choices today ***but is also the result of reduced visitor activity choices*** – potential visitors choose other destinations. There are fewer park campsites, fewer lodging rooms, fewer restaurant seats, fewer ranger-led walks, fewer tours and outings. Visitor services eliminated by NPS have not been offset by new outdoor activities and special events.

Concessioners provide vital visitor services exceeding \$1.3 billion annually in more than 100 national parks. Concessioners pay \$100+ million annually to NPS in franchise fees and employ 25,000. We provide lodging, food services, gifts and souvenirs, equipment rentals, transportation and other visitor services under competitively-awarded contracts. Concessioners have been creating lasting national park memories for more than 125 years. NPS' first Director said, "Scenery is a hollow enjoyment to the tourist who sets out in the morning after an indigestible breakfast and a fitful night's sleep on an impossible bed." Concessioners were seen as key to the dual mission of the new agency when it was created in 1916: ***"... to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same ..."*** Today, NPS actions undercut contemporary, top-quality concessioner visitor services.

Concessioners built many of the lodges and key visitor facilities in our parks. Many of the first concession companies were affiliated with railroads. More recently, lodging was built by companies linked to some of the biggest park philanthropists – including RockResorts. These buildings are now government property. Maintenance and operation of the facilities largely remain a role for concessioners. But these facilities are challenged because NPS has never been able to secure adequate funding for park operation.

The situation has deteriorated following legislation in 1998. Contracts were shortened to 10 years – only recently have a few longer contracts been created. The pricing approval process has become more burdensome. Concessioner efforts to add new visitor services have become very difficult. Despite clear direction from the Congress to make "protecting and preserving park areas" and "providing necessary and appropriate services for visitors at reasonable rates" the primary goals of concessions contracts, NPS seems focused on higher franchise fees while discouraging denying needed investments.

Prospectuses for concessioner services issued by NPS have not attracted companies new to the field and some generate no offers. NPS is pursuing higher payments by concessioners to the agency while simultaneously limiting business opportunities

Facilities operated by concessioners need improvements, yet franchise fees which should be used for other purposes are too often used to "buy-down" LSI and PI and for other purposes. The law requires 80% of all franchise fees be used for visitor services and facility maintenance in the generating unit, but NPS has "borrowed" these fees for other purposes and other units.

There has been very little expansion of concessioner-provided visitor services in new units of the national park system. Concessioner services are rarely contemplated in new unit planning processes. Use of NPS campgrounds has dropped because of outdated facilities lacking contemporary options.

Efforts to promote national parks in conjunction with the 2016 Centennial of the National Park Service will magnify the challenges. We SHOULD invite all Americans to visit their parks. This is required by the Organic Act of 1916, which states: "The service thus established shall promote and regulate the use of the Federal areas known as national parks, monuments, and reservations ..." But we need to be prepared: when Americans actually show up at their parks, dated and inadequate visitor services will not deliver great park experiences. The **\$11.5B backlog in deferred maintenance at NPS units** is a big problem. Ex-U.S. Senator Tom Coburn noted **deferring maintenance often raises ultimate costs 6-fold**. Additional concessioner investments can help prepare our parks for more visitors!

Here are our action recommendations:

- 1) **Congress should make 10-year contracts a minimum and tell NPS to widely employ longer contracts which justify substantial concessioner investments in modernizing, replacing and adding needed and appropriate visitor facilities.** *Congress should extend the allowed contract length from the current limit of 20 years to 40 years.* Congress should tell the NPS to use its LSI authority to add and modernize visitor facilities rather than appropriations of taxpayer funds.
- 2) **Congress should charge NPS with submitting at least 12 significant opportunities to expand appropriate visitor services each year for five years.** *The opportunities should either reduce/eliminate deferred maintenance or expand visitor services through private investments at no substantial cost to taxpayers.* Some structures with high deferred maintenance should be replaced with new facilities meeting today's best design standards, including both LEED- and ADA-related standards.
- 3) **Congress should encourage, recognize and reward appropriately superior operations by concessioners.** Rewards could include contract extensions, increased discretion on pricing and points in new contract awards.
- 4) **NPS concessions prospectus system is burdensome, process-focused and needs major revisions.** Costs to NPS and concessioners have skyrocketed. Current operators have little influence on prospectus provisions. Concessioner performance is largely ignored in bid evaluations. The flexibility of concessioners picked for hospitality capability is then hampered by pricing approvals and barriers to introducing new services and offerings.
- 5) **Congress should define the mission of the NPS concessions program as encouraging and facilitating the use and enjoyment of national parks with appropriate services in a manner which protects park resources and increases visitor appreciation for national parks.** The Congress should require expansion of park visitor promotion and advocacy in agency operations and facilitate use of contemporary hospitality practices by its concessioners.

American Whitewater • The Mountaineers • Washington Trails Association

October 1st, 2015

The Honorable Lisa Murkowski, Chair
Senate Energy and Natural Resources Committee
304 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Maria Cantwell, Ranking Member
Senate Energy and Natural Resources Committee
304 Dirksen Senate Office Building
Washington, DC 20510

Dear Chair Murkowski, Ranking Member Cantwell, and Members of the Committee:

We are writing regarding the committee hearing held September 17th on the Federal Lands Recreation Enhancement Act ("FLREA"). The undersigned organizations strongly support reauthorization of FLREA (16 USC 6801 et seq., 118 Stat. 3377 (Dec. 8, 2004)), but believe that certain elements of the law should be considered for revision. We respectfully request that this letter be included in the hearing record.

Our organizations represent a broad range of human-powered outdoor recreation enthusiasts in Washington State and come together as a coalition on recreation and conservation issues. Collectively, we represent over 35,000 members in Washington and contribute more than 165,000 hours of volunteer work annually on public lands across the region. Our members purchase and benefit from the Northwest Forest Pass, and we have a very strong stake in the future of the program, which is authorized under FLREA.

User fees were authorized as a demonstration program through the appropriations process in 1997. FLREA created a federal framework for user fees in 2005, instituting the standard and expanded amenity fee approaches. In 2014 alone, FLREA revenues for the National Forests in Washington and Oregon totaled \$9.5 million. Approximately 80-95% of the funds collected under FLREA are reinvested in the facilities and services that visitors enjoy, use, and value. These include:

- Public safety
- Recreation site maintenance and improvements
- Educational experiences
- Informational wayside exhibits
- Youth programs and partnerships
- Interpretive programs

By working with volunteer trail maintenance organizations, the Forest Service is able to leverage those funds many times over. As an example from Olympic National Forest, Washington Trails Association helped maintain 92 miles of trail on about 23 trails there. Recreation fee revenue contributed \$26,600 to an agreement with WTA that provided one crew leader and 11,000 volunteer hours. **This commitment is roughly equivalent to employing 6 full time employees for a monetary value of \$248,000 annually.** Volunteer projects need to be organized and managed—somebody needs to promote the events, bring the tools, and buy the coffee—but the small investment in recreation fees to do so resulted in a nearly ten-fold increase in on-the-ground results.

While FLREA provides an important source of funds for federal land managers due to continual declines in agency funding and the increasing percentage going to wildfire, it should not be considered a substitute for adequate funding for federal land management agencies. We strongly urge Congress to increase agency funding to 2010 levels. Although full funding levels are likely much higher, a return to the funding levels of FY 2010 would be a reasonable intermediate step towards adequately funding the agencies. Even if funding is returned to 2010 levels, FLREA will continue to be a critical funding mechanism for agency operations.

Outdoor recreation is a \$22 billion business in Washington State that directly supports 200,000 jobs. These jobs extend to every county of the state, which is a trend that we see across the nation, where the outdoor recreation represents a \$646 billion industry supporting \$6.5 million jobs nationwide. The jobs depend on protected lands and water, as well as sufficient investment in infrastructure—roads to trailheads, river access sites, hiking and biking trails, etc.—and user fees alone should not be considered a substitute for an appropriate federal investment in this sector of our national economy.

During the recent hearing concerns were expressed with continued increases in user fees. We share these concerns, but the resources to manage public lands and provide quality experiences need to come from somewhere. Congress needs to provide an adequate investment to keep recreation on public lands to provide an experience that is safe, fun, and affordable while providing critical economic benefits to local communities that serve as the gateway to our public lands.

The following are our comments on specific areas where FLREA should be improved with reauthorization.

Issue: Existing law is internally inconsistent about whether agencies can collect fees from a hiker using a trail within an area that has the standard amenities (parking, toilet, trashcan, interpretive signage, picnic tables, security) if the hiker does not specifically use those amenities. More broadly, the focus on collecting fees for use of an "area" with these amenities and not the underlying

infrastructure—e.g. the trail—creates ambiguity that should be resolved with reauthorization.

Our recommendation: FLREA should be reauthorized to provide land management agencies with more flexibility to decide which amenities are appropriate for recreational facilities. Under current law, many recreational facilities that would benefit from user fees are inappropriate locations for some of the six required amenities. For example, much of United States Forest Service Region 6 is black bear country. Generally speaking, unattended garbage cans are nuisances at best, and dangerous incentives for problem bears at worst. The agency should have more flexibility to decide which of the amenities makes the most sense based on the recreational facility use and location. That being said, we generally agree that human waste needs to be appropriately managed at any facility where fees are charged. Additionally, the underlying recreational infrastructure—e.g. the trail—should be considered as one of the amenities.

Issue: Some have proposed special recreation fees for specific activities that may include backcountry travel, river running and bicycling. We recognize any use may rise to a level that becomes unsustainable on the landscape, and that in those situations, use limits may be imposed and a fee may be necessary to recover the costs of managing the activity and mitigating the impacts (e.g. a limited entry permit system).

Our recommendation: We request that the committee focus any special recreation permit fee based on the effect of the activity and not the activity itself in areas where high demand exceeds the carrying capacity of the land. This approach should apply where an agency has determined, through the land management planning process, that impacts to an area necessitate permitting to manage use to sustainable levels. In such a situation, agencies should be able to recover only the costs of mitigating the impacts of high use in that area and administering the permitting process through user fees. There should be a limit on costs to special recreation permit holders, and the fee should not be the primary means of controlling demand (i.e. by making the permit too expensive for those who would otherwise choose to participate in the activity). Fees should be limited to the costs of administering the program that can be reasonably attributed to the user impact.

Issue: With regard to expenditures, the enhancement of recreation opportunities, such as trail maintenance, needs to be clearly identified as a valid fee revenue use.

We believe the committee should explicitly recognize the enhancement of recreation opportunities, such as trail maintenance, as a valid use of fee revenues. Current law is ambiguous in this regard. While it's obvious that amenities must be maintained and repaired to comply with FLREA, it is equally important to recognize that the majority of people purchasing day-use fee passes

are doing so to engage in the local recreational opportunity (ex. hiking, biking trails) afforded by the recreation facility. We believe that revenue generated by FLREA should be prioritized for the enhancement and maintenance of those recreational opportunities in addition to the maintenance and repair of the standard amenities.

Our recommendation: Prioritize the enhancement of recreation opportunities for the use of fee revenue.

Issue: The law should be written to encourage agencies to keep administrative costs down and devote as much of the revenue as possible to maintenance and improvement of recreation facilities and trails.

Our recommendation: We urge the committee to preserve the 15% limit on overhead for the costs of administering the fee collection system.

Concessionaire Fee Authorization

We support FLREA in allowing the authorization of federal land managers to collect and retain fees to areas that have significant operational costs and provide significant services to users. We are concerned by the March 28, 2014 US District Court decision (District of Columbia) which found that concessionaires of land management agencies are not held to the same FLREA standards as land management agencies. The court's decision allows concessionaires to continue charging fees for more than the direct use of services and amenities that they provide. We are concerned that this decision will give private businesses the ability to charge for access to public lands in ways that land agencies cannot under FLREA, and therefore negatively impact public access.

Our recommendation: Concessionaires should be subject to the same fee restrictions as land management agencies are mandated by FLREA.

Thank you for the opportunity to provide this testimony.

Sincerely,

Thomas O'Keefe, Pacific Northwest Stewardship Director,
American Whitewater

Elizabeth Lunney, Interim Executive Director,
The Mountaineers

Andrea Imler, Advocacy Director,
Washington Trails Association

From: David Archibald <guiman.david@outlook.com>
Sent: Friday, September 18, 2015 7:22 PM
To: Ripchensky, Darla (Energy)
Subject: Statement for FLREA Oversight Hearing

Hi,

I have always thought that the plan for charging for National Forest is a bad idea. It prevents most lower income, and many middle class Americans from accessing the public lands because of costs, and therefore stops our future generations from having any connection or appreciation of our open space. The costs for accessing these National Forests in many cases, now exceeds the cost to enter our National Parks.

I ask that the fee program be eliminated, and the National Forests be made available to all Americans again.

Thank you,

David Archibald
guiman.david@outlook.com

Subject: Statement for FLREA Oversight Hearing

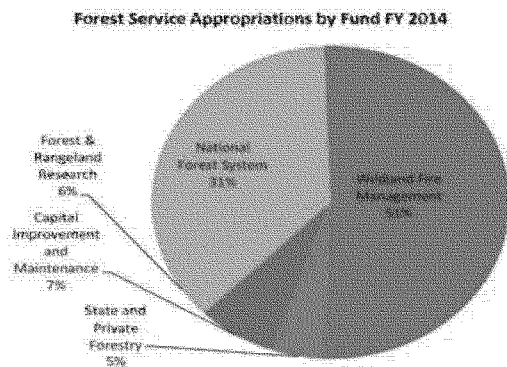
Date: 29, September 2015

Dear Chairperson:

Please accept my personal comments into the public record concerning the future of this legislation.

It has long been propagated that public land managers are running out of money and the only way for them to take care of public land is for them to charge fees to taxpayers. Professional Lobbyist organizations such as the American Recreation Coalition encourage this myth. It's the level playing field theory; where a private campground cannot compete against a public campground that is free. If the public campground charges a fee the private campground can charge a similar fee and get more business.

I will specifically address the Forest Service but my comments apply to all Public Land agencies. The Forest Service has a spending problem not a revenue problem. They spend an inordinate amount of money putting out forest fires and less and less on their core mission including managing recreation and taking care of the forest. Please see the article *Forest Service Mission goes up in flames* in the High Country News dated August 22, 2014. Increasing the revenue stream by charging fees will never a fundamental spending problem.



Graph 1. From the Forest Service Mission goes up in Flames
High Country news - August 22, 2014

The Forest Service has creatively embraced FLREA by charging fees and forming “**special recreation areas**”. In a number of situations here in Colorado they “wash their hands” and give carte blanche to for-profit concessionaires who run campgrounds and recreation areas as their own private fiefdoms.

In my example here the only thing that creates a special recreation area is a choke point where in order to gain access to the area you pass a particular spot which conveniently is where a fee station is located. This is the mouth of 11 mile canyon that affords access to a highway.

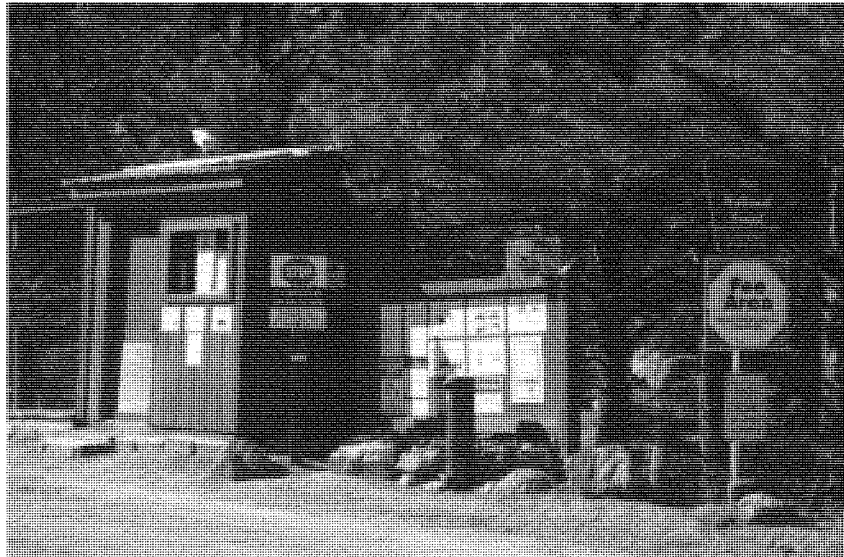


Figure 1 - 11 Mile Canyon Recreation Area Fee Station operated under a special use permit to Canyon Enterprise Inc. This photograph was taken Saturday September 26th 2015 which happened to be Public Lands Day. While I was there people lined up and paid even though the second sign below the window touted free access on Public Lands Day. With no attendant and no clear designation over the fee signs most folks were uninformed and paid anyway.

For a number of years I was an Assistant Scoutmaster for a local Boy Scout troop. As a volunteer leader it was my responsibility to coordinate a monthly camping trip for 20 to 50 kids and other adult leaders. My biggest challenge was finding a place to take this troop without busting the bank. We were quite fond of 11 Mile Canyon outside of Lake George Colorado. This

non-descript canyon was designated a “special recreation area” by the South Platte Ranger District and Canyon Enterprises Inc. the concessionaire operates it. The entrance fee is \$6 per vehicle to get into the canyon and to stay in Riverside campground it is an additional \$16 nightly fee per site. We quit going there; I just could not justify having these kids pay so much for essentially a piece of ground to set their tent on and a vault toilet. A couple of times we canceled our trips because I just could not find a place to take kids particularly in the fall – spring. I found the majority of campgrounds closed during this time because they were only profitable to operate in the summer by the concessionaire.

Brainard Lake is a beautiful Alpine lake at timberline above Ward, Colorado. This “special recreation fee area” is operated by a concessionaire; American Land and Leisure. The Forest Service has poured a lot of money into this area and American land and Leisure charges accordingly with an entrance fee of \$10 or an American Land and Leisure season pass at \$55. This is only a seasonal operation and during the winter they lock the gate and you can snowshoe in there and not have to pay the fee.

Operational Hours:	<p>» Summer Operating Season: The seasonal gate, located at the Brainard Gateway Trailhead, is open from approximately mid- to late-June through October. Once conditions permit, the gate is open 24 hours/day. When the fee booth is not staffed, visitors are expected to use the self-service fee station on the north side of the entry portal.</p> <p>» Winter Operating Season: Fees are not charged during the winter operating season. Winter recreationists can park in the lot to access area cross country ski and snowshoe trails. Never block any gate with your vehicle, whether open or closed.</p>
Fees	<p>Parking at the Brainard Gateway Trailhead is free year round. For those traveling further west during the summer operating season (typically mid June through late October) Brainard Lake Recreation Area fees apply:</p> <ul style="list-style-type: none"> » Passenger Vehicles (per vehicle/3 days): \$10 » Vans (per vehicle/1 day): \$25 » Buses (per vehicle/1 day): \$40 » Motorcycles (per cycle/3 days): \$5 » Hiker/Biker/Walker (per person/3 days): \$1 » Short-term Bicyclist: 30 minute free pass » American Land & Leisure Season Pass (passenger vehicles): \$55 » American Land & Leisure Season Pass (hiker/biker/walker): \$20

Figure 2 - Screen shot from the USFS web site - Boulder Ranger District - Brainard Lake Recreation Area Fee Schedule. Camping is an additional fee once you are in the area.

This area has a perfect choke point limiting access to one road where the fee station is located. I spent a lot of time up here as a kid but now we only use this area in the winter when it is more affordable.

I have a medical condition and the side effect of the medication I take requires me to know where all available restrooms are when I travel. **It's unfortunate but that's the way it is.** Often I drive over Wilkerson Pass to Buena Vista Colorado. As long as I can remember the Forest Service has maintained a restroom on top of Wilkerson Pass. Several years ago they built a larger restroom and added a very nice Visitors Center at the pull-out area. This Visitors Center was really just a bookstore operated by Rocky Mountain Conservancy.



Figure 3 - Visitors center bookstore on top of Wilkerson Pass a concessionaire operation.

This summer they locked the restrooms, closed the visitors center and shut the gate; this is quite disconcerting if you were planning on stopping there.

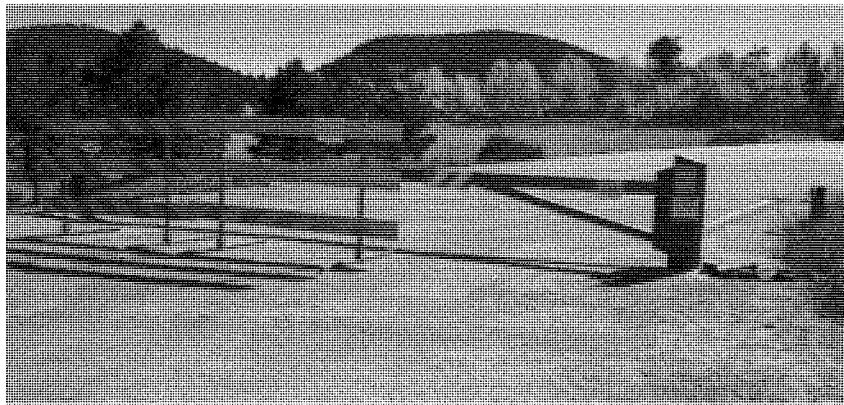


Figure 4 - Wilkerson Pass Parking Lot: Pike National Forest -- September 26, 2015 - The sign says "Wilkerson Pass Visitors Center is Temporarily Closed.; due to major repairs. Restrooms are closed and locked. I would suppose it all depends on your definition of the word temporary since it's been this way since May. Since the facility was recently constructed several years ago it makes you wonder what exactly is going on.

The next best option for a restroom in that neighborhood is Round Mountain Campground. There used to be a restroom by the campground that was easily accessible from the highway

without going into the campground. The restroom was removed this spring and a wire fence was place around the campground with a locked gate at this location.

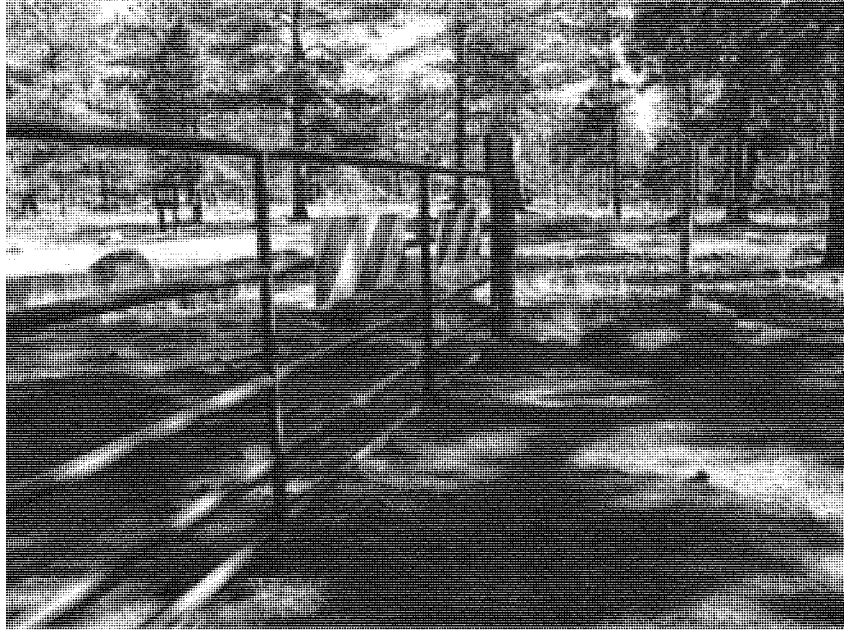


Figure 5 Round Mountain Campground – Pike National Forest – Operated by Canyon Enterprises Inc. This site used to have outhouse easily accessible from the highway so that folks could use it while they were traveling. Fence and gate is installed to prevent travelers from using the remaining outhouses without paying the campground fee.

Now to use one of the two restrooms in the campground you have to presumably pay the concessionaire the campground fee of \$14. This is also a disconcerting event when traveling. It would appear the Forest Service is working to benefit the profitability of the concessionaire at the detriment of the taxpayers. They removed the existing outhouse and installed a new one on the far end of the campground while leaving Wilkerson Pass closed for an entire summer.

My examples here are just some of what I've seen and experienced. It's my belief these examples are pervasive. It is true that the Forest Service is not spending much on recreation or taking care of the forest. They are spending the majority of their funds fighting fires and what appears to be supporting for profit concessionaires. The solution is quite simple really; adequately fund wild land fire suppression, direct public land managers to follow their core mission with sound financial management and live within their appropriations budget. Public Land Managers need to stop charging fees. It was not **until the late 1970's that the** Forest Service started charging for campgrounds and since then it's on an ever escalating unsustainable trajectory. Fees are never going to fix the problem of a growing maintenance backlog. I would contend **it's** time to end the Federal Lands Recreation Enhancement Act and return public land to the American people. Thank you for your time and time you took to read this.

From: Stephen <climbersteveb@gmail.com>
Sent: Wednesday, September 30, 2015 5:53 PM
To: Ripchensky, Darla (Energy)
Subject: Statement for FLREA Oversight Hearing

Dear Chairwoman Murkowski and Ranking Member Cantwell:

Thank you for offering the ability to provide written testimony on the oversight hearing from September 17 in regard to user fees being charged on the federal lands, with deadline of today for comment receipt.

My name is Steve Bonowski. I live in Lakewood, Colorado (mailing: P.O. Box 280286, Lakewood CO 80228 ; home: 13158 W. Arkansas Place, Lakewood CO 80228). As a volunteer, I am the chairman of the board of directors of the Vail Pass Task Force. The Task Force is a .501(c)3 educational non-profit that works with the US Forest service; Dillon and Eagle/Holy Cross ranger districts of the White River National Forest; in management of the 55,000 acre Vail Pass Winter Recreation Area. The Recreation Area is divided by the Summit/Eagle County line. The nearest ski area on the east is Copper Mountain; the nearest ski area to the west is Vail.

Our office address is: c/o 10 Mountain Division Huts Association, 1280 Ute Avenue Ste. 21, Aspen CO 81611. The Task Force does not have a web site at this time nor a presence on social media, although those are "in the pipeline." You can learn more about the area by visiting the Facebook page entitled Vail Pass Winter Recreation Area.

I am writing to express support for the continuing use of user fees on federal lands. The Task Force came together in 1990 as a means to deal with growing user conflict on the Recreation Area, between snowmobilers and cross country skiers. Within a few years, the Area was divided into roughly equal areas with trails for snowmobiles and trails for skiers and snowshoers; and a periodically updated user map was produced. In summer, 1998, a Forest Supervisor order indicated that the user map would be the governing document for the agency for Vail Pass.

To this day, our board of directors consists of 4 members from the motorized recreation community and 4 members from the non-motorized recreation community; all of us volunteers. For us to forward a recommendation on action to the US Forest Service, all directors must be in agreement. I have served on the board since fall, 1999, and I have observed that it has grown much easier to arrive at a consensus since we're all in it together, so to speak.

The Vail Pass Winter Recreation Area has been a user fee area since 1998. Authority to charge a fee; under the former Recreation Fee Demonstration Project; was granted on January 6, 1998 and implemented on January 15, 1998. At the time, we were told that Vail Pass was the only winter fee demo collection site in the entire country.

There was an amount of initial confusion over the fee system, but notes from the time indicate that most persons who used the Winter Recreation Area at that time understood the need for the fee collection. While there has been some evolution in management of the Winter Recreation Area since, the main purpose for fee collection has remained the same. The fees are used to provide agency staffing that does education and any needed enforcement in the Winter Recreation Area, as well as fee collection, answering questions, and handing out maps and other information. Specifically for the motorized community, the fee collection supports grooming of snowmobile trails by snowcat and also user education.

During the past several years, about \$170,000 has been collected per season in the form of user fees. This number can vary depending on the quality of the snow pack and snow year. The money is used to fund activities on the Pass. Despite the fee, the USFS is still putting in circa \$20,000 from appropriated funds to sustain this operation. Of the \$170,000,

\$50,000 comes to the Vail Pass Task Force through a challenge-cost share agreement. With that amount, and other money raised, the Task Force provides the grooming by snowcat and pays the snowcat operators.

The Vail Pass operation is supported by the Colorado Department of Transportation and various user groups. The Task Force has recently embarked on purchase of a new, used, snowcat as our former machine was down for repair almost more than it was operating. The new snowcat is costing \$99,000. In order to purchase the new 'cat, we have received support from Colorado Parks and Wildlife, the Colorado Snowmobile Association, the 10th Mountain Division Huts Association, other user groups and also members of our board of directors making direct contributions. But we still have some distance to go in raising the full amount.

The overall goal for Vail Pass among the partners; the US Forest Service; the Vail Pass Task Force; members of the key user groups; and individuals; is to provide a quality recreational experience for all users. We would not be able to provide this service without the user fee that is presently being charged. The user fee also conveys to users a sense of ownership in that they are "paying for their pleasure." If the user fee were to go away, then we would predict a likely return to the chaotic days prior to 1990 with increased user conflict and users going anywhere they want..

I'll conclude by expressing at least a mild concern that the Western Slope No-Fee Coalition; even though it is based in Colorado; has not made any apparent effort to contact other local non-profits who happen to work with fee areas, like the Task Force.

Thank you again for offering this opportunity. I can be reached at this e-mail address; or the post office box above; if there are any questions.

Sincerely,

Steve Bonowski

From: Susie Bragg [mailto:susie_bragg@yahoo.com]
Sent: Monday, September 21, 2015 4:01 PM
To: Ripchensky, Darla (Energy)
Subject: Statement for FLREA Oversight Hearing

As a single mother of two now-grown boys, I did my best during their early years to ensure they see and experience our country's national parks. However, I feel sad that my sons' memories of our few, but carefully planned vacations includes the process of getting up long before dawn in order to "sneak" into national parks before an entrance station opened, feeling like criminals as we did so.

Though Golden Age, Golden Access and other passes are issued to some, there are many others who simply cannot afford the exorbitant entry fees. I hope that access can be guaranteed to all via a more equitable fee system.
Sincerely,
Susannah Bragg

From: Mike Breiding - Wheeling WV <mike@EpicRoadTrips.us>
Sent: Monday, September 21, 2015 12:32 PM
To: Ripchensky, Darla (Energy)
Subject: Statement for FLREA Oversight Hearing

I have been a hiker, camper and lover of the outdoors all my life.
Now as a senior citizen hiking and being out doors is more important to me than ever.
I and certain the hiking has helped me maintain both good physical and mental health.

I now lead hikes in the Tucson area 2-3 times a week during the winter months.
Most of these hikes are on Federal lands where fees to park and go hiking are being charged.
How can this be? With all the health problems in this county related to obesity, tobacco use and a sedentary lifestyle the Federal government should be do all it can to encourage people to get outdoors and go hiking and walking on our public lands. Instead - they discourage it by charging regressive fees.

Please eliminate these fees to hike and enjoy our great and beautiful country.

Thank you,
Michael A Breiding
163 South Park Street
Wheeling WV 26508

From: Don Capps <donc@provo.edu>
Sent: Monday, September 21, 2015 3:08 PM
To: Ripchensky, Darla (Energy)
Subject: Statement for FLREA Oversight Hearing

Ms Ripchensky,

Thank you for your involvement in this discussion. I have had an experience with fees that had me troubled. I took my two young children to the area called the Alpine Loop in Provo, Utah. We stopped for a moment to have lunch in the back of our pickup. We were along side the road in a dirt turnout. The FS employee told us we had to pay or keep moving. I told him we just wanted to have lunch in the beautiful mountains. I was aware that the land belonged to us. She told me I had to pay or leave. Sadly, we ended up leaving and driving all the way out of the forest, back to home to have lunch. It was a sad day for my two young children and I. I am and have been opposed to user fees in any public land that we already fund with our tax dollars. Sincerely, an educator, father, and citizen.

Don Capps, M.Ed Admin.
Department Chair; CTE Intro Business
Dixon Middle School, Provo SD
801.374.4980 x1457

If kids come to us from strong, healthy, functioning families, it makes our job easier. If they do not come to us from strong, healthy, functioning families, it makes our job more important.
-**Barbara Colorose**

From: Chris Christiansen <chrisc411@gmail.com>
Sent: Saturday, September 19, 2015 4:30 PM
To: Ripchensky, Darla (Energy)
Subject: Statement for FLREA Oversight Hearing

In 1905 President Theodore Roosevelt appointed my great grandfather, Parley Christiansen, to be among the nation's first forest rangers. His son, Aaron Christiansen, followed in his father's footsteps being a career forest ranger for the US Forest Service. Both of these men often spoke of their dedication to manage the nation's forest so that it would be accessible to all Americans for wholesome outdoor recreation. The idea of charging fees to access undeveloped sites was strongly opposed by both of them. Their interaction with the public impressed upon them the value derived by families to have free access to their forest lands.

There is no opposition to modest fees for utilizing developed campsite facilities. However, the USFS and BLM in seeking to maximize revenue from recreation fees have in many cases flagrantly violated provisions of the FLREA (as evidenced by lawsuits they have lost in court) and have made minor improvements (such as adding one table at a trailhead that no one uses for picnicking) just so that they can now charge all the hikers a recreation fee.

I have experienced these abuses first hand over recent years. For example, there is now no access point to the Lower Salt River (near Mesa, AZ) where I can park then go fishing or within parking distance of being able to carry my kayak to the river. I must pay for a Tonto Pass each time I park and don't use any of the picnic tables. At one parking area, very popular with people to access the river, there is just one table with no shade cover and is never used by anyone (who picnicks in full sun in the Arizona heat!). The table was placed there to technically meet the requirements of FLREA and then collect fees. Instead of requiring all cars parking in the lot to buy and display a Tonto Pass, only users of the picnic table should be required to display a Tonto Pass at their table. A simple pass holder could be installed on tables. Instead of checking cars for a Tonto Pass, the tables would be checked for a pass. This is in keeping with the intent of FLREA and has been supported by court cases but continues to be abused by the USFS.

The result of these abuses has reduced the number of visits I make to the Salt River. While a fee of \$6 may not seem much, it does add up for many families. Living close to the river, I would like to make frequent short visits, but with the fees I am not able to enjoy my undeveloped forest land/river as I would like too. These unnecessary fees impact my children's families usage also. I know of many more families in similar situations.

Please revise FLREA such that these abuses do not occur, keep our forest lands open to the public without fees, only charging for actual usage of developed facilities.

Thanks,

Chris Christiansen
Mesa, AZ
chrisc411@gmail.com

From: Ngcornett@aol.com
Sent: Tuesday, September 15, 2015 2:49 PM
To: Ripchensky, Darla (Energy)
Subject: Statement for FLREA Oversight Hearing

Dear Ms. Ripinsky,
 Would you please enter the statement below in the record of the Federal Lands Recreation Enhancement Act (FLREA) oversight hearing taking place on 17 September.

Nina Cornett
 Cooper Landing, Alaska

STATEMENT:

I am extremely concerned about the tendency to charge citizens for the public lands set aside for their use, about the way the fees seem to constantly increase, and about the move toward contractor management of our public lands, to which I attribute the increasing and by now outrageous fees being levied to use the lands we as a country own.

I grew up in West Virginia and now live in Alaska, both states with a wonderful outdoor heritage. Alaska in particular has marvelous public lands that we all should be able to enjoy. We can do that only so long as our public lands, which we all own and pay for through taxes, are free or reasonably priced.

That is regrettably often not the case. Even unimproved public lands are charged for in places. Furthermore, any improvement seems to be used as justification for often very high fees. If we wish to fish the Russian River near our home in Alaska, for instance, the fee for most of us is \$11 for a half-day of parking, and in practicality may amount to \$11 an hour, because most people fish for only an hour or two.

I grew up poor in West Virginia. I understand how hard it can be for the average person to pay \$11 a day for a few hours use of a parking space in the hopes of catching some fish for the winter. The very well-to-do may be able to afford frequent use of our public lands, but the great majority cannot.

It's particularly galling that that yielded parking space is sold again and again through the day, so the total income to the contractor for the twelve hours could be triple or quadruple that. No consideration is given to charging, say, \$1 per hour, levied when one exits, so that the fee matches the period of use. Such fees and practices are an unreasonable burden on citizens, and are much higher than the state of Alaska charges at its similar amenities.

Please give strong consideration to amending the Act to make our public lands more accessible to our citizens free or at a price they can afford, and put some limits on the leeway contractors have to charge for those amenities. Allowing all of us to use those lands is more important than high profits for the contractors who manage them. We look to you to protect us from unreasonable fees and practices.

From: Alasdair Coyne <sespecoyne@gmail.com>
Sent: Tuesday, September 29, 2015 11:06 PM
To: Ripchensky, Darla (Energy)
Subject: Statement for FLREA Oversight Hearing

Darla Ripchensky,

We are grateful that the Senate Energy Committee held hearings on the FLREA fee law recently, and also for the opportunity to comment on the record.

Keep Sespe Wild is a watershed organization based in the southern Los Padres National Forest in southern California. We have commented critically to previous hearings on the FLREA & Fee Demo, since 1998. In fact we testified at the first Fee Demo oversight hearing in D.C. in 1998.

Locally, fees are still being levied at trailheads for forest access. Our main trailhead to the upper Sespe Creek, Piedra Blanca trailhead, has no camping allowed, and often has 50 or more cars parked on a busy weekend. Fees are still "required" there by the Ojai Ranger District.

Other local car campgrounds - there are four - have fees levied for camping, though none of them have the 6 required amenities for fees to be charged.

Please take these situations into consideration when you write new public lands legislation to replace FLREA. We agree with all the points made by Kitty Benzar of the WSNFC.

Thank you,
 Alasdair Coyne,
 Keep Sespe Wild, Ojai Ca.

From: John Edkins <johneedkins@gmail.com>
Sent: Tuesday, September 29, 2015 11:39 PM
To: Ripchensky, Darla (Energy)
Subject: Statement on the FLREA oversight hearing

Hello Darla,
I recall in 1997 when the local Los Padres Forest Service told me that "they" were going to ask "the people" if they wanted forest fees. I laughed to myself thinking no way would the people ever want forest fees to access public lands.

Little did I know then that I would be fighting against a fleet of new USDA Forest Service police cars in the woods, extorting people to pay fees or receive phony "tickets" for non-compliance. I worked against this with grass roots public information for four years. Some friends stuck with that until the FLREA was created in 2004. Even after "6 amenities" were required by an act of Congress, the Los Padres continued to extort fees for public use of areas where the required 6 amenities were clearly not present.

Recent examples of this are the Piedra Blanca trail-head, near Ojai California, where there is no campground, and the Paradise Road access area where the Los Padres has erected a kiosk to collect fees from those who enter or bar their entry, even if they only intend to go hiking or make use of the local swimming holes. These abuses continue to this day!

After these many years, it is clear that the general public dislikes these fees for simple enjoyment of public land where there are no campgrounds or facilities maintained by the Forest Services. It is also clear that the Los Padres has no intention to stop these abuses, unless someone higher up steps in to redirect their operation. It would seem about time that someone from Congress should step in and stop this clear violation of public law by a service of the Federal Government.

Thank you kindly for your attention to this issue and especially for the opportunity to make these comments!

John Edkins
Goleta, California

From: Stephen Fleming <castolon@gmail.com>
Sent: Tuesday, September 22, 2015 5:06 PM
To: Ripchensky, Darla (Energy)
Subject: Statement for FLREA Oversight Hearing

Ms. Ripchensky, please accept my comments regarding the FLREA.

First, I am in complete agreement with and support the testimony of Kitty Benzar, President, Western Slope No-Fee Coalition on September 17, 2015, concerning the reauthorization of the Federal Lands Recreation Enhancement Act (FLREA).

Recreation.gov is a prime example of shifting responsibilities onto contractors, who then reap the benefit of additional fees (\$9 per reservation), while allowing the agencies to circumvent management responsibilities as the public must accept whatever the service fee overhead is in order to obtain a reservation. Furthermore, the setting aside of reservation-only sites solely benefits those who have the luxury of long range activity planning, while reducing the availability of first-come, first-serve sites (which for decades was the fair way to allocate use) to those who cannot plan far in advance. This reservation process needs significant revision. Better, it should be scrapped entirely.

Additionally, the USFS practice of allowing contractors to run campgrounds, where they are allowed by the USFS to ignore and refuse the various federal land passes allowing discounts on fees, is an abdication of agency authority and control. This practice should be banned immediately and the USFS required to operate their facilities in a manner benefiting the public, rather than enriching contractors.

There was comment during the hearing from Senator Maria Cantwell about the fact that the recreation-based public faces rising fees, while the resources extraction industries have no or low fees. This partially was placed in the context of the General Mining Act of 1872, but also included leasable and salable minerals in her description. Those latter categories of mineral resources do pay fees or royalties, as per their classification. Whether those fees and royalties are fair or should be raised is open to debate, but they are a current revenue source for the General Fund. The Mining Act, of course, is a wholly different thing reflecting the time of its passage. I am not opposed to changes there but Congress shows no will nor interest in acting.

However, comparing the mineral industry to recreation is not the best example the Senator could have cited. A much more applicable situation with a closer and easily understood comparison is that of the grazing industry. I have absolutely no problem with grazing, but I do have a problem with grazing fees. These fees are administratively set and grossly artificially constrained at an indefensibly low rate by direct interference from Congress. Public land grazers pay a ridiculously low rate when compared to adjacent state and private land leases, which are orders of magnitude higher. The federal grazing fees do not reflect fair market values and thus constitute a special political accommodation to a discrete user base.

Before allowing federal land agencies any renewed authority to dun folks seeking recreational opportunities, fix the broken grazing fee process. Because the fees are administratively determined all that is necessary to correct the problem is for Congress to stop interfering. As I said, I have no issue with grazing on public lands, but the state of affairs with regard to cost recovery easily highlights the criticism of "welfare ranchers."

With respect to recreation fees in general, the authorization of the Fee Demo program almost two decades ago created a situation where a "test" almost immediately was perverted into an ever-expanding lust for easy money.

The underlying premise of determining success via public acceptance and efficiency of collection was completely ignored. The outcome was foretold.

As soon as agencies understood they had an unfettered hand "success" was assured, and quickly morphed to increasing the number of sites and cost because the idea could not otherwise be sustained. Thus, we have the abomination today of agencies functioning like drug addicts for more and more money that Congress will not otherwise provide, and agency behavior Congress will not rein in. Amazingly, the US Forest Service even blatantly ignores Federal Court decisions and orders relating to fee programs, operating in contempt of Court.

As Ms. Benzar noted in her testimony: "Any reform or revision of FLREA must be crystal clear as to what fees are allowed and, even more importantly, what fees are not." The agencies must be held accountable.

With respect to the National Park Service, this is an agency completely out of control when it comes to fees. NPS fees are everywhere and they are expanding in scope and price. Recently, many western parks have upped the entrance fee to at least \$25. This simply is outrageous. Unfortunately, the other federal land agencies look at this gouging of the public and understandably think they can do likewise.

I almost never go to NPS areas, and only repeatedly visit a single park when I do. It only partly is the fee situation, which I easily can pay, but absolutely detest; while many others cannot afford and thus are denied access to "their" parks. The other reason I do not go to NPS areas is due to the crushing and excessive regulatory mentality of that agency, resulting in parks apparently being managed for the benefit of employees and not the public.

Consequently, I use BLM and USFS lands to the exclusion of other areas. The BLM and USFS have a far less intrusive management process in general, but unfortunately that too is changing. With the continual creep of fees we rapidly are losing our ability to use the public lands. These agencies apparently do not understand they critically rely upon the support of the public. When the public is priced out of the outdoors who and what interests will the agencies serve?

Stephen Fleming
Special Agent (Criminal Investigator), Retired
Bureau of Land Management
Los Lunas NM

From: Rich Fragosa <richfragosa@gmail.com>
Sent: Friday, October 02, 2015 12:11 AM
To: Ripchensky, Darla (Energy)
Subject: FLREA

Dear Chief Clerk Ripchensky,

I hope I'm not too late to submit comments regarding the recent hearing on FLERA.

I just wanted to let the Committee know how unhappy I am with the current fee system the Forest Service has setup on some of the wildlands that I hold dear.

Some of my earliest memories are of the Lower Santa Ynez area along Paradise Road in the Los Padres Forest. These memories are of swimming, hiking, and fishing along the amazing Santa Ynez River. I remember, as a child, the forest rangers and seeing them as keepers of the forest. My grandfather used to tell me that the forest belongs to everyone and we must respect it as a sacred place. We used to wave to the rangers as they would work the area as you would expect a ranger to do. They were approachable and seemed to enjoy what they were doing for us. This feeling of respect I felt for the forest and forest service rangers continues into my adult life as well.

But that has all now changed... Those friendly rangers are now unfriendly and rude. Don't believe me? Just try calling the office and ask about something (You'll have to pretend you're not working in Washington of course 8)). You'll get very short answers that lack all enthusiasm and make you feel you are wasting their time. And God forbid you question them on something... I can't remember the last time I actually saw a ranger in field working the Santa Ynez. They don't do that anymore.

They now have sold this land I love so much off to a private concessionaire who now expect me to pay them to collect fees that don't even go back to the area. They have a poor attitude toward the public and see us as their revenue stream. All they want is the money. Since there is a concessionaire in place the rules that apply to the FS don't apply to them and they have turned this place into a place of business - complete with a manned kiosk where everyone is stopped and made to pay 5 dollars to enter the 'park'. Well it's not a dam park! It's my sacred land that was promised to me, by the great Theodore Roosevelt, long before our government got in bed with private interest and money and allowed this to take place.

I no longer go to the Santa Ynez.

It doesn't stop there. The FS has gotten so rotten that they will do things like put a picnic table, a porta-potty, and some signs just so they can justify charging a fee! There are dozens of sites like this in Southern California where you will find an old broken table that is only there to meet the fee requirement and the FS knows that no one will ever use it to have a picnic. These sites are usually an entrance to a trail head. Just one example of how they abuse the FLREA.

How could this committee stand idle and allow this to happen all over the country? It really sickens me.

Won't you help the public for a change? We have been really taking a beating for decades now and we need some relief from the 'Charge Happy' forest service. And it's all rooted in our government's severe mismanagement of money it takes in from its citizens. We pay and get the shaft in exchange.

Please put an end to this. This really discourages me from taking my children to the forest! I don't go to the forest to get a bill. We're not all made of money you know...

Sincerely,

Rich Fragosa
706 Mercer Ave
Ojai, CA
93023

From: Mark Gall <gmarmot1@hotmail.com>
Sent: Tuesday, September 15, 2015 2:07 PM
To: Ripchensky, Darla (Energy)
Subject: New Land Use fees

STATEMENT for FLREA OVERSIGHT HEARING

As a retired National Park and BLM law enforcement ranger and Federal public land user, I hope that you see fit to cease all thoughts about new recreational public lands user fees. From my personal experience within the Federal Government, land use fees will cost a huge amount to oversee, and will place a completely unreasonable tax on the public land recreational enjoyers. Many of us simply go out for a walk on these lands, and we are not an extractive industry. Having also done law enforcement for BLM, I know that the number of law enforcement rangers is tiny compared to the land area, and they should not be saddled with this absurd responsibility.

Why have cattle grazing fees remained virtually unchanged for many decades while private land grazing fees are now up to 10 times the Federal fee amount? Why are timber and mining fees so minuscule, that it sometimes costs the Federal Government more to administer (and build roads) than they receive in fees? Some on your committee are attempting to extract money from a relatively easy source, while the main players in this get off without charges.

Thank You

Mark Gall

4044 Cerrillos Rd

Santa Fe, NM 87507

gmarmot1@hotmail.com

505-930-6675

From: Matt Goetsch <greysageone@gmail.com>
Sent: Friday, September 18, 2015 4:08 PM
To: Ripchensky, Darla (Energy)
Subject: FLREA hearing comments

Darla Ripchensky, PMP
Chief Clerk
U.S. Senate Committee on Energy and Natural Resources
Darla_Ripchensky@energy.senate.gov

Dear Ms. Ripchensky,

Please add my comments to the FLREA matter before the Committee on Energy and Natural Resources.

The FLRE Act and associated fees are a bad idea which needs to be sunsetted out of existence. The fees force the public to pay twice for using their public lands which the government manages on their behalf; note the term "manages", not "owns". We already support the management of these lands through taxes, and corporations making money off the natural resources pay fees which support these lands. It is ridiculous that a citizen using federal public lands with little to no impact and no pecuniary gain should be forced to pay twice just to access and enjoy the lands.

Several times my family has stopped alongside national forest and BLM roads only to have a ranger stop and demand a cash fee payment immediately, under threat of fines and worse, because simply being on public lands is a fee use. FLREA fees are extortion.

Further, basic inexpensive amenities which require no maintenance should not be subject to a fee. For example, a fire ring at a camping area which will serve its purpose for 50-100 years should not be cause for a fee.

However, the traditional fees are justifiable at specific individual recreation sites which engender very significant costs to provide and operate. But those fees existed long before the FLREA and were reasonable. The FLREA has turned our public lands into an extortionist racket, a business which chases away the very people who collectively own the public lands.

I urge you to let the FLREA sunset into history as the bad idea it is.

Sincerely,

Matt Goetsch
1604 Dover Rd
Montrose, CO 81401

From: k gray <simplygraydesign@gmail.com>
Sent: Wednesday, September 23, 2015 4:30 PM
To: Ripchensky, Darla (Energy)
Subject: Statement for FLREA Oversight Hearing

Darla Ripchensky, PMP
Chief Clerk
U.S. Senate Committee on Energy and Natural Resources

Hello Ms. Ripchensky,

Certainly the privatization of public lands affects us here in the Front Range of Colorado and I wanted to reach out to you before the Sept 30th deadline for public comment.

To reach our local wilderness area, The Indian Peaks Wilderness, we drive through the Brainard Lake Recreation Area where the concessionaire, American Land and Leisure, charges a \$10 use fee to cross 'their' land and park at the USDA trailheads to the west. Even if you do not put one foot down inside the recreation area, you are charged to use the public road that traverses it.

Please put the common sense back into the fee structure and urge the USDA not to contract out their obligations in the stewardship of public lands. This is an excellent time to encourage citizens to visit and enjoy the American outdoors. It would be a good thing for both us and the environment.

Thank you,

Kurt Gray
3291 West 10th Ave Place
Broomfield CO 80020

From: L. Hall <lidiha@rocketmail.com>
Sent: Tuesday, September 15, 2015 5:55 PM
To: Ripchensky, Darla (Energy)
Subject: Statement for FLREA Oversight Hearing

Hello!

Just a few thoughts and concerns to share with you before you head into the hearings:

1. I have been a hiker, biker, skier for over 40 years, mostly in Oregon. It embarrasses, saddens, and frustrates me to think our nation decided to charge fees for using our OWN public lands to play on. I sincerely believe off road vehicles do way more damage than I and my friends have EVER done.

2. Last year friends bought us a 'Snow park' permit, required for most parking areas to ski here in central OR. With the snow conditions the way they were last winter we skied ONCE! And we parked in the MT. Bachelor parking lot where the pass was not required. Therefore the purchase of the pass was not needed at all for last season.

Can we (our friends) get their money back?! :-)

Thanks for listening,
Sincerely,
Linda Hall
Redmond,OR

From: Norm Henderson <nhenderson2179@gmail.com>
Sent: Friday, September 25, 2015 1:50 AM
To: Ripchensky, Darla (Energy)
Subject: Utah Public Lands Initiative legislative proposal
Attachments: Federal-Designation-Draft-Legislation-0911151.pdf; Federal-Designation-Proposed-Map1.pdf

Please find enclosed proposed new legislation by the Mountain Accord group here in Utah which designates a new US Forest Service land management unit (1000s of acres) in Wasatch front area of Utah. It appears that this initiative is intended to become part of the Utah Public Lands Initiative being sponsored by Representative Rob Bishop of Utah. The legislation is designed to bypass entirely the new fee authority being contemplated by the Senate Energy and Natural Resources committee (FLREA). It provides separate authority for USFS to collect fees for simple access (hiking, fishing, skiing, boating, camping) even for transport through the new area on a state highway. It would authorize the USFS to collect fees even from property owners living within the unit boundaries to access their own private property. Collecting fees for simple access to public lands and to a property owners private land is contrary to the spirit of FLREA and promotes an anti citizen attitude by our federal land management agencies.

This legislation gives the committee a glimpse of what the federal agencies are capable of and might do nationwide if given carte blanche fee authority by congress. Please enter this proposal and my email comment on the proposal into the record for the FLREA hearing on September 17, 2015. I urge the committee to pass new fee authority that prohibits federal agencies from collecting fees for simple access to our federal lands by the public.

For an update on the status of the Utah Public Lands initiative and this proposed legislation, I suggest you contact Representative Rob Bishops office.

Norm Henderson



Draft Federal Designation Legislation

1 **SEC. 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE. This Act may be cited as the “___ of 2015”.

3 (b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

4 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

5 SECTION 2. DEFINITIONS.

6 SECTION 3. [Designation].

7 SECTION 4. [Designation] ADVISORY COUNCIL.

8 SECTION 5. LAND OWNERSHIP AND PERMIT BOUNDARY ADJUSTMENTS.

9 SECTION 6. WILDERNESS.

10 SECTION 7. WHITE PINE SPECIAL MANAGEMENT AREA.

11 **SECTION 2. DEFINITIONS.** In this Act:12 (1) ADVISORY COUNCIL.—The term “advisory council” means the [Designation]
13 Advisory Council established by section 4(a).14 (2) [DESIGNATION].—The term “[Designation]” means the [Designation] established
15 by section 3(a).16 (3) FOREST PLAN.—The term “forest plan” means the 2003 Revised Forest Plan
17 Wasatch-Cache National Forest dated March 2003.18 (4) MANAGEMENT PLAN.—The term “management plan” means the management
19 plan for the [Designation] developed under section 3(c).

20 (5) MAP.—The term “map” means the map entitled “[Short Title]” and dated ____.

21 (6) MOUNTAIN ACCORD.—The term “Mountain Accord” means the Mountain
22 Accord agreement dated ____.

23 (7) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

24 (8) STATE.—The term “State” means the State of Utah.

Draft Federal Designation Legislation

1 **SECTION 3. [Designation]**

2 (a) ESTABLISHMENT.—

3 (1) IN GENERAL.—Subject to valid existing rights, there is established the
 4 [Designation] in the State.

5 (2) AREA INCLUDED.—The [Designation] shall consist of approximately XXX acres
 6 of Federal land as generally depicted on the map as “Proposed [Designation]”.

7 (3) MAP; LEGAL DESCRIPTION.—

8 (A) IN GENERAL.—As soon as practicable after the date of enactment of this
 9 Act, the Secretary shall file a map and legal description of the
 10 [Designation] with the—

- 11 (i) Committee on Energy and Natural Resources of the Senate; and
- 12 (ii) Committee on Natural Resources of the House of Representatives.

13 (B) LEGAL EFFECT.—The map and legal description filed under subparagraph
 14 (A) shall have the same force and effect as if included in this section,
 15 except that the Secretary may correct typographical errors in the map and
 16 legal description.

17 (C) AVAILABILITY OF MAP AND LEGAL DESCRIPTION.—The map and legal
 18 description prepared under subparagraph (A) shall be on file and
 19 available for public inspection in the appropriate offices of the Forest
 20 Service.

21 (b) PURPOSES.—The purposes of the [Designation] are to—

- 22 (1) conserve and protect the ecological, natural, scenic, wilderness, cultural, historical,
- 23 geological, and wildlife values within the [Designation];

Draft Federal Designation Legislation

- 1 (2) protect, enhance, and restore the water quality and watershed resources in the
- 2 [Designation]; and
- 3 (3) conserve and protect the existing allocation of quality recreation opportunities
- 4 within the [Designation].

5 (c) MANAGEMENT PLAN.—

- 6 (1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act and
- 7 in accordance with paragraph (2), the Secretary shall develop a comprehensive
- 8 plan for the long-term management of the [Designation].
- 9 (2) CONSULTATION.—In developing the management plan required under paragraph
- 10 (1), the Secretary shall consult with—
- 11 (A) appropriate State, tribal, and local governmental entities;
- 12 (B) the advisory council; and
- 13 (C) members of the public.
- 14 (3) INCORPORATION OF PLANS.—In developing the management plan required under
- 15 paragraph (1), to the extent consistent with this Act, the Secretary may
- 16 incorporate any provision of—
- 17 (A) the forest plans;
- 18 (B) Mountain Accord; and
- 19 (C) local plans.
- 20 (4) ALBION BASIN SPECIAL BOTANICAL AREA.—In developing the management plan
- 21 required under paragraph (1), the Secretary shall evaluate, and if appropriate,
- 22 designate the Albion Basin Special Botanical Area as one of the finest and rarest

Draft Federal Designation Legislation

examples of Subalpine Forb ecological systems in northern Utah; and other areas of special interest.

(d) MANAGEMENT.—

(1) IN GENERAL.—The Secretary shall manage the [Designation]—

(A) in a manner that conserves, protects, and enhances the resources of the [Designation];

(B) ensures protection of environmentally sensitive areas and watershed resources;

(C) does not allow ski area permit boundary expansion beyond what is authorized on the date of the enactment of this Act, as depicted on the map;

(D) provides for adaptive management of resources and restoration of damaged resources; and

(E) in accordance with—

(i) the laws (including regulations) and rules applicable to the National Forest System; and

(ii) this section.

(2) USES.—The Secretary shall only allow uses of the [Designation] that the Secretary determines would further the purposes described in subsection (b).

(3) ADJACENT MANAGEMENT.—

(A) IN GENERAL.—The designation of the [Designation] shall not create a protective perimeter or buffer zone around the [Designation].

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1 (B) EFFECT.—The fact that an activity or use on land outside the
 2 [Designation] can be seen or heard from areas within the [Designation]
 3 shall not preclude the activity or use outside the boundary of the
 4 [Designation].

5 (4) MOTORIZED AND MECHANIZED VEHICLES.—

6 (A) IN GENERAL.—Except as provided in subparagraph (C), the use of
 7 motorized and mechanized vehicles in the [Designation] shall be
 8 permitted only on roads, trails, and areas designated for use by such
 9 vehicles by the management plan.

10 (B) NEW OR TEMPORARY ROADS.—Except as provided in subparagraph (C),
 11 no new or temporary roads shall be constructed within the [Designation].

12 (C) EXCEPTION.—Nothing in subparagraph (A) or (B) prevents the Secretary
 13 from—

14 (i) authorizing the use of motorized vehicles for administrative
 15 purposes, or

16 (ii) responding to an emergency.

17 (5) WITHDRAWAL.—Subject to valid existing rights, all Federal land located in the
 18 [Designation] are withdrawn from—

19 (A) all forms of entry, appropriation, and disposal under the public land laws;

20 (B) location, entry, and patenting under the mining laws; and

21 (C) disposition under the mineral leasing, mineral materials, and geothermal
 22 leasing laws.

23 (6) ACQUISITION OF LAND.—

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- 1 (A) IN GENERAL.—The Secretary may acquire land or interests in land within
 2 the boundaries of the [Designation] only through exchange, donation, or
 3 purchase from a willing seller.
- 4 (B) INCORPORATION OF ACQUIRED LAND AND INTERESTS.—Any land or
 5 interest in land that is located in the [Designation] that is acquired by the
 6 United States shall—
- 7 (i) become part of the [Designation];
 8 (ii) be managed in accordance with—
 9 (I) the laws (including regulations) and rules applicable to the
 10 National Forest System; and
 11 (II) this section; and
 12 (iii) be withdrawn according to paragraph (5) on the date of
 13 acquisition of the land.
- 14 (7) FEES.—Notwithstanding any other provision of law, the Forest Service is
 15 authorized to assess reasonable fees for admission to, and the use and occupancy
 16 of, the [Designation]. Provided, That admission fees and any fees assessed for
 17 recreational activities shall be applied to operations, maintenance and
 18 improvements of the [Designation] and implemented only after public notice and
 19 a period of not less than 60 days for public comment.
- 20 (8) VEGETATION MANAGEMENT.—Nothing in this Act prohibits the Secretary from
 21 conducting vegetation management projects within the [Designation]—
 22 (A) subject to—

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- 1 (i) such reasonable regulations, policies, and practices as the
2 Secretary determines appropriate; and
3 (ii) all applicable laws (including regulations); and
4 (B) in a manner consistent with the purposes described in subsection (b).
- 5 (9) WILDLAND FIRE.—Nothing in this section prohibits the Secretary, in cooperation
6 with other Federal, State, and local agencies, as appropriate, from conducting
7 wildland fire operations in the [Designation], consistent with the purposes
8 described in subsection (b).
- 9 (10) AVALANCHE CONTROL.—The Secretary shall allow access and avalanche control
10 devices to be installed and maintained within or adjacent to the [Designation] to
11 protect public health and property and in accordance with the management plan.
- 12 (11) AUTHORIZED ACTIVITIES.—
- 13 (A) IN GENERAL.—The Secretary may allow any activities authorized by
14 permit or license as of the date of enactment of this Act to continue
15 within the [Designation] that are consistent with the purposes described
16 in subsection (b) and subject to such terms and conditions as the
17 Secretary may require.
- 18 (B) PERMITTING.—This act does not affect the process by which activities
19 authorized by permit or license as of the date of enactment of this Act
20 may be authorized or reauthorized.
- 21 (12) FACILITIES.—
- 22 (A) DEFINITION.—In this subsection, the term “facility” means a water
23 resource, flood control, utility, pipeline, or telecommunications facility.

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- 1 (B) EXISTING FACILITIES.—Nothing in this section affects the operation or
 2 maintenance of an existing facility located within the [Designation].
- 3 (C) EXPANSION AND NEW FACILITIES.—Nothing in this section prohibits the
 4 Secretary from authorizing the expansion of an existing facility or the
 5 construction of a new facility within the [Designation] subject to—
 6 (i) such reasonable regulations, policies, and practices as the
 7 Secretary determines appropriate; and
 8 (ii) all applicable laws (including regulations); and
 9 (iii) in a manner consistent with the purposes described in subsection
 10 (b).
- 11 (13) TRANSPORTATION.— *[placeholder for transit / 4(f) provision]*
- 12 (e) WATER RIGHTS.—Nothing in this section—
 13 (1) constitutes an express or implied reservation of water or water rights by the
 14 United States for any purpose;
 15 (2) shall affect any water rights in the State existing on the date of enactment of this
 16 Act, including any water rights held by the United States;
 17 (3) shall be construed as limiting, altering, modifying, or amending any of the
 18 interstate compacts or equitable apportionment decrees that apportion water
 19 among and between the State and other States.
- 20 (f) FISH AND WILDLIFE.—Nothing in this section affects the jurisdiction of the State with
 21 respect to fish and wildlife.

22 SECTION 4. [Designation] ADVISORY COUNCIL

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- 1 (a) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the
2 Secretary shall establish an advisory council, to be known as the “[Designation]
3 Advisory Council”.
- 4 (b) DUTIES.—The Council shall advise the Secretary with respect to the preparation of the
5 management plan.
- 6 (c) MEMBERSHIP.—
- 7 (1) IN GENERAL.—The advisory council shall include ten members, to be appointed
8 by the Secretary, with backgrounds that reflect—
- 9 (A) the purposes specified in section 3(b); and
- 10 (B) the interest of persons affected by the planning and management of the
11 [Designation], including persons representing the local governmental,
12 water supply, conservation, dispersed recreation, developed recreation, or
13 other non-Federal land interests.
- 14 (2) BALANCED REPRESENTATION.—The Secretary shall ensure that the membership
15 of the advisory council is fairly balanced in terms of the points of view
16 represented and the functions to be performed by the advisory council.
- 17 (d) APPLICABLE LAW.—The advisory council shall be subject to—
- 18 (1) the Federal Advisory Committee Act (5 U.S.C. App.); and
- 19 (2) other applicable law (including regulations).
- 20 (e) TERMS.—
- 21 (1) STAGGERED TERMS.—Members of the public advisory council shall be appointed
22 for terms of 3 years, except that, of the members first appointed, 3 of the

Draft Federal Designation Legislation

1 members shall be appointed for a term of 1 year and 3 of the members shall be
 2 appointed for a term of 2 years.

3 (2) REAPPOINTMENT.—A member may be reappointed to serve on the public
 4 advisory council upon the expiration of the member's current term.

5 (3) VACANCY.—A vacancy on the public advisory council shall be filled in the same
 6 manner as the original appointment.

7 (f) QUORUM.—A quorum shall be six members of the advisory council. The operations of
 8 the advisory council shall not be impaired by the fact that a member has not yet been
 9 appointed as long as a quorum has been attained.

10 (g) CHAIRPERSON AND PROCEDURES.—The advisory council shall elect a chairperson and
 11 establish such rules and procedures as it deems necessary or desirable.

12 (h) SERVICE WITHOUT COMPENSATION.—Members of the advisory council shall serve
 13 without pay.

14 (i) TERMINATION.—The advisory council shall terminate on the later of—

15 (1) the date that is 5 years after the date on which the management plan is officially
 16 adopted by the Secretary; or

17 (2) on such later date that the Secretary determines to be appropriate.

18 SECTION 5. LAND OWNERSHIP AND PERMIT BOUNDARY ADJUSTMENTS.

19 (a) GENERAL.—The Act provides for the potential exchange of specific National Forest
 20 System land for specific non-Federal land. The Act prevents Ski Area expansion not
 21 authorized on the date of the enactment of this Act. The Act provides for specific and
 22 limited adjustments to existing ski area boundaries.

23 (b) [NAME OF SINGLE ENTITY] LAND EXCHANGE.—

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- 1 (1) DEFINITIONS.—In this subsection:
- 2 (A) FEDERAL LAND.—The term “Federal land” means the approximately
- 3 XXX acres of National Forest System land in the State, identified as
- 4 “___” on the map.
- 5 (B) NON-FEDERAL LAND.—The term “non-Federal land” means the parcel of
- 6 approximately XXX acres of private land identified as “___” on the map
- 7 and listed below.
- 8 (i) Approximately XXX acres of private land owned by Snowbird
- 9 Ski Lift.
- 10 (ii) Approximately XXX acres of private land owned by Alta Ski Lift.
- 11 (iii) Approximately XXX acres of private land owned by Brighton Ski
- 12 Lift.
- 13 (iv) Approximately XXX acres of private land owned by Solitude Ski
- 14 Lift.
- 15 (2) CONVEYANCE OF LAND.—Subject to the provisions of this subsection, if [Name
- 16 of Single Entity] offers to convey to the United States all right, title, and interest
- 17 of [Name of Single Entity] in and to the non-Federal land, the Secretary shall
- 18 convey to [Name of Single Entity] all right, title, and interest of the United States
- 19 in and to the Federal land, subject to valid existing rights.
- 20 (3) COMPLIANCE WITH EXISTING LAW.—Except as otherwise provided in this
- 21 subsection, the Secretary shall carry out the land exchange under this subsection
- 22 in accordance with section 206 of the Federal Land Policy and Management Act
- 23 of 1976 (43 U.S.C. 1716).

Draft Federal Designation Legislation

1 (4) CONDITIONS ON ACCEPTANCE.—

2 (A) TITLE.—As a condition of the land exchange under this subsection, title
 3 to the non-Federal land to be acquired by the Secretary under this
 4 subsection shall be acceptable to the Secretary.

5 (B) TERMS AND CONDITIONS.—The conveyance of the Federal land and non-
 6 Federal land shall be subject to such terms and conditions as the Secretary
 7 may require.

8 (5) APPRAISALS.—

9 (A) IN GENERAL.—As soon as practicable after the date of enactment of this
 10 Act, the Secretary and [Name of Single Entity] shall select an appraiser to
 11 conduct an appraisal of the Federal land and non-Federal land.

12 (B) REQUIREMENTS.—An appraisal under paragraph (A) shall be conducted
 13 in accordance with nationally recognized appraisal standards, including—

- 14 (i) The Uniform Appraisal Standards for Federal Land Acquisitions;
 15 and
 16 (ii) The Uniform Standards of Professional Appraisal Practice.

17 (C) COSTS.—The responsibility for the costs of appraisal and any associated
 18 administrative costs of appraisal conducted under paragraph (B) for
 19 purposes of carrying out the land exchange shall be covered by [Name of
 20 Single Entity].

21 (6) SURVEYS AND TITLE WORK.—

Draft Federal Designation Legislation

1 (A) IN GENERAL.—As soon as practicable after the date of enactment of this
 2 Act, the Secretary and [Name of Single Entity] shall select surveyors to
 3 conduct surveys of the Federal land and non-Federal land.

4 (B) REQUIREMENTS. The exact acreage and legal description of the Federal
 5 land and non-Federal land shall be determined by boundary surveys of the
 6 lands to be exchanged. The boundaries will be surveyed and
 7 monumented as required by the Secretary.

8 (C) COSTS.—The responsibility for the costs of any surveys conducted under
 9 paragraph (A), any title work including but not limited to any abstracts,
 10 title reports, escrow fees, and any other administrative costs of carrying
 11 out the land exchange, shall be determined by the Secretary and by
 12 [Name of Single Entity].

13 (7) VALUATION AND EQUALIZATION.—

14 (A) IN GENERAL.—The value of the Federal land and non-Federal land to be
 15 exchanged under this subsection—

16 (i) shall be equal, as determined by appraisals conducted in
 17 accordance with paragraph (5); or

18 (ii) if not equal, may be equalized by a cash equalization payment in
 19 the manner provided in section 206(b) of the Federal Land Policy
 20 and Management Act of 1976 (43 U.S.C. 1716(b)); or

21 (iii) if not equal, the acreage of the Federal land or the non-Federal
 22 land may be reduced to achieve equalization, as appropriate.

23 (8) DISPOSITION OF PROCEEDS.—

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(A) IN GENERAL.—The Secretary shall deposit in the fund established under Public Law 90-171 (commonly known as the Sisk Act; 16 U.S.C. 484a) any amount received by the Secretary as the result of any cash equalization payment made under subparagraph (7)(A)(ii).

(B) USE OF PROCEEDS.—Amounts deposited under paragraph (A) shall be available to the Secretary, without further appropriation and until expended, for the acquisition of lands and interests in lands in the [Designation].

(9) REVOCATION OF ORDERS; WITHDRAWAL.—

(A) REVOCATION OF ORDERS.—Any public order withdrawing the Federal land from entry, appropriation, or disposal under the public land laws is revoked to the extent necessary to permit the conveyance of the Federal land to [Name of Single Entity].

(B) WITHDRAWAL.—On the date of enactment of this Act, if not already withdrawn or segregated from entry and appropriation under the public land laws (including the mining and mineral leasing laws) and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.), the Federal land is withdrawn until the date of the conveyance of the Federal land to [Name of Single Entity].

(10) HAZARDOUS MATERIALS.—

(A) IN GENERAL.—In any conveyance of land under this Act, the Secretary shall meet disclosure requirements for hazardous substances, pollutants, or contaminants, but shall otherwise not be required to remediate or abate

Draft Federal Designation Legislation

1 such substances. Furthermore, any party described in Paragraph 11.B.,
2 which acquires property conveyed under this Act must agree to indemnify
3 and hold harmless the United States for any costs associated with
4 remediating or abating any hazardous substances, pollutants, or
5 contaminants located on, or being released from, the land conveyed under
6 this Act, and restore and injured or lost natural resources.

7 (B) ENVIRONMENTAL SITE ASSESSMENT.—The Secretary and, as a condition
8 of the exchange, the State, shall make available for review and inspection
9 any record relating to hazardous materials on the land to be exchanged
10 under this Act. Prior to the conveyance of federal or non-federal lands,
11 [Name of Single Entity] shall conduct an Environmental Site Assessment
12 of the lands proposed for conveyance, that meets the requirements set
13 forth in ASTM E1527-13, for both land to be conveyed to or from the
14 United States, and provide such reports to the Secretary.

15 (C) COSTS.—The costs of any response action or restoration of injured natural
16 resource relating to hazardous materials on land acquired under this Act
17 shall be paid by those entities listed in paragraph 11.B. No claim shall be
18 made against the United States by any party listed in Paragraph 11.B. for
19 any costs associated with the any land conveyed under this Act.

20 (D) FEDERAL PARCELS.—Notwithstanding 42 U.S.C. 9601 et seq. the
21 Secretary is only required to comply with the requirements set forth in 42
22 U.S.C. 9620(h)(1), but not otherwise required to comply with any other

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provisions of 42 U.S.C. 9620(h) for land conveyed to a party listed in
Paragraph 11.B.

(11) DEADLINE FOR COMPLETION OF LAND EXCHANGE.—It is the intent of Congress
that the land exchange under this subsection shall be completed not later than 36
months after the date the proposal from the non-federal party is accepted by the
Secretary.

(c) PERMIT BOUNDARY ADJUSTMENTS. —

SECTION 6. WILDERNESS.

(a) MOUNT OLYMPUS WILDERNESS BOUNDARY ADJUSTMENT.—Section 102(a) of the Utah
Wilderness Act of 1984 (Public Law 98-428; 98 Stat. 1658; 16 U.S.C. 1132 note) is
amended in paragraph (3), as generally depicted on the map, by—

(1) striking “sixteen thousand acres” and inserting “XXX acres”; and

(2) striking “, dated August 1984” and inserting “and dated ____”.

(b) TWIN PEAKS WILDERNESS BOUNDARY ADJUSTMENT.—Section 102(a) of the Utah
Wilderness Act of 1984 (Public Law 98-428; 98 Stat. 1658; 16 U.S.C. 1132 note) is
amended in paragraph (4), as generally depicted on the map, by—

(1) striking “thirteen thousand one hundred acres” and inserting “XXX acres”; and

(2) striking “, dated June 1984” and inserting “and dated ____”.

(c) LONE PEAK WILDERNESS ADDITION AND BOUNDARY ADJUSTMENT.—Subject to valid
existing rights, the boundary of the Lone Peak Wilderness is adjusted to include the
approximately XXX acres of land, as generally depicted on the Map, for addition to the
Lone Peak Wilderness. The Endangered American Wilderness Act of 1978 (Public Law

Draft Federal Designation Legislation

1 95-237) shall apply to the land added to the Lone Peak Wilderness pursuant to this
2 subsection.

3 (d) WAYNE OWENS GRANDEUR PEAK / MOUNT AIRE WILDERNESS.—

4 (1) IN GENERAL.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.),
5 the following Federal land in the State is designated as wilderness as a new
6 component of the National Wilderness Preservation System:

7 (A) WAYNE OWENS GRANDEUR PEAK / MOUNT AIRE WILDERNESS.—Certain
8 lands comprising approximately XXX acres, as generally depicted on the
9 map, which shall be known as the “Wayne Owens Grandeur Peak /
10 Mount Aire Wilderness”.

11 (2) MANAGEMENT OF WILDERNESS.—Subject to valid rights in existence on the date
12 of the enactment of this Act, land designated as wilderness by paragraph (1) shall
13 be administered by the Secretary in accordance with the Wilderness Act (16
14 U.S.C. 1131 et seq.), except that any reference in the Wilderness Act to the
15 effective date of the Wilderness Act shall be deemed to be a reference to the date
16 of the enactment of this Act.

17 (3) WILDFIRE, INSECT, AND DISEASE MANAGEMENT.—In accordance with section
18 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)), within the wilderness
19 additions designated by this subsection, the Secretary may take any measures that
20 the Secretary determines to be necessary to control fire, insects, and diseases,
21 including as the Secretary determines as appropriate, the coordination of these
22 activities with a State or local agency.

23 (4) ADJACENT MANAGEMENT.—

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1 (A) IN GENERAL.—The designation of a wilderness addition by this subsection
 2 shall not create any protective perimeter or buffer zone around the
 3 wilderness area.

4 (B) NONWILDERNESS ACTIVITIES.—The fact that nonwilderness activities or
 5 uses can be seen or heard from the areas within a wilderness addition
 6 designated by this subsection shall not preclude the conduct of those
 7 activities or uses outside the boundary of the wilderness area.

8 **SECTION 7. WHITE PINE SPECIAL MANAGEMENT AREA.**

9 (a) DESIGNATION.—Subject to valid existing rights, certain lands comprising approximately
 10 XXX acres are established as a special management area within the [Designation], as
 11 generally depicted on the Map, which shall be known as the “White Pine Special
 12 Management Area.”

13 (b) MAPS; LEGAL DESCRIPTIONS.—

14 (1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the
 15 Secretary shall file a map and legal description of the [Designation] with the—

16 (A) Committee on Energy and Natural Resources of the Senate; and

17 (B) Committee on Natural Resources of the House of Representatives.

18 (2) LEGAL EFFECT.—The map and legal description filed under subparagraph (A)
 19 shall have the same force and effect as if included in this section, except that the
 20 Secretary may correct typographical errors in the map and legal description.

21 (3) AVAILABILITY OF MAP AND LEGAL DESCRIPTION.—The map and legal description
 22 prepared under paragraph (1) shall be on file and available for public inspection
 23 in the appropriate offices of the Forest Service.

Draft Federal Designation Legislation

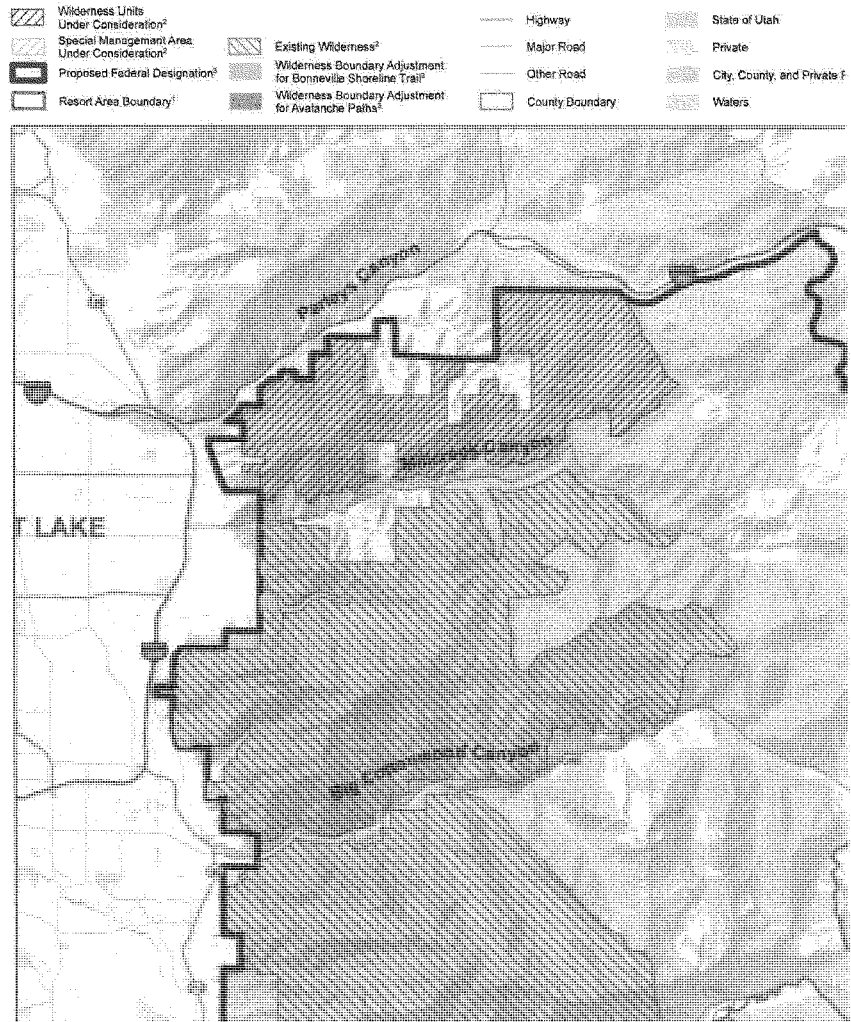
1 (c) MANAGEMENT.—

2 (1) IN GENERAL.—The Secretary shall manage the special management area
3 established by subsection (A) to maintain the presently existing wilderness
4 character of the special management area and the potential for inclusion of the
5 area in the National Wilderness Preservation System.
6
7

DRAFT



FEDERAL DESIG



From: Norm Henderson
To: nfo_comments@blm.gov
Cc: [Blachensky_Daria_\(Enerov\); nkornze@blm.gov; rvelch@blm.gov; gshoop@blm.gov](mailto:Blachensky_Daria_(Enerov); nkornze@blm.gov; rvelch@blm.gov; gshoop@blm.gov)
Subject: Salida East BLM dispersed camping area
Date: Wednesday, October 07, 2015 8:46:05 PM

Please add my name to those vehemently opposed to the BLM transferring control of the Salida East Dispersed Camping Area to the state of Colorado. This transfer sets a dangerous precedent of relinquishing federal control of our most cherished public lands to the states. By relinquishing federal control to the state of Colorado, the state would then be able to implement fees for simple access to and dispersed camping along the Arkansas river. By so doing the BLM will be circumventing (much like the USFS has done on forest lands) both the spirit and letter of the Federal Lands Recreation Enhancement Act (FLREA) which specifically prohibits BLM from collecting fees from the public for simple access and dispersed camping when no amenities are provided. Other states are watching. If this proposal is implemented, look for other states to propose the same thing at popular recreation and special use areas on public lands.

Getting general public support for this proposal would seem impossible since the voices objecting to state ownership of public lands in the west have been numerous and very public.

Shame on the BLM leadership for allowing this proposal to move forward. I believe that it is the job of the federal land management agencies to protect the peoples interest in our public lands. Turning them over to an outside entity to make money from the public does not serve our interest.

Norm Henderson
Brighton, Utah

From: Dick Holliday <dickholliday@charter.net>
Sent: Wednesday, September 23, 2015 10:38 PM
To: Ripchensky, Darla (Energy)
Cc: Terry Camp; Erica Rhoad
Subject: Statement for FLREA Oversight Hearing
Attachments: HR 5402 SRP suggestions.docx

September 24, 2015

Darla Ripchensky, PMP
 Chief Clerk
 U.S. Senate Committee on Energy and Natural Resources

Comments on the Federal Lands Recreation Enhancement Act (FLREA) and its proposed renewal.

I have submitted comments to the House Resources committee on their proposed legislation for the renewal of the FLREA program. I will summarize my comments here and include a copy of my comments to this email.

My first concern with the proposed language in the draft house bill is with the addition of an "Individual Special Recreation Permit" (ISRP) fee. Currently several Bureau of Land Management (BLM) sites in California charge what they call an ISRP fee. While there is no such definition in the current law the inclusion of this new definition is probably a good thing. The problem with the draft language of the house bill is that this ISRP has the same requirements for public comment and Congressional oversight as the commercial SRP. There is no requirement for public notification or Congressional review of commercial SRP's therefore there is no public oversight and Congressional oversight of the ISRP. I fully understand why the public notification and Congressional oversight may be too cumbersome for the agency's to manage when negotiating a commercial SRP fee. But these requirements are needed for fees for individual visitors.

I would like to see an ISRP included in any final legislation and have the same public notification, Congressional oversight, restrictions on the amount of fee collection and public oversight of how the fee revenue will be spent as the amenity fees. This would allow for the visitors that pay an ISRP fee the same ability for commenting on new fees or changes to existing fees.

Another issue for all fees is the amount of the fee revenue is spent to collect the fees. The BLM in the California Desert District in past years has spent in excess of 50% of the fee revenue on the collection of the fees. There needs to be more oversight on the amount of fee revenue spent to collect the fees. The data provided to congress in the BLM's green book for budgeting clearly understates the amount of fee revenue spent on fee collection. This is primarily, at least with the BLM, the result of classifying fee collection costs as direct costs and not indirect costs of the fee program. The current law has no restriction on direct costs but attempts to specify that the agency's can only use 15% of fee revenue for indirect costs. The BLM is gaming the system by designating fee collection costs as direct costs thus they don't have to abide by the 15% limit. In any new legislation more specific language needs to be included on how collection costs need to be accounted for.

Another example where better language is needed is at the Imperial Sand Dunes Recreation Area (ISDRA) in Southern California where the BLM charges an SRP for every vehicle that enters the recreation area. By charging every vehicle that enters the recreation area they are essentially charging an entrance fee. As you probably know the BLM is prohibited from charging entrance fees anywhere. If you were to arrive at the ISDRA and simply wanted to view the dunes up close or take a picture you would have to buy a \$50 weekly SRP or risk getting a citation. The language that specifies how and where fees are required needs to be very clear so the agencies can't charge fees where the authors of the legislation did not intend fees to be required.

Finally there needs to be better language of how the agency's will provide public information on how fee revenue is being invested.

Thank you for taking my comments into consideration when the Senate committee starts drafting legislation to renew the FLREA programs.

Richard Holliday
13667 Jordan Ct.
Rancho Cucamonga, CA 91739
dickholliday@charter.net

Comments of House draft FLREA revision (HR5402)

In the definition of the Special Recreation Permits (SRP) I would suggest that a little more information be detailed as for when an Individual SRP (ISRP) is to be used.

I understand your concern for the issuance of a onetime SRP in certain circumstances and we need to somehow differentiate between ISRP's for one time group use and reoccurring or seasonal use.

Perhaps a more detailed definition of the ISRP is warranted.

Let's try something like this:

"(h) SPECIAL RECREATION PERMIT AND FEE.

"(1) IN GENERAL. — The Secretary may—

"(A) issue a special recreation permit for Federal recreational lands and waters; and

"(B) charge a special recreation permit fee in connection with the issuance of the permit.

"(2) SPECIAL RECREATION PERMITS. — The Secretary may issue special recreation permits in the following circumstances:

"(A) (Individual Special Recreation Permit) (ISRP) For individual use of Federal facilities and Federal recreation lands and waters where the fee is for recurring recreational uses for which a standard fee or fee rates can be established

"(B) (standard Special Recreation Permit) (SRP) for specialized group use of Federal facilities and Federal recreation lands and waters, such as, but limited to use of special areas or areas where use is allocated, and group activities or events.

Renumber "B" as "C" and "C" as "D".

This will define, in more detail, the use of individual SRP's and allow all the other restrictions and reporting criteria to be used for ISRP's. Anyplace where "day use", "entrance", "amenity" is referenced than the ISRP should also be included. This will allow for the recording of the ISRP in the list of fee sites, the requirement for public comment, the requirement for congressional approval of these individual fees where a standard fee is established but not result in the commercial SRP being subjected to these increased reporting and approval requirements.

This distinction between ISRP's and regular SRP's will require the agency's to request public comments and provide congressional oversight of ISRP fees. This will go a long way in protecting the public from loopholes in the current language of HR 4502.

Your example of a wedding would not fall under the ISRP when there was not a standard fee for a wedding at the local unit. If they had a standard fee for a wedding than it would be just another use of the ISRP. However if the wedding was going to result in increased costs to the government, that was not defined as a standard fee, than this event would not qualify as an ISRP because the fee would have to be negotiated based on the resulting cost to the agency to manage this event. Thus it would then be classified as an SRP event and not need an act of congress to generate the fee structure.

I realize why you don't want to have use an act of congress and to submit commercial SRP's to the increased reporting structure for groups and events that are commercial in nature.

I think my main concern is with the proposed language in 4.1.1.A. By inserting the exception for SRP's in this section "*(except special recreation permit fees)*" you have essentially exempted all SRP's including the ISRP that is extensively used at least in the California desert.

In section 4.1.1.A the language could be modified to state:

"(A) compile a comprehensive list of all fees (except regular special recreation permits but including individual special recreation permits) charged at Federal recreation lands and waters.-----"

In section 5.(b) , on page 24, this should say :

"(b) Entrance fees, Day Use Fees, Amenity fees and Individual Special Recreation Fees the Secretary Shall-----"

Using "may" to a governmental agency is just saying, "you don't have to do this" . So this should say that they "SHALL" .

This change is important as anytime a new fee is proposed or an existing fee is proposed to be changed then the public should be asked for comments.

If you really look at your language, in the draft bill, there is no requirement for the agency's to even read the comments they asked for so don't let them off the hook to at least ask for comments. This will at least make them put some thought into the request for new fees or changes to existing fees.

Again the main change will be to include the ISRP anyplace the other, non SRP, types of fees are referenced.

The suggested change to section 5.c.1 should state:

"(1) if the fee is for reoccurring recreational uses for which standard fee rates can be established follow the procedures in subsection (b);"

Removing the ambiguous "extent practicable and appropriate" will remove the Mack truck loophole in this language. Having such ambiguous language is just asking the agency's to not do what you want them to do i.e. to have public involvement in the generation and investment of visitor fees.

The last change I would like you to look at is the calculation of fee collection costs that are restricted to the 20% cap. As I pointed out on the conference call using the whole country to be the basis for the 20% just means that there really is no limit on what an agency can spend on fee collection costs at individual units. I do understand that at some smaller units the percentage may be larger than for units that collect large amount of fees.

But I still believe that the calculation of these overhead percentage limits need to be on a per unit basis.

Thanks for your support and please contact me with any revisions to your draft bill. I'm hopeful that changes can be made that will allow us to recommend support for this legislation.

Dick Holliday

From: Jan Holt <bo2dgo@q.com>
Sent: Wednesday, September 16, 2015 5:38 PM
To: Ripchensky, Darla (Energy)
Subject: STATEMENT FOR FLREA OVERSIGHT HEARING

Darla Ripchensky, PMP
Chief Clerk
US Senate Committee on Energy and Natural Resources

Dear Senate Committee:

I am very worried that this committee will again try to put fees on public lands. PUBLIC lands belong to all of us and no one should be shut out of them because they can't afford entrance fees, while those with varying higher incomes could sometimes or all the time afford them. These lands belong to every citizen, so there should not be a fee for basic entry and enjoyment of the natural world.

This is one right of great value to everyone, no matter their incomes. To think that any family or person would be deterred from entering these lands because of their incomes, is heartbreaking. And just as important – development of outdoor activities, motels, and other commercial endeavors that use or alter the natural world and environment should not be allowed. Leave it all natural and accessible.

Sincerely, Jan Holt 2910 Junction Street Durango, Co. 81301

From: Matt Jenkins <mattjenkins@sbcglobal.net>
Sent: Monday, September 21, 2015 11:22 PM
To: Ripchensky, Darla (Energy)
Subject: Statement for FLREA oversight hearing

I support Western Slope No Fee Coalition's (WSNFC) position on the FLREA's forest fee law.
Public lands need to remain free and in the possession of the people!

Matt Jenkins
Ojai, CA.

Sent from my Verizon Wireless 4G LTE DROID

From: Harlow Fischman <bigfish703@icloud.com>
Sent: Tuesday, September 15, 2015 11:30 PM
To: Ripchensky, Darla (Energy)
Subject: Statement for FLREA Oversight Hearing

to Darla Ripchensky, PMP
Chief Clerk
U.S. Senate Committee on Energy and Natural Resources

To the honorable Committee members:

I believe the Federal Lands Recreation Enhancement Act should be ended in September, 2016 because:

- Most people find it unfair to have to pay a "double tax." Since some of our taxes already go to public land maintenance, why should we pay fees in addition?
- Public lands used to be a refuge for people of low income - places to take the family for affordable recreation and to connect with Nature.
- It is time to restore this unique American tradition and move away from the growing trend toward commercialization of these precious areas.

In 1998 my husband and I volunteered for BLM as wilderness rangers/campground hosts at the Aravaipa Canyon Wilderness in Arizona. We took care of 2 campgrounds and also patrolled this wonderful canyon. At that time permits were required in order to protect the Canyon's pristine nature. Several years later we returned for a nostalgia visit and were shocked to discover a notice that the Canyon was now a fee area! We did pay the fee but felt that we were supporting a most unwelcome change - from an unspoiled natural area to just another business. Also, the Canyon has no facilities that would require a fee (no trails, restrooms, picnic tables, garbage collection, etc.) but BLM could not resist charging a fee - simply because they could.

I don't know how many of our tax dollars are allocated to public land maintenance but I am certain that the amount should be increased in order to preserve our wonderful public land tradition.

Thank you for considering my thoughts.

Sincerely,
Lanie Johnson

From: karen kelly <kkestapona@gmail.com>
Sent: Sunday, September 27, 2015 12:29 PM
To: Ripchensky, Darla (Energy)
Subject: Statement for FLREA oversight hearing

Hello,

I enjoy walking in the forests of federal lands which I and other US citizens jointly own.

But increasing general access fees to our National Forests, Parks and BLM lands are negatively impacting my ability to do so.

I understand fees for things like camping, to pay for drinking water faucets, picnic tables, toilets and campsite maintenance, etc. But to have to pay to simply walk is infuriating and unacceptable.

I'm tired of being treated as a customer rather than an owner of my public lands and ask to have all fees for simply walking eliminated.

Thank You
Karen Kelly
970 Rockaway Lane
Camano Island WA 98282

From: Tammy Kelley <tammy.kelley@rocketmail.com>
Sent: Tuesday, September 22, 2015 1:05 PM
To: Ripchensky, Darla (Energy)
Subject: Statement for FLREA oversight hearing

Thank you for allowing citizens to comment on this failed program even though the vast majority of citizens have NO IDEA that this is even happening (the program or the comment period).

I live in Sedona, AZ, a place that has had recreation fees since 2000. When this program started, OVERWHELMINGLY the local population was opposed. There were many reasons, some being the discrimination of low income citizens, others the fact that MANY "users" are not recreationists but health or well-being or spiritual seekers. But mostly, deep down we KNOW it's not right to charge to access public lands that were set aside for all to enjoy.

Over the years, as with most issues, newer issues take center stage and grab the attention of the public, while those intent on making a buck continue behind the scenes. And that's what I have seen happen here.

We all know the budget has been cut for public lands and environmental issues. This fee program was proposed to offset those cuts. But what has happened is that where fees exist more cuts have been made. Is this the trend, that once other income sources exist sites are left on their own?

I would like to address 2 main issues that I have observed here in Sedona.

First, and I believe this is most important, is EDUCATION- or lack of it. If the problem is that we are "loving the land to death", isn't educating the public of primary importance? The only "education" that visitors receive is how and where to buy their passes and signs posted everywhere that a pass is "required". Which is misinformation since in many places that's an outright lie! Even Forest Service employees and volunteer groups are being misled about the actual laws regarding fees. I live in an area adjacent to a concessionaire run park. The residents in my community were being harassed to pay a walk-in fee, although we were grandfathered in since the area is literally our front yard. The Forest Service sent an employee to meet with my community to inform us they had every right to ticket us and confront us wielding weapons! if we didn't pay. Our only recourse would be to get ticketed and go to court! Fortunately my neighbor pulled up the actual laws on her laptop proving they were not within their rights to do so, especially if we were just going for a walk. After the meeting we heard the FS rep on the phone with his superior asking why he hadn't been properly informed. These people are unknowingly spreading more misinformation. And the most popular and visited spots are not even run by the Forest Service but by overpriced concessionaires that charge \$10/day to monitor a parking lot. They do not educate or take care of the forest! Which brings me to my second point...

Our national heritage is now being managed and marketed like a commodity. Teddy Roosevelt is probably rolling over in his grave.

The main selling point for the fee program is that the money collected stays locally. People care about the land and want to see it protected. But there are so many fingers in the pie that such a small percentage ever even reaches what it was intended for-what the tourist believes their hard earned money is protecting. From the non-local concessionaire, to the non-local ATM company (which no one knows how much they are even collecting, since there is no oversight), to all the businesses who sell the passes and take their 10% off the top. Not to mention the cost of administering the fee program. This is a program that exists now to sustain itself, not the forest.

To give an example, there is a local group pushing hard to have Sedona made a National Monument. They claim that the forest needs protecting now more than ever. How is this possible if the fee program is being sold as a success?

It is not a success, unless you count all the new sites that have popped up sporting the amenities that are required to charge even more fees.

People are not being educated how to take care of OUR land for future generations to enjoy. This is a very real need!!! In the past the analogy was used-"Don't you think you're getting good value since it costs about the same for one movie at a theater as an entire day of recreation in the forest?" We all know what a movie theater floor looks like at the end of the movie. People know that someone is getting paid to clean up, so they don't do it themselves. That's what happens with lack of education.

And equating a day in the forest to a day at the movie only separates people who don't have experience with nature. They see it as just another commodity which gives them something in return for their business, at the expense of the intrinsic value which nature DOES hold for humanity.

I'm sorry that this letter is longer than I had intended. I do have other specific instances regarding my experiences with the forest fees and the management of this fee program.

Maybe I will write another letter...

But I feel that specifics WITHIN the program are secondary to the validity of program ITSELF.

Thank you for your time, and I trust that your committee will make the best decisions for the future of our public lands and for the public who enjoy them.

Sincerely,
Tammy Kelley
Sedona, AZ
September 2015

Sent from Tammy's iPhone 📱

From: Helen Larsen <helenlarsen79@hotmail.com>
Sent: Saturday, September 26, 2015 7:16 PM
To: Ripchensky, Darla (Energy)
Cc: sespecoyne@gmail.com
Subject: Statement for FLREA Oversight Hearing.
Attachments: ATT00001

To whom it may concern:

I am an inholder in the Los Padres National Forest in the Santa Ynez Mtns. above Santa Barbara, California. In the mid-nineties, signs went up in our five mountain communities that we must pay \$5.00 day to go for a walk in our forest or park a car on our roads. My mother, who was 81 years old at that time, said to me, "Watch out, Helen, your national birthright is being threatened." She pointed out that we were already paying taxes to the Dept. of Agriculture to caretake our public lands. That is double taxation which is unlawful in the United States of America.

So members of our mountain communities here and in the Ojai area banded together to prevent this flagrant abuse. Two of the most annoying aspects of the Fee program is, first of all, we quickly discovered the very implementation of this Fee program was exceedingly expensive to implement causing more outflow of money that was brought in by the forest fees. Additionally, there have been numerous cases I knew about personally, involving very heavy-handed enforcement, which included sending some folks to jail for not buying a \$5.00 day pass to go for that walk in the undeveloped woods, BLM lands or wildlife refuges. My outrage fingers to this day.

In 2001, I was the first representative of 11 from around the USA to fly to Wash. D.C. for the week in order to interview 36 senators on my list of contacts, explaining this travesty. Here we are, so many years later, still fighting this outstanding battle. One of the issues that makes me the angriest was when I learned how poorly-run the Dept. of Agriculture is, most particularly the Forest Service, with waste and duplication paramount regarding equipment and staffing. Thus, the obnoxious forest fees idea was implemented to account for the gov't shortfall caused by their own bad management practices.

I would like to see this long-term debacle finally brought to an end.

Thank you,

Helen Larsen
 5797 W. Camino Cielo
 Santa Barbara, Calif. 93105

Helen Larsen, Realtor/Broker

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From: Greg Lewis <gaaga@theriver.com>
Sent: Wednesday, September 30, 2015 3:16 PM
To: Ripchensky, Darla (Energy)
Subject: Statement for FLREA Oversight Hearing

Any changes to the FLREA should dial back the fee-based approach to recreation access that we've seen since the 1996 Fee Demo program was introduced. A fee-based system creates perverse incentives to develop for the sake of revenue. It undermines the protection of wild nature for present and future generations. It turns our public lands agencies into businesses, and citizens into customers.

I have seen many examples of revenue-driven overdevelopment in the Coronado National Forest - much of it for the benefit of private concessionaires.

At the very least, I hope that a modified FLREA will protect fee-free access to undeveloped public lands, and that private concessionaires will be held responsible for following the same access requirements as our land management agencies.

Respectfully yours,

Greg Lewis
2202 E. Water St.
Tucson, AZ 85719

From: Cynthia Marotta <cmarotta77@gmail.com>
Sent: Friday, September 25, 2015 11:28 AM
To: Ripchensky, Darla (Energy)
Subject: Statement for FLREA oversight hearing

Hello,

I would like to make just a few comments on how this fee system has impacted my family.

For years we have lived in areas that allowed us access to the national forests of the Pacific Northwest. It was our choice to live there so that we might enjoy the recreational opportunities in those areas.

With the introduction of the Fee system, our recreational opportunities have become expensive.

We now pay a \$9 fee to reserve a campsite on top of the increased campsite fees. If we need to cancel, as we did recently, we lose this fee as well as a \$10 cancellation fee.

A walk in the woods just a half mile from our home now costs \$7 a day.

Many times I have gone to hike at a site, only to find I now need to pay to do so.

These fees have not helped to increase trail maintenance, which has become sparse over the years.

Moving away from USFS employed trail crews to contract crews has left us with a poorly maintained trail system throughout our area.

I would like to see our tax dollars spent maintaining trails and campsites, not collecting fees.

Thank you,
Cynthia Marotta
4022 Pioneer Road
Medford, OR 97501

From: Malcolm McMichael <malcolm@sopris.net>
Sent: Tuesday, September 15, 2015 1:27 PM
To: Ripchensky, Darla (Energy)
Subject: Statement for FLREA Oversight Hearing

Statement for FLREA Oversight Hearing

Darla Ripchensky, PMP
Chief Clerk
U.S. Senate Committee on Energy and Natural Resources

The recreation fee program has failed to deliver on its promises: user fees keep expanding and increasing; campgrounds and trails are closing; and important maintenance remains deferred. As predicated by fee opponents, the program has led mainly to an emphasis on capital-intensive facilities; on high-amenity campgrounds with reservations required; and on providing expanded revenue streams for private concessionaires. Meanwhile, citizens are unable to freely enjoy their public lands, particularly spontaneously, in low-intensity, rustic and unmediated facilities.

The recreation fee system should be abolished; the recreation privatization program rolled back; USFS budget emphasis should be redirected to recreation; USFS stakeholder priority should be refocused on individual citizens instead of interested corporations; firefighting should be carved out to be dealt with on its own; and extractive and private-benefit activities should be required to pay *their* own way (i.e. mining, logging, drilling, and forest products research).

Thank you.

Malcolm McMichael
576 Jacobs Pl.
Carbondale, Co 81623
.

From: Chip Miller <chip@metoliusclimbing.com>
Sent: Tuesday, September 29, 2015 1:16 PM
To: Ripchensky, Darla (Energy)
Subject: Statement for FLREA Oversight Hearing
Importance: High

Hey Darla,

I'm in strict opposition to these fees, they are yet another barrier that keeps people from enjoying the outdoors. Additionally, they increase user-impact since people just park down the road from the fee area and go from there which just creates more erosion, parking issues and trail-cutting. I have seen this first hand here in Bend, Oregon.

Also, we're moving more towards a cashless society and putting money in envelopes is not practical and creating a technology-based solution is also not cost-effective.

In summary, this fee system is a waste of time, money, and resources and needs to be abolished.

Thanks for your time,

Chip Miller
Global Sales Director
Metolius Climbing
www.metoliusclimbing.com



please consider the environment before printing this email

September 28, 2015

Written Statement on the Federal Lands Recreation Enhancement Act
Aaron Bannon
Environmental Stewardship and Sustainability Director
National Outdoor Leadership School
Committee on Energy and Natural Resources
U.S. Senate
September 28, 2015

The Federal Lands and Recreation Enhancement Act (FLREA), in its current form, is the latest iteration in an evolution of fee authorities as they govern public lands agencies and their collection and dispersion of fees on public lands. As such, it is a vital component of the access system under which outfitters, outdoor educational institutions, and organized groups such as the National Outdoor Leadership School (NOLS) operate. NOLS is grateful to the Senate Energy and Natural Resources Committee for taking up reauthorization of this essential act. NOLS supports reauthorization of FLREA, and with this opportunity recommends some modifications that can be made to improve the act.

Background on NOLS

The National Outdoor Leadership School is a non-profit, outdoor educational institution, utilizing the wilderness classroom typically through month-long, expedition-style courses to educate approximately 21,000 students every year. NOLS boasts over 250,000 graduates that include high school and college students, Naval Academy Cadets, Corporate CEOs, returning veterans, and NASA astronauts. NOLS was founded fifty years ago in Lander, Wyoming, and has since grown to be one of the largest commercial outfitters in the country, offering courses in fifteen states, ten countries, and six continents.

The Necessity of the Federal Lands Recreation Enhancement Act

Through FLREA at least 80 percent of fees are spent within the unit where they are accrued, creating an incentive for both fee payers and agencies to participate in a fair fee program. These fees are used primarily to pay for repair, maintenance, or enhancement of recreation infrastructure, and to a limited extent to support permit administration. FLREA ensures a balance of responsibility between commercial permittees, private recreationists, and general appropriations. It also establishes Recreation Resource Advisory Councils to oversee changes to fees, and establishes a National Parks and Federal Recreational Lands Pass that holders may use for entrance areas and amenity fee units across agencies.

Appropriate Use of Collected Fees, and Reporting of Expenditures

When visitors pay to stay at a campground on public lands, they like it when they know those revenues will be used to maintain and enhance the site. This is a core tenet of FLREA that should be maintained. Fees generated should continue to be spent at the site; they should be used for repair, maintenance, and enhancements at the site collected, for

enhancing visitor services, for direct operating costs associated with the fee program, and for a limited proportion of permit administration. To that end, NOLS recommends that backcountry and wilderness maintenance work should be a priority on par with improvements in the front-country.

Amenity fees, however, are ultimately modest, and should not be expected to supplant existing recreation program revenues. Recreation programs on federal lands provide a net benefit to the taxpaying American people, and do a great deal to enhance local economies far beyond their return on investment for any particular site. Fees should supplement, but not supplant, existing revenues for agency recreation programs.

To allay concerns with how accrued amenity fees are expended, NOLS recommends transparent accountability. Reauthorization of FLREA should establish for agency units a simple and straightforward reporting process, on how much fee revenue is generated and on how monies are spent at each site. Reporting on projects conducted through recreation fees should be readily available to the public.

There will always be more maintenance and enhancement projects on public lands than FLREA can adequately cover. Reauthorization should create a vehicle to reimburse permitted groups who conduct maintenance on public lands in cooperation with the agency. Such an incentive-based program would multiply the effectiveness of available funds. Partnerships between land agencies and commercial permittees, volunteer groups, and institutions can help alleviate maintenance pressures and stretch fee dollars.

Inappropriate Amenity Expenditures

Special Recreation Permit Fee holders should not be expected to cover aspects of oversight and maintenance on federal lands that benefit the greater public, of which outfitter and organized group use is only a small percentage. Specifically, activities such as natural resource monitoring, restoration, emergency response and law enforcement, and road maintenance should not figure uniquely into Special Recreation Permit fees. The cost of these activities should be shared equally by users, and therefore be funded through the agencies' appropriated budgets. The portion of the public that opts to travel with an outfitter, or an outdoor educational institution, is only a small percentage of the recreating public. It is not reasonable for these entities to shoulder more of the burden than private recreationists.

Recreation Resource Advisory Councils

Under the current iteration of FLREA, states established Recreation Resource Advisory Councils (RAC) to approve or disapprove of proposed fee increases at amenity sites on public lands within their boundaries. While the broad opinion is that these Recreation RACs never functioned well, in some states they have indeed met and even exceeded expectations. NOLS asks that this committee be circumspect before abolishing Recreation RACs outright. If this body would like to pursue a retooled notification process, alerting the public to changes in fees and involving the public in how recreation funds are allocated,

that could very well function as a reasonable substitute in areas where the Recreation RACs have failed to meet their functional expectation. Reauthorization of FLREA, however, should allow for these Recreation RACS to perpetuate as fee increase oversight bodies where they are functioning well, such as Wyoming and Utah.

It would be unnecessary and impractical, however, to require that Congress approve incremental fee increases across amenity sites on public lands. If the Forest Service feels it necessary to increase a camping fee from \$12 to \$14, that need not require an act of Congress. A reasonable notification, feedback, and appeal process, with state-level interaction, is sufficient.

Consistency and Fairness

Numerous Special Recreation Permit holders operate in multiple jurisdictions, sometimes with the same group in the same day. A NOLS course, for example, may travel across Bureau of Land Management lands and National Forest Lands, and even across individual National Forest districts on the same day. As permit fees are currently calculated, permittees are often asked to pay in significant excess of the three percent of gross revenues that the agencies are ostensibly striving to meet. Time off of public lands, assessed as a percentage of the overall cost of the program, is taken into account. This can lead to permittees being asked to pay double, and sometimes more than double, the three percent of gross for time spent on agency lands. When charging for permitted use, safeguards should be in place to ensure that permittees are not over-paying the appropriate percentage of revenues. In addition, fees and reporting on permits should be consistent and reasonable across agency boundaries and across different units within the same agency.

Sunset provision

In order to properly assess the success of the program, NOLS recommends a ten-to-fifteen year sunset provision.

Conclusion

Fundamentally, it is the priority of NOLS to see the Federal Lands Recreation Enhancement Act reauthorized. If the final decision were to be a straight reauthorization of the existing act, NOLS would readily support that. The core of FLREA, as it relates to fees generated on federal lands, is sound. There is a great opportunity here to extend and enhance the experiences of the recreating public on our public lands.

From: ALHNELSON@aol.com
Sent: Monday, September 21, 2015 6:08 PM
To: Ripchensky, Darla (Energy)
Subject: Statement for FLREA Oversight Hearing

I am writing concerning FLREA and the impact of private operators running forest recreation areas. My main concern is that the private concessionaires seem to be exempt from following the fee rules of the federal forest service operators. Specifically, I am concerned with how private operators may be exempted from recognizing the lifetime benefits of the multi-agency passes such as the Golden Age Passport. Passes such as the Golden Age were designed to grant lifetime access to National Parks and Forest Recreation areas however the loopholes in FLREA allow private operators to choose not to honor these passes. I have no direct problem with some of the private operators, as some do a good job and do follow the same policies as would the federal operators. My complaint is with those that don't and manage to add additional fees, and the fact that FLREA allows that to happen. These lands are public and should not be turned into profit centers for the private operators. Thank you for your consideration.

Regards,
 Allen Nelson, Ph.D
 2925 Ridge Road
 Nederland, CO 80466.

From: robert peters <skiprochute@yahoo.com>
Sent: Sunday, September 27, 2015 12:41 PM
To: Ripchensky, Darla (Energy)
Subject: Statement for FLREA Oversight Hearing

Madam Chairman,

Thank you for the opportunity to express my thoughts regarding FLREA. Recreation fees are a part of the outdoor experience for many Americans. Some fee's are reasonable, such as national park entrance fee's, or for use of developed facilities such as campgrounds. They are not reasonable when they are charged to access undeveloped or minimally developed areas.

In the pacific northwest where I live, we have the Northwest Forest Pass. This is required if you wanted to go out to the forest to hike, fish or pick mushrooms. There are numerous trail heads where this is required, yet there is no developed picnic areas or restrooms.

I urge this committee to reform FLREA. Any reform or revision of FLREA must be crystal clear as to what fee's are allowed and , even more important what fee's are not.

Thank you for your time,
Robert D Peters
Everett, WA

From: Sonya Rodgers <me@snowdeuce.net>
Sent: Tuesday, September 15, 2015 2:13 PM
To: Ripchensky, Darla (Energy)
Subject: Statement for FLREA Oversight Hearing

I would like to state my opposition to FLREA; it should be discontinued as soon as possible, or at least not re-instated after it sunsets next year. Charging a fee to access public lands creates an artificial barrier to public access. Many occasional or first-time forest visitors drive hours away from the city to a trailhead, and find an unexpected "fee/pass required" sign, and turn away in fear of hefty fines. Some people are discouraged from using public lands because they can't afford the fees.

I have been a public lands user in WA for the past decade, as a hiker, camper, mushroom hunter, backpacker, and trail volunteer. I volunteer because our trails need it. The government does not fully fund the needs of the Forest Service, and the NW Forest Pass fees are just a drop in the bucket; they don't cover the gap in funding. And from my personal experience, the fees don't even cover what they're supposed to:

Latrine, picnic table, interpretive signage, garbage collection, security services. Vehicle break-ins are common at popular trailheads, the latrines are often in dire need of servicing, picnic tables and garbage collection is generally non-existent, and signage is often not much more than a sign saying the NW Forest Pass is required, and the name/number of the trail.

Congress needs to stop spending less on war and corporate subsidies, and more on our public lands infrastructure. Thank you for your consideration.

--
 Sonya Rodgers
me@snowdeuce.net

September 28, 2015

Jill Romanello, Community Activist

223 Township Road 245 East

Pedro, Ohio 45659

740-643-2416

Jillyd13@hotmail.com

Darla Ripchensky, PMP

Chief Clerk

US Senate Committee on Energy and Natural Resources

RE: FLREA FEE ABUSE

To Whom It May Concern:

The Wayne National Forest abuse of recreational users permits are above abuse but illegal. Horseback riders were placed under the SPECIAL USE filed by the FOREST SERVICE in the federal registry with no public scoping. Then on a 1 percent survey placed a \$45 seasonal permit April 15 through December 15, a \$24 3-day permit, and a \$12 1-day permit. If ordered online out of the United States there are additional fees. They based their fees on ATV users. The recreation activities in this southeast Ohio, which has the highest unemployment rate and poorest health in the state with Wayne National Forest owning 245,000 acres, has dropped from 22,000 to just a few thousand since these fees were implemented. The whole idea of the ridiculous fee for users that when traveling through and not using facilities and services are supposed to be free to the people should be stopped. The land belongs to all people not just the elite that can afford it. The rape and pillage of the southeast Ohio and Appalachia must be addressed. Not only are they charging for horses but 1 developed campground hours away so they are double dipping again.

FLREA needs reinstated and the people need upheld and protected from these fees. The land is owned by the people, paid for by the taxpayers, and should be available to all.

Thank you Jill

From: Pete Ross <pete-ross@centurylink.net>
Sent: Wednesday, September 16, 2015 1:34 PM
To: Ripchensky, Darla (Energy)
Subject: Statement for FLREA Oversight Hearing

Federal Lands Recreation Enhancement Act Senate hearing

In the most recent years I have seen fees increased dramatically in our *public* NFS campgrounds. Fees this year have been increased from \$6-\$10 (\$16 to \$22 fee per night) for a campground site, a place to pitch and tent or park an RV, with no other amenities (no water, electric or sewer hookups), just a place to park!

Also, the management in virtually all of our *public* NFS campgrounds have been turned over to *private* enterprise. It seems their primary task is to collect the exorbitant fees and to process the reservation system in these *public* campgrounds. "*Reservations for sites*" is a new restriction placed on our *public* campgrounds which, until recently, have always been available on a "first come, first serve" basis.

These changes for use of our *public* campgrounds, which are located on *public* land and have been constructed using *public* funds (taxes), are unreasonable and unfair. In many places here in Colorado, fees are being assessed just to hike/walk on trails which are located on our *public* lands. Control of our *public* land is being overtaken by special interest groups.

I urge Congress to correct this misguided activity, and soon.

John H. Ross
Montrose, CO

From: Stephen E Sample <ssample@ccim.net>
Sent: Wednesday, September 23, 2015 5:55 PM
To: Ripchensky, Darla (Energy)
Cc: Kitty Benzar
Subject: Statement for FLREA Oversight Hearing

Dear Committee,

I am writing to protest the exorbitant fees being charged for several recreation sites that I previously visited on the Tonto National Forest. Now it costs too much for a limited retired person budget to go regularly. Twice a week for a year would cost me \$600. Believe me, I miss my regular outings!

The first site is the picnic tables and hiking trails at the First and Second Crossing picnic areas located north of Payson Arizona. Those sites were built and existed before they were made fee payment sites under the bad private management of Recreational Resource Management. Now the site have a pay tube for a \$6.00 fee and no other change has been made from the previous free status. I paid for these sites with my tax dollars and now I get charged for a simple walk in the woods. Also, the trails are full of trash, poorly marked and I see no benefit from paying for what my tax dollars should support.

The second is the Tonto National Forest northeast of Carefree, Arizona. Lake Bartlett requires a \$6.00 fee for just driving to park by the lake, enjoy the view and meditate. Before this also was free. Why? The Forest Service also adds insult with the multiple MISLEADING large signs at the entrance roads that state, "Tonto Pass Required". This makes it seem that I need to go to the Forest service and purchase a pass to even enter my forest land roads.

Please give me back my forest lands! For now, I view the Forest Service and their rangers in an unfavorable light. Also, do not continue to enrich private contractors who probably keep all of the fees.

Sincerely,
 Steve Sample

Stephen E. Sample
 5912 E. Tally Ho Drive
 Cave Creek, AZ 85331
 480-488-6429 Home and Office
 480-688-7187 Mobile
ssample@ccim.net

From: Brooke Sandahl <brooke@metoliusclimbing.com>
Sent: Wednesday, September 23, 2015 1:57 PM
To: Ripchensky, Darla (Energy)
Subject: RE: Statement for FLREA Oversight Hearing

Greetings Ms. Ripchensky,

As tax paying Americans we should have every right to visit our public lands without additional taxation (recreation fees). I was recently ticked for parking on a dirt road with a new fee station. I have used this area for over 30 years and none of the infrastructure provided was necessary, it was only necessary to generate additional fees.

The disadvantaged and people without additional means are basically being priced out of using our public lands. With millions of acres of forest here in Oregon its absurd to think people should return from a hike or fishing to find a parking ticket. How do we expect the these folks to lead a healthy life when they are priced out of doing so.

I camped last August on the OR coast. Camping at a basic campground was over \$35.00/night. There are very few free camping sites out on the coast. You can get a Motel room for close to this price. Having private contractors overseeing fee collection on our public lands is wrong.

Please eliminate recreation fees for general access to our public lands managed by the Forest Service and Bureau of Land Management.

Best regards,

Brooke Sandahl, V.P.

Metolius Climbing

brooke sandahl
Metolius Climbing
63189 Nels Anderson Rd.
Bend, Oregon 97701 USA
Ph: 541-382-7585

From: Roy Schweiker <royswkr@hotmail.com>
Sent: Monday, September 28, 2015 4:35 PM
To: Ripchensky, Darla (Energy)
Subject: Statement for FLREA Oversight Hearing

Committee members:

I believe that any reauthorization of the Federal Lands Recreation Enhancement Act (FLREA) must include changes to eliminate abusive fees by more strictly applying fee guidelines such that fees are not charged at inappropriate sites through counting amenities as present if they are available at other sites which are far enough away to require driving. I can furnish two examples from the White Mountain National Forest in New Hampshire:

* Nineteen-Mile Brook trailhead is basically just a wide spot in the road which often overflows with a tiny kiosk and picnic table. The fee is charged based on toilets located a mile away - you can imagine that nearly all visitors use the woods instead yet they are still expected to pay.

* Hancock Overlook is as named a scenic overlook with paved parking and interpretive panels on the Kancamagus Scenic Byway, once again there are no toilet facilities present. (Why not let those driving to the toilets pay at that site and why should others pay at all?) This seems like the prime example of the sort of site that should be fee free. In fact the WMNF once issued a press release that the fee would be removed and didn't correct it when the fee was retained after all.

Surveys of users who say fees are reasonable don't take account that people who don't think the fees are reasonable won't use the facilities hence answer the surveys. (Just like the ads that say that 90% of those who switched to Company A pay less for insurance - they don't switch if the price is more, now do they?) Fees discourage lower income people such as minorities who are already under-represented as Forest users. Note that the WMNF does not provide a listing of fee sites and why fees are charged there so potential visitors may stay away assuming that fees are charged everywhere.

I agree that the Recreation Advisory Council review is worthless and should be replaced with public comment. One reason that New Hampshire has the most extensive fees in the East is probably that that the NH member did not really represent users but rather was a senior officer of a concessionaire which operates upscale resorts in the WMNF. Fees may help keep the hoi polloi away and provide more solitude for their customers, and the club may receive some of the collected fees as payment for lodging and trail maintenance.

Sincerely,

Roy Schweiker, Concord, NH

From: Scott Silver <scott@scottsilver.org>
Sent: Wednesday, September 16, 2015 10:55 PM
To: Ripchensky, Darla (Energy)
Subject: Statement for FLREA Oversight Hearing - September 17, 2015

U.S. Senate Committee on Energy and Natural Resources
Statement for FLREA Oversight Hearing - September 17, 2015

With respect to recreation user fees on the National Forests and other public lands

Forty years ago I discovered and fell in love with our nation's public lands. Twenty years ago, my wife and I undertook a 50,000 mile camping tour of those lands, all the while expressing our pleasure of being privileged to have access to so much beauty and adventure at such low cost. Eighteen years ago I first experienced the Recreation Fee Demonstration program and love quickly turned to disappointment.

What had formerly been a priceless benefit of citizenship had been turned into a market commodity placed off limits, unless I was willing to purchase it a la carte. And while the fee for taking a walk in the woods may not have been prohibitive, the fact that there was now a price and access was being sold as if nature was an entertainment product comparable to "popcorn and a movie" or "a day at Disneyland", changed everything.

That said, pricing of the Great Outdoors isn't the worst of this new pay-to-play paradigm. Equally off-putting has been the privatization of recreational access as exemplified by the implementation of reservation systems through the contractor of the recreation.gov website. Even more off-putting has been the privatization of campgrounds, picnic areas, and in several instances entire lakes by concessionaires - concessionaires who do not accept federally issued passes for day use access.

More off-putting still has been the attitude of public land managers who have come to see themselves as providers of recreational products, goods and services and who look upon members of the public as potential customers. We are not their customers: we are the owners of the public lands and these managers work for us. But most off-putting of all has been the ongoing efforts of the commercial special interests who gave us pay-to-play in the first place to further commercialize and privatize recreational opportunities upon OUR, the people's, public lands.

I ask that when the Senate considers fixing the problems associated with FLREA and addresses the failures of the agencies to comply with Congressional intent, it focuses upon tightening the language contained within FLREA that protects the public interest. Please strengthen the language within FLREA which prohibits the agencies from charging for such basic rights as walking in a forest, floating upon a lake, sitting at a picnic table or using a public toilet.

Thank you.

Scott Silver
Bend, Oregon

From: James Smith <sedonajim1@outlook.com>
Sent: Monday, September 28, 2015 10:16 PM
To: Ripchensky, Darla (Energy)
Subject: Statement for FLREA Oversight Hearing

September 28, 2015

Darla Ripchensky, PMP
Chief Clerk
U.S. Senate Committee on Energy and Natural Resources
Darla_Ripchensky@energy.senate.gov

Re: FLREA Hearing

Dear Chief Clerk Ripchensky:

Please include this statement in the official record of public comment for the U.S. Senate Committee on Energy and Natural Resources hearing on the Federal Lands Recreation Enhancement Act (FLREA). The hearing took place on September 17th.

I live in Sedona, Arizona, and often go hiking in the surrounding Coconino National Forest. Like many hikers, I simply want to park and go hiking in the forest, without using the amenities the U.S. Forest Service (USFS) has been installing at the trailheads to justify charging fees. The FLREA prohibits the USFS from charging fees solely for parking, or for hiking through the forest. A 2012 ruling by the U.S. Court of Appeals for the Ninth Circuit regarding a case in the Coronado National Forest of Arizona made clear that the language of the FLREA prohibits the charging of an amenity fee unless both facilities and services are used at a trailhead. The Coconino National Forest refuses to accept the interpretation of the FLREA that was issued by the Ninth Circuit Court, and continues to charge fees solely for parking and access to the forest.

I would like to express my disapproval of the charging of illegal fees, and the way the USFS considers itself to be above the law.

The Coconino National Forest is presently constructing amenity sites at two additional trailheads, so that it can expand its fee collections.

Sincerely,

James T. Smith
3225 Lizard Head Ln.
Sedona, AZ 86336

Sedonajim1@outlook.com

U.S. TRAVEL ASSOCIATION

September 16, 2015

The Honorable Lisa Murkowski
United States Senate
Chairman, Committee on Energy and Natural Resources
304 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Maria Cantwell
United States Senate
Ranking Member, Committee on Energy and Natural Resources
304 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Murkowski and Ranking Member Cantwell:

On behalf of the 15 million employees of the U.S. travel and tourism industry, I am writing in support of reauthorizing the Federal Lands Recreation Enhancement Act (FLREA).

The travel industry generates \$2.1 trillion in economic output and is a top 10 employer in 49 states and the District of Columbia. The national parks attract visitors from across the country and around the world, and are a key driver of domestic and international spending in the U.S. Last year, more than 292.8 million people visited national park sites, and annual spending in and within 60 miles of those sites contributed \$27 billion to the U.S. economy and support nearly 250,000 private-sector jobs.

Providing adequate resources to national parks is essential to the growth and competitiveness of America's travel industry and every dollar invested in the national parks yields \$10 in economic activity. FLREA allows the five federal land management agencies, including the National Park Service (NPS), to issue annual passes and charge entry fees. Since enactment in 2005, the NPS has generated approximately \$2.5 billion in fee revenues which have funded over 11,200 projects and services within national parks.

If FLREA is not reauthorized, five federal land management agencies would lose approximately \$300 million in revenue, with a loss of approximately \$180 million a year to the National Park Service alone. The revenues collected through FLREA are vital because they enhance visitor experiences by:

- Providing funds to repair, maintain, and improve facilities;
- Enabling valued visitor recreation activities;
- Delivering informative educational opportunities; and
- Providing additional law enforcement to protect staff and visitors.

By restoring park operations and maintenance funding, we can ensure that visitors have a safe, enriching park experience. Without reauthorization of FLREA, visitor experiences would greatly diminish as national parks would suffer, and ultimately, the tourism and economic activity in surrounding areas.

Thank you for your leadership on this important issue. Again, we are writing today to respectfully request the Committee on Energy and Natural Resource's full support of FLREA.

Sincerely,

A handwritten signature in black ink, appearing to read "Roger J. Dow". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Roger J. Dow
President and CEO
U.S. Travel Association

From: David Weisman <davidjayweisman@gmail.com>
Sent: Tuesday, September 22, 2015 2:39 PM
To: Ripchensky, Darla (Energy)
Subject: Statement for FLREA Oversight Hearing

Dear Ms. Ripchensky:

I would like to add my voice to those proposing that the current FLREA should be allowed to sunset in September 2016 as currently planned. There is no need to renew this law, nor to replace it with anything similar.

I was perfectly able to enjoy hiking on undeveloped lands in our national forests of Southern California *before* the introduction of the FLREA and recall the rather intimidating manner in which forest service officials attempted to compel compliance with the Forest Adventure Pass program. In fact, the entire program as implemented at that time was confusing to say the least...and I witnessed no improvement in either infrastructure nor services.

I do recall that in its early years, the confusion and fear surrounding the program (will I get a "ticket" for taking a hike?) caused myself, and perhaps countless others, to simply forgo wilderness recreation. A return the original system which allowed hiking and use of undeveloped facilities without permits and fees is a very sensible solution.

Thank you for considering these comments.

Yours truly,
DAVID WEISMAN

David Weisman
470 Estero Ave
Morro Bay, CA 93442
davidjayweisman@gmail.com

From: Peter <peterrpm@yahoo.com>
Sent: Saturday, September 19, 2015 7:49 PM
To: Ripchensky, Darla (Energy)
Subject: Statement for FLREA Oversight Hearing

Peter Wiechers
 325 West 3rd Street, #404
 Long Beach, Ca. 90802

Darla Ripchensky, PMP
 Chief Clerk
 US Senate Committee on Energy and Natural Resources

September 19, 2015

Committee Members:

I am writing to request that you consider the following three items with regard to future recreation fee authority. Additionally, I am asking you to incorporate ironclad mechanisms for public oversight of the federal recreation fee agencies in terms of both management of recreation lands and financial accountability. Over the last twenty years both of these have been severely lacking.

1. Effective January of 2014, US Forest Service officials implemented a policy requiring the purchase of a Special Recreation Permit for people taking their children to the mountains surrounding Los Angeles to play in the snow. I would request that any legislation contain tight language carefully defining special uses, making certain that agencies such as the US Forest Service are *prohibited* from designating common public land recreational activities, e.g., hiking, fishing, swimming, climbing, river running, hunting, snow play, walking-the-dog, etc. as special uses.

2. In early June of this year I spent an afternoon in Big Tujunga Canyon (Angeles National Forest). The first eleven photos of this link are of two different day use fee areas that I visited there. Below, I have referenced these photos. It has now been almost 20 years since the US Forest Service began charging recreation fees at these and other sites in the region. The agency is continually telling the public that somewhere between 80 and 95 percent of fees are being returned to the sites where they have been collected. This is simply not true. By the agency's own reporting, a minimum of 35 percent of fees are being consumed by overhead. Their math does not work. Lack of required amenities and lapses in maintenance continue to be common reoccurring themes on lands administered by the US Forest Service.

Delta Flat Picnic Area (more accurately a trailhead, see item #3 below)

IMG_2382 entry to Delta Flat Picnic Area
 IMG_2383 "developed parking area," porta-potty, dumpster, and signage
 IMG_2385 porta-potty interior [white cream substance on outside door handle]
 IMG_2389 porta-potty service record (last service occurred on 5-20-15)
 IMG_2386 signage (close up)
 IMG_2387 "developed parking area," trash, dumpster, porta-potty
 IMG_2388 Delta Flat Picnic Area's lone picnic table (porta-potty in the distance)

IMG_2390 abandoned shopping cart

One of two similar --unnamed- roadside fee sites near the mouth of Big Tujunga Canyon

IMG_2393 "developed parking," trash receptacle, signage (center of photo), no toilets, and no picnic tables

IMG_2392 signage (fee required)

IMG_2394 mattresses and other items

3. In more than just a few locations on the Angeles National Forest, officials have installed amenities to justify the imposition of new fees (and to circumvent the law's restrictions on the charging of fees for general access). The quickest method for accomplishing this involves the setting down of a picnic table in the vicinity of a trailhead (IMG_2388, Delta Flat's lone picnic table is one such example). The following are additional examples of trailheads that have been transformed into -fee required- *picnic areas* by officials of the US Forest Service. The last [four photos of this link](#) yield graphic examples.

IMG_2436 Jarvi Memorial, at this site the lone functioning picnic table has been located on the pavement directly in the parking area

IMG_0047 Devil's Canyon, at this trailhead/roadside pullout the one functional picnic table (and the other one) have been located adjacent to --and well within smelling distance of- the single pit toilet

IMG_0029 Upper Bear, this trailhead's single picnic table is also located directly next to the pit toilet.

IMG_2427 unidentified remote trailhead where a single picnic table has been placed in the gravel at the edge of the parking area

Thank you for taking the time to consider my comments.

Sincerely,
Peter Wiechers

From: Paul W <hpywndrr@yahoo.com>
Sent: Sunday, September 27, 2015 2:17 PM
To: Ripchensky, Darla (Energy)
Subject: Statement for FLREA Oversight Hearing

Senate Committee on Energy & Natural Resources:
Maria Cantwell, I'm glad you are on this committee and proud you are my senator.
Input for the public record...

My personal experience on FLREA that prompts me to write, is what happens so very often at trailheads.

Maybe half dozen times a year I'm at a busy trailhead when a car with family show-up for an impromptu hike.

It's sickening to see them so happy and anxious to get started... then someone sees the "Fee Required" sign and the whole thing collapses as they sadly get back in their car and drive-off.
Who would think you can't just hike on lands the public own ?

This *&^% fee thing is just wrong and never used to be this way.
We pay our federal taxes to do many things, including taking care of our public lands.
Please Please fund whatever departments maintains our lands from our federal taxes.

It's obvious these many folks are not serious hikers like me, and I gotta say it's just not practical to expect someone to buy a stinkin "pass" for an occasional hike on public land. They simply will not go. What kind of message is that?

The answer is not "education" or more convenience "to pay"
Cut the military or some other huge waste of our taxes if need be, but FUND OUR PUBLIC LANDS.

thanks,

Paul Wittrock
10810 298th Ave NE
Carnation, WA 98014

From: Michael Zierhut <michaelzierhut@gmail.com>
Sent: Saturday, September 26, 2015 6:41 PM
To: Ripchensky, Darla (Energy)
Subject: Statement for FLREA Oversight Hearing

To the U.S. Senate Committee on Energy and Natural Resources:

As a long time user of public lands I have been bothered by the FLREA fee program since it was a only a demonstration back in the late nineties. I live in Southern California and regularly use the Sespe Wilderness and the Matilija Wilderness for hiking and backpacking.

Throughout the history of the program, the Forest Service has been charging for the use of undeveloped trails. I do not use any facilities provided by the Forest Service yet they still want to charge me a fee. If I were camping and using a fire pit, trash service, and bathroom, I would have no problem paying. However, all I am doing at these trail heads is take a hike. I even pack out my own trash rather than leave it for the Forest Service to haul out.

The Forest Service has notoriously mismanaged these fee programs as well. Too much money goes to overhead, and enforcement is heavy-handed. Additionally, the program provides a twisted incentive to develop more services to charge more money in a positive feedback loop that breeds bloated government and shuts out those less able to pay.

Please end the program now. I have no opposition to a future program that would charge campers reasonable fees for use of facilities, but the current program is not the way to do this as the Forest Service has twisted it to justify charging any and all fees they see fit regardless of what the law says.

Sincerely,
Michael Zierhut
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