AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

S. HRG. 109–313, Pt. 2

THE NATIONAL PARK SERVICE'S REVISED DRAFT MANAGEMENT POLICIES

HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL PARKS

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

TO

RECEIVE TESTIMONY ON THE NATIONAL PARK SERVICE'S REVISED DRAFT MANAGEMENT POLICIES

JUNE 20, 2006

Printed for the use of the
Committee on Energy and Natural Resources

U.S. GOVERNMENT PRINTING OFFICE

30–087 PDF WASHINGTON : 2006

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

COMMITTEE ON ENERGY AND NATURAL RESOURCES

PETE V. DOMENICI, New Mexico, *Chairman*

LARRY E. CRAIG, Idaho
CRAIG THOMAS, Wyoming
LAMAR ALEXANDER, Tennessee
LISA MURKOWSKI, Alaska
RICHARD M. BURR, North Carolina,
MEL MARTINEZ, Florida
JAMES M. TALENT, Missouri
CONRAD BURNS, Montana
GEORGE ALLEN, Virginia
GORDON SMITH, Oregon
JIM BUNNING, Kentucky

JEFF BINGAMAN, New Mexico
DANIEL K. AKAKA, Hawaii
BYRON L. DORGAN, North Dakota
RON WYDEN, Oregon
TIM JOHNSON, South Dakota
MARY L. LANDRIEU, Louisiana
DIANNE FEINSTEIN, California
MARIA CANTWELL, Washington
KEN SALAZAR, Colorado
ROBERT MENENDEZ, New Jersey

BRUCE M. EVANS, *Staff Director*
JUDITH K. PENSABENE, *Chief Counsel*
ROBERT M. SIMON, *Democratic Staff Director*
SAM E. FOWLER, *Democratic Chief Counsel*

SUBCOMMITTEE ON NATIONAL PARKS

CRAIG THOMAS, Wyoming, *Chairman*
LAMAR ALEXANDER, Tennessee, *Vice Chairman*

GEORGE ALLEN, Virginia
RICHARD M. BURR, North Carolina
MEL MARTINEZ, Florida
GORDON SMITH, Oregon

DANIEL K. AKAKA, Hawaii
RON WYDEN, Oregon
MARY L. LANDRIEU, Louisiana
KEN SALAZAR, Colorado
ROBERT MENENDEZ, New Jersey

PETE V. DOMENICI and JEFF BINGAMAN are Ex Officio Members of the Subcommittee

THOMAS LILLIE, *Professional Staff Member*
DAVID BROOKS, *Democratic Senior Counsel*

CONTENTS

STATEMENTS

	Page
Akaka, Hon. Daniel K., U.S. Senator from Hawaii	14
Alexander, Hon. Lamar, U.S. Senator from Tennessee	2
Healey, Maureen A., Executive Director, Personal Watercraft Industry Association	21
Kiernan, Thomas C., President, National Parks Conservation Association	8
Martin, Stephen P., Deputy Director, National Park Service, Department of the Interior	4
Salazar, Hon. Ken, U.S. Senator from Colorado	3
Thomas, Hon. Craig, U.S. Senator from Wyoming	1

THE NATIONAL PARK SERVICE'S REVISED DRAFT MANAGEMENT POLICIES

TUESDAY, JUNE 20, 2006

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

The subcommittee met, pursuant to notice, at 2:30 p.m., in room SD–366, Dirksen Senate Office Building, Hon. Craig Thomas presiding.

OPENING STATEMENT OF HON. CRAIG THOMAS, U.S. SENATOR FROM WYOMING

Senator THOMAS. The committee will come to order. We're going to have to manage ourselves a little bit this afternoon. There are a couple of votes that are going to go on here shortly, but we'll be able to work around that and I hope to continue the hearing right on until its completion.

Thank you all for being here. I want to welcome Deputy Director Steve Martin from the National Park Service and Mr. Tom Kiernan from the National Park Conservation Association to today's subcommittee hearing.

The purpose of this hearing is to receive testimony on the proposed revisions to the management policies that guide the day-to-day workings of the National Park Service.

I cannot emphasize the importance of management policies enough for setting a tone that influences the attitudes of park employees from the Washington headquarters to each of the seven regions and to 390 parks throughout the system. So it is a very important position.

The basic policy of maintaining national parks unimpaired for the enjoyment of future generations was established in the 1916 Organic Act. This founding principle has been conveyed to the public and the park service employees in various directors' orders, speeches, regulations and other documents for the past 90 years. We must ensure that it remains the foundation of the National Park Service for the generations to come. This administration has set out to change the management policies in August 2005 and faced some strong public and congressional opposition to the initial draft. Specific concerns were identified in the hearing of the subcommittee last November through public comment that ended in 2006. Many comments focused on the definition of impairing, the definition of impairment and the relationship between the use of the conservation of resources.

The Secretary of the Interior, Gail Norton, settled the debate on March 17, 2006, in a letter, when she stated that when there is a conflict between the production of resources and use, conservation is predominant. Revision of the management policies got off to a rocky start, as usual, and there was great discussion about them, but in November, the Park Service has listened and responded to the concerns of the public and to Congress and I want to thank them for that. I look forward to hearing the testimony on this important issue. So, thank you,

Senator Alexander.

STATEMENT OF HON. LAMAR ALEXANDER, U.S. SENATOR FROM TENNESSEE

Senator ALEXANDER [presiding]. Thank you, Mr. Chairman. This is an example of several people, in my opinion, doing their jobs well. And as the chairman goes out to vote, I want to say this subcommittee's work has been a good example of that, because the oversight that we've engaged in, I think, has been constructive. The Park Service could have gone about its own management policies and just done it and then we could have complained it and tried to pass a piece of legislation, which we might have done. But instead of that, Chairman Thomas held oversight hearings, and we were able to have our say, so I thank him for that. I also want to compliment Steve Martin of the National Park Service and Secretary of the Interior Dirk Kempthorne. The National Park Service has proved to be a good listener and Secretary Kempthorne is there. We're off to a good start.

The earlier revisions of the Park Management Policies dramatically revised, in my judgment, the 2001 amendments and raised serious concerns about conservation and air quality, as well as visual and noise pollution in our parks, and several of us in Congress, on both political sides of the aisle, were very concerned about those amendments and said so. But the Park Service, as I said, turned out to be a good listener. They spent a lot of time, not just with us, but with—and I'm sure we'll hear more about this in testimony, but with the public and hearings all around the country. After considering our comments and those of the public, the Park Service has now produced a draft that appears to be consistent with the Federal laws that founded the national parks and, at the time, makes what appear to be necessary, common-sense improvements to the 2001 policies, which should make it easier for supervisors to manage park properties in consistent and appropriate ways. I especially appreciate the clarity of Secretary Kempthorne in his announcement yesterday when he said, as Chairman Thomas mentioned, that when there is a conflict between conserving resources unimpaired for the future generations and the use of those resources, conservation would be predominant. That's what the folks in and around the Great Smoky Mountains National Park, where I live, want to hear and that's what I'm glad to hear.

I also would like to extend my thanks to the National Parks Conservation Association, which has been a big help in this project. They're not elected, as we are, and they are not appointed, as Mr. Martin is, but they care about the parks and they include a great many Americans. They waved a yellow flag and a couple of red

flags, but they didn't just stop there and send out a fundraising letter, they made very constructive, specific comments and then when the National Park Service came up with a substantially improved draft, they gave them a pat on the back. As I mentioned earlier, a virtue is its own reward and a pat on the back is a nice thing to have when it's deserved and I think in this case, it is deserved. So I look forward, Mr. Martin and Mr. Kiernan, to hearing your comments today. I thank the chairman, and I think the people are better off as a result of this extensive process you've gone through. And I believe the Congress has done a pretty good job of overseeing this case.

Senator Salazar.

STATEMENT OF HON. KEN SALAZAR, U.S. SENATOR FROM COLORADO

Senator SALAZAR. Thank you, Senator Alexander. I, too, want to give my compliments to Senator Thomas and to this committee and subcommittee for having worked on this issue for the last year. I also want to extend my gratitude and appreciation to the Department and to Mr. Martin and all of those who have been involved in taking a serious look at this issue.

For me, at the end of the day, I think what we have here is an example of bipartisan participation and the executive branch working with the members of the Senate and the House who had concerns about the initial drafts. And I think we ought to have more examples where we are able to find these very difficult, sometimes contentious issues and work through them to a result. That is a good result for the purpose that we are here for.

In this case, I think the purpose we are here for on this Parks Committee and the reason the parks exist is to make sure that we are passing on these crown jewels, not only for our enjoyment, but also for the enjoyment of our children and future generations. And certainly Senator Alexander has been a leader in doing it not only in Tennessee, but also around the United States. So I'm very pleased that the National Park Service has, in fact, taken into account and consideration the comments from this committee, as well as from the entire public.

I was particularly impressed yesterday, during the press conference, when Secretary Kempthorne set forth what he considered to be the principles guiding the National Park Service and its policies. Out of the ten points that he included in his press release, I think the first three of those points are worthwhile just to repeat here for the record.

He said—and this is part of the document that was part of the press release entitled, "Key Principles Guiding the National Park Services Development of the 2006 Management Policies"—point No. 1: A key tenet of park management is preventing the impairment of national and cultural resources. Point two: When there is a conflict between the protection of resources and use, conservation will be predominant. Point No. 3: Park resources should be passed on to future generations in a better condition than currently exists. I think that in those three points, Secretary Kempthorne captured what really was a driving motivation between—for the criticisms that we were giving to the previous drafts of the policy and that

is, that we stand firmly behind the Organic Act of 1916 and the concept and doctrine that has been followed for parks management to do no harm. So I appreciate all that you have done. I appreciate Senator Alexander's and Senator Thomas' leadership on this issue as well.

Senator ALEXANDER. Thank you, Senator Salazar. We also should acknowledge the work of Tom Lillie and David Brooks, staff members who've worked hard on this issue.

[The prepared statement of Senator Salazar follows:]

PREPARED STATEMENT OF HON. KEN SALAZAR, U.S. SENATOR FROM COLORADO

Thank you, Mr. Chairman and Ranking Member Akaka. I appreciate having another opportunity to discuss proposed changes to the National Park Service's management policies.

At the end of a very long and difficult process, I am happy to see that we have returned to a draft of the Management Policies that closely resembles the 2001 Policies.

Members of the public, Park Service employees, retirees, and park advocates have been overwhelming in their support for the bedrock principles of resource protection in the Parks. People want the air, sounds, and scenic views of their Parks protected.

They want uses carefully monitored to ensure they are not damaging Park resources. They want wilderness lands protected and preserved. And they want clear, consistent, and stable management of our Parks so that our children and grandchildren may enjoy the same wonders we experience today when we visit one of America's 58 National Parks.

While I am pleased that this process has ultimately restored and strengthened the management principles in the 2001 Policies, I still wonder why this process was necessary in the first place.

The Park Service has devoted a lot of time and taxpayer resources to the various drafts of these policies. In a budget climate that is forcing cuts to visitor services and neglect of park infrastructure, wouldn't taxpayer dollars have been better spent elsewhere? After all, after numerous revisions of the management policies, we have basically returned to the core principles in the 2001 Policies.

I do want to commend the Park Service for its willingness to consider public comments and make changes to previous drafts.

The steady guidance of people like Denny Galvin and Senator Alexander, along with organizations like the National Parks Conservation Association and the Coalition of National Park Service Retirees, helped expose the flaws of earlier drafts and restore the "do no harm principle." Thanks to their support of the Park Service and the Parks, we have made lemonade from the lemons of Paul Hoffman's draft last year.

I would ask that as you circulate this latest draft with career Park Service employees for their feedback, that you also make it available to the public for scrutiny and comment. The more public comment we gather on these policies, it seems, the more we affirm the Park Service's mandate to protect the parks' extraordinary resources.

Mr. Chairman, I thank you again for holding this hearing and I look forward to the testimony of the witnesses.

Thank you.

Senator ALEXANDER. Now, we're anxious to hear from Mr. Martin and Mr. Kiernan. Why don't we start with Mr. Martin. We have your testimony. If you would like to summarize it in 5 to 7 minutes, that would be fine. Then we'll ask questions and Chairman Thomas will be back after he votes and we'll continue the hearing. But we want to hear what you have to say, so welcome and we look forward to it.

STATEMENT OF STEVE MARTIN, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. MARTIN. Well, thank you and thank for the opportunity to appear before your subcommittee to discuss the revisions to the

National Park Service Management Policies. And like you brought up, I would like to just summarize my testimony and I will submit my full comments for the record.

Senator ALEXANDER. They will be included in the record.

Mr. MARTIN. On June 19, 2006, Director Fran Mainella of the National Park Service released a final review document of the management policies for all employees. We believe that the revised draft policies are a significant improvement over the draft released in 2005 and will improve upon the 2001 management policies. I want to thank you and this committee for the interest that you have shown in this issue and the support you have given for the positive resolution of this matter.

Since the last hearing before this subcommittee, we received nearly 50,000 comments on the proposed policy revisions. The public comment period ran for 127 days and the draft was reviewed by interested individuals and groups, park service employees, the Department, and Federal agencies, with a lot of support and interest from the Senate, from the House and from key groups like the National Parks Conservation Association and many others. We wanted to assure that the process of comment and evaluation was thorough. We assembled a group of National Park Service employees that included park superintendents, managers, program specialists, and the National Park Service Advisory Board, to incorporate the comments that would improve upon the 2001 policies. We believe it is very important for our employees to have a final opportunity to make sure that this document is as accurate and useful as possible. That is why it is out for an additional employee review. We anticipate making final changes in late July, and preparing the document for approval by the director in August sometime. We have also placed the draft on our website, where it can be obtained by any interested party.

It is also notable that Secretary of the Interior Kempthorne participated in the release of the final draft. His remarks included clear language on the overarching mission of the National Parks, including when there is a conflict between conserving resources unimpaired for future generations and the use of those resources, conservation will be predominant.

We would like to emphasize that the revisions were considered only if they met basic principles that were adopted by our career employees in the Park Service and other leadership. These principles are contained in the draft policies and include key points of how policies—these policies were revised and how future policies should be revised and those—all of those points can be found within the document itself.

But we would like to unequivocally confirm to the American people that the fundamental purpose and mission of the National Park Service as stated in the 1916 Organic Act will be upheld and we believe that the revised management policies will help the National Park Service fulfill its role as a leader of resource stewardship and in providing opportunities for visitor enjoyment and as a model for other nations in how to protect special places unimpaired for future generations.

That concludes my statement and I would look forward to answering any questions.

[The prepared statement of Mr. Martin follows:]

PREPARED STATEMENT OF STEPHEN P. MARTIN, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to appear before your subcommittee to discuss the revisions to the National Park Service (NPS) Management Policies. This is the third Congressional hearing held on these revisions, and we are pleased to report that significant progress has been made since our last hearing. On June 19, 2006, the Director of the National Park Service released a final review document to all employees. We believe that the revised draft policies are a significant improvement and will provide useful guidance to our park managers.

Since the last hearing before this subcommittee on November 1, 2005, we received nearly 50,000 comments on the proposed policy revisions. The public comment period ran for 127 days, and the draft was reviewed by interested individuals and groups, NPS employees, the Department, and other federal and state agencies.

The number and content of the comments reflected a strong public interest in our national parks and how they are managed. The comments repeatedly stressed the vitality and relevancy of the Organic Act and that the Act must be honored in the management of our National Parks. We heard that our mission to protect parks was of paramount importance. We received many good suggestions from the public, NPS employees, and others that helped clarify various portions of the document.

We want to assure you that the process of comment evaluation was thorough. Comments were consolidated by career policy specialists and a private firm which was retained to assist with the large volume of comments. We then assembled a group of NPS employees that included park superintendents, managers, and program specialists. This knowledgeable team reviewed, discussed, and incorporated the comments. The revised draft was then further reviewed by the NPS National Leadership Council. Following that approval, a special committee of the NPS Advisory Board met with key NPS staff to discuss the revised policies. On the recommendation of the special committee, the revised draft policies were endorsed by the full NPS Advisory Board on June 9, 2006.

The Director released the revised draft policies to all NPS employees for final comment on June 19, 2006. We also have placed a courtesy copy on our web site for viewing by any interested party. Although the employee review will take an additional three weeks, we believe it is very important for our employees to have a final opportunity to double check the review process and make sure that this document is as accurate and useful as possible. We anticipate final approval by the Director in August.

As the Deputy Director, I am very pleased with this document. We believe that the revised draft is an improvement in content, tone, and clarity over the 2001 and the earlier 2005 draft. We would like to emphasize that revisions were considered only if they met basic principals that were adopted by our career employees. We believe that these principals are so fundamental that they should guide any future management policy changes.

The policies must—

- Comply with current laws, regulations, and Executive Orders,
- Prevent impairment of park resources and values,
- Assure that conservation will be predominant when there is a conflict between protection of resources and their use,
- Maintain NPS responsibility for making decisions and for exercising key authorities,
- Emphasize consultation and cooperation with local, state, Tribal, and federal entities,
- Support pursuit of the best contemporary business practices and sustainability,
- Encourage consistency across the system—"one" National Park System,
- Reflect NPS goals and a commitment to cooperative conservation and civic engagement,
- Employ a tone that leaves no room for misunderstanding the NPS's commitment to the public's appropriate use and enjoyment, including education and interpretation, of park resources, while preventing unacceptable impacts,
- Pass onto future generations natural, cultural, and physical resources that meet desired conditions better than they do today, along with improved opportunities for enjoyment.

I would like to illustrate several key areas where the revised draft provides greater emphasis and clarity from the 2001 policy document.

We unequivocally confirm to the American people that the fundamental purpose and mission of the NPS as stated in the 1916 Organic Act is to ". . . promote and regulate the use of the Federal areas known as national parks, monuments, and reservations hereinafter specified by such means and measures as conform to the fundamental purposes of the said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." Since passage of the Act, the NPS has established itself as a world leader in protected area management. We believe that these revised draft policies inspire and guide managers to follow that tradition.

The revised draft policies are committed to civic engagement and cooperative conservation at all levels of park management. This revised draft emphasizes to our managers that decisions based on sound public input are better for parks and more supportive of surrounding communities.

The management of parks is recognized as a serious business enterprise that must be continually improved by professional management. This ensures that the American taxpayer is well-served by managers using the best business practices. These revised draft policies make a strong commitment to workforce and business practices improvement.

The revised draft policies provide additional guidance on the important relationships between parks and Native Americans. The revised draft is respectful of tribal sovereignty and more explicitly expresses our commitment to a positive government-to-government relationship between parks and tribes.

The revised draft policies further recognize the importance of clean air and water as well as soundscapes and lightscapes. These resources help make each park unique and special in today's more crowded world. The revised draft policies allow for managers to review the variety of possible park resources and values, account for each park's specific legislation, and encourage working with neighbors and other land management agencies.

The revised draft policies recognize that we must not allow uses or threats to park resources to even approach the level of impairment. The manager will use professional judgment and science to determine when a proposed or existing use may be leading to impairment and manage to a level far below that critical point. This level of management, referred to as unacceptable impact, is clarified in the revised draft.

The revised draft policies have strengthened commitment to appropriate use in parks. Managers have new guidance on determining what an appropriate or inappropriate use in a park is. These revised draft policies also acknowledge that what may be appropriate in one park may not be in another park.

Finally, the revised draft policies recognize in a new way how much National Parks and the National Park experience means to Americans. The role of the park ranger as educator and protector is emphasized. The document demonstrates our commitment to the relevancy of National Parks and to the inspiration that they provide for our citizens, both today and in the future.

In closing, I would like leave you with two quotations from distinguished Americans who cared deeply about our special places. The first is from President Theodore Roosevelt in 1912:

> The establishment of the National Park Service is justified by considerations of good administration, of the value of natural beauty as a National asset, and of the effectiveness of outdoor life and recreation in the production of good citizenship.

The other quotation is from the author Wallace Stegner. In 1983, he wrote:

> National parks are the best idea we ever had. Absolutely American, absolutely democratic, they reflect us at our best . . . .

We believe that the revised Management Policies will help the National Park Service to shine in its role as a leader of resource stewardship, as a leader in providing opportunities for visitor enjoyment, and as a model for other nations in how to protect special places unimpaired for the future.

Senator ALEXANDER. Thank you, Mr. Martin.

We've been joined by Senator Akaka.

Mr. Kiernan.

STATEMENT OF TOM KIERNAN, PRESIDENT, NATIONAL PARKS CONSERVATION ASSOCIATION

Mr. KIERNAN. Well, thank you, Mr. Chairman and members of the subcommittee, for the invitation for the National Parks Conservation Association to testify today on the management policies for the Park Service. We are deeply grateful to the interest and engagement of this committee on this issue, on the policies as they were released for revision this past fall. Since 1919, the nonpartisan NPCA has been America's leading voice for the protection and enhancement of national parks, so it is wonderful today to be here to testify on behalf of our 327,000 members throughout the country.

When Denny Galvin testified this past fall, on behalf of NPCA, before the committee, that the nearly 90-year vision of the National Park Service mandate of protecting resources unimpaired was threatened, we were joined at that point in our concerns by a cross-section of the public—the Coalition of National Park Service Retirees, the National Council of Churches, the Outdoor Industry Association, just shy of 80,000 Americans and members of this committee. And we're pleased that the committee and many of your bipartisan colleagues in both chambers spoke up and raised some questions about the substance and the process. I want to specifically acknowledge the leadership of Senator Thomas and Senator Alexander and Senator Salazar, Senator Akaka and the other members of your committee. It is with an enormous sense of relief and support that we are here today to testify and explain how your efforts and other efforts have paid off. Based on our initial analysis of the draft that was released earlier this week, it appears that the Park Service has acted on the concerns that were raised, has discarded some of the changes that did raise national concern, and has added some changes that we believe will garner national support.

What began as a difficult process, we believe is ending up with a product that is both good for the national parks and good for the American public. What I would like to do now is give just a few examples of what we have seen in this draft just released and, hopefully, that will explain why we are so positive about this draft and I believe we've submitted some written testimony that goes into greater detail.

In the October draft, last October, chapter one reinterpreted the Organic Act by deleting critical language that made clear that it is, in the long-term, protection that takes precedence, and that language has now been restored in the draft that was released earlier this week. The October draft of chapter one removed a paragraph from existing policy that further clarified the Organic Act's interpretation by referring to court cases and what they've done. They didn't restore all of the court language, but they did summarize, to say it has been a general interpretation of courts that conservation will be predominant. We very much appreciate the way that they have summarized those court cases in this draft.

The October draft introduced concepts of appropriate use and unacceptable impacts that implied an inappropriate balance between preservation and recreation. Responding to those concerns in this draft released earlier this week, these concepts were further clari-

fied in a way that we believe makes this document better than the existing policies by giving clearer guidance to superintendents. In the October draft, section 1.6 on Cooperative Conservation could be read to say that the Park Service must reach agreement with all communities before taking action. The new draft appropriately leaves cooperative conservation language in there, but includes a provision that if all else fails, the Park Service can take action to protect the park resources.

And last, the air quality section, 4.7.1, of the October draft mistakenly, in our view, classified clean air as a value of the national parks and not as a resource. We're pleased to note that in the draft released this past Monday, it is noted as a resource, and some additional language was added to clarify the importance of clean air in our national parks.

So, in closing, if the final policies that, I believe, the Park Service is shooting for in August, if they are as strong as the draft that was released earlier this week, this will be a significant success and a victory for our national parks and for the American public. This process is not yet complete, but we would like to give our strong thanks to this committee, to the Department of the Interior, the National Park Service and especially to Deputy Director Steve Martin for a much, much improved process and product. It is an honor to be here today with you and with Deputy Director Martin. Thank you.

[The prepared statement of Mr. Kiernan follows:]

PREPARED STATEMENT OF THOMAS C. KIERNAN, PRESIDENT, NATIONAL PARKS CONSERVATION ASSOCIATION

Mr. Chairman, and Members of the Subcommittee, thank-you for inviting the National Parks Conservation Association to testify today regarding proposed changes to the Management Policies of the National Park System. We are extremely grateful to this subcommittee for the strong interest you have demonstrated in this important issue since the controversy over the initial draft rewrite began last August.

Since 1919, the nonpartisan National Parks Conservation Association has been the leading voice of the American people in protecting and enhancing our National Park System for present and future generations. I am pleased to be here today on behalf of our 327,000 members nationwide, who visit and care deeply about our national parks.

The Park Service issued its first set of management policies in 1918—two years after enactment of the National Park Service Organic Act and one year before Stephen Mather, the first director of the Park Service, worked with his close friend Jonathan Sterling Yard to found NPCA. In creed that Secretary of Interior Franklin Lane articulated in 1918—the core management policy for the NPS—endures today:

> First, that the national parks must be maintained in absolutely unimpaired form for the use of future generations as well as those of our time; second, that they are set apart for the use, observation, health, and pleasure of the people; and third, that the national interest must dictate all decisions affecting public or private enterprise in the parks.

When Deny Galvin testified before this subcommittee on behalf of NPCA last fall, this creed—the nearly 90-year vision for the Park Service's mandate to keep the national parks unimpaired for the enjoyment of future generations, was threatened. We testified that, if the sweeping changes proposed in October were ratified, the central purpose of the 1916 Organic Act, with its emphasis on protecting America's great treasures for future generations, could be lost. We were joined in those concerns by a broad cross section of the public and the Congress, including such groups as the Coalition of National Park Service Retirees, the Outdoor Industry Association, the National Council of Churches, and more than 50,000 citizens around our nation, as well as by many members of this subcommittee. We were pleased that this subcommittee and so many of your bipartisan colleagues in the House and Senate heard our concerns, and joined in questioning the need for and reasons behind

the proposed changes. In particular, I gratefully acknowledge the efforts and leadership of Senators Thomas, Alexander, Salazar, Akaka, Bingaman, and Martinez in raising the importance of this issue.

It is with an enormous sense of relief that I am here to testify today, to explain how fully your efforts appear to have paid off. Based on our initial analysis of the new draft the Park Service has just released, it appears that the Park Service has acted on those concerns and has discarded the broad changes that caused so much national concern. They heard the public, listened to Congress, and ultimately were empowered to take a fresh approach to this issue.

What began as a dreadful process—one we hope never to see repeated—appears poised to produce a product that makes sense for the parks and for our grandchildren.

BALANCING USE WITH PRESERVATION IN DAY-TO-DAY MANAGEMENT OF NATIONAL PARKS

Over the 90-year history of the NPS, there has been much debate over whether the NPS is achieving the proper balance between uses of the parks for today, and conserving them unimpaired for future generations. These conflicts usually erupt over day-to-day management of particular parks, and the decisions that the NPS makes as it goes through periodic management planning. It is crucial to this discussion, however, to note *that there is no credible debate over whether parks should be used by the American people, the debate centers on how the use occurs, and sometimes when or where.*

For the NPS professionals, conserving the parks *unimpaired* for future generations is synonymous with offering park visitors today a high quality experience. Scenic vistas should be clear, natural sounds should dominate over man-made noises, native wildlife should be abundant and visible for visitors, historic sites such as battlefields should look like they did when the historic events occurred, and park visitor facilities should not be located so as to disturb the natural scene or the cultural landscape.

Viable alternatives to expanded use and commercial development in parks should be provided outside the parks, on other public lands, or in gateway communities. Natural and cultural resources of the units of the National Park System must be maintained and in some cases improved. Preservation is the key to continued success of the NPS in fulfilling its statutory mandate, and also to sustaining the core destinations that fuel the tourism industry.

The management policies are central to the Park Service's ability to fulfill its mandate. They fill in the details not addressed by Congress in the many laws governing the parks. Management policies define what constitutes impairment of park resources and provide guidance on how to manage specific park resources, such as archeological relics, or how to manage certain land designations, such as wilderness. They are as fundamental to the protection of the national parks as the Organic Act, itself.

Now that the revision process is poised to conclude while doing no harm, what is needed is for the broad constituency of interests that are engaged with the National Park Service—recreation, tourism, gateway communities, conservation, preservation, and regular "good citizens"—to step up their support for their national parks as they are, and as they are intended to be, preserved unimpaired for future generations to enjoy. The national interest must prevail if our national parks are to flourish in the future.

PROPOSED REVISIONS AND THE PROCESS FOR ACHIEVING THEM

Although we are pleased with the substantive direction the revisions to the management policies appear to be taking, it is worth noting that the manner in which this rewrite was launched should never be repeated. The two central lessons of the last eight months are that the Park Service's management policies should not be re-opened lightly, and that the American people truly do care deeply about the long-term protection for these American treasures.

In the future, the management policies should only be revised when there is substantive reason to do so, based on the longstanding criteria for such revisions. It would be unfortunate if, after nearly a century, every time political changes occur the management policies are revised. This would be enormously disruptive to the Park Service, would politicize management of the national parks, and would be a disservice to the special place national parks occupy in our society.

We are heartened that political levels of the Department appear to have realized that Mr. Hoffman's initial draft, and even the subsequent draft formally released in October, were mistakes. We were extremely pleased to that as the review pro-

gressed, the Park Service was given complete control of the rewrite process, with very positive results. We expect this to continue, and we support the Department's full faith in the capable and dedicated professionals and leaders at the Park Service. With the support of the Department, the Park Service will be able to finalize a document at least as protective of the parks as the one before us today.

The draft we are discussing today has, at least preliminarily, our support. We look forward to learning the comments of Park Service professionals over the course of the coming weeks and we intend to urge anyone who commented on the earlier draft to send their reactions to the Park Service while the new document is being made available on the Park Service website. We continue to believe public comment is important on this draft.

STATUS OF SIGNIFICANT CONCERNS RAISED REGARDING PROPOSED REVISIONS

When we testified before this committee on February 15 of this year, we highlighted a number of significant concerns with the October draft. Subsequently, NPCA submitted an extensive package of written comments to the Park Service that included a legal analysis of the impairment standard under the Organic Act and our interpretation of the impact many of the proposed changes would have on the parks. We urged that the rewrite be scrapped and that the Park Service start over. In fact, this appears to be exactly what occurred, although perhaps not in the manner we contemplated. The fact that the Park Service was allowed to scrap both the Hoffman rewrite and the subsequent proposal that continued to reflect many of the policy pronouncements in that unfortunate draft appears to have made possible a complete redraft that, in some cases, actually improves over the 2001 product. Below is a summary of the primary issues of focus, which describes the earlier proposal and how the newly released draft handles these issues.

Organic Act—Predominance of Resource Protection: The Hoffman and NPS October drafts of Chapter One reinterpreted the Organic Act by deleting critical language that made clear that while the national parks certainly are intended to be enjoyed, it is their long term protection that takes precedence. This language related to the predominance of resource protection—in contrast to the long history of conservation being the primary mission. The 2001 MPs explicitly stated that the Service's fundamental mandates were conservation and prevention of impairment to resources. The June draft restores that 2001 language.

Similarly, the Hoffman and October drafts Section 1.10 on "An Enduring Message" added language that again implied that the park has two equal missions, namely preventing impairment and providing enjoyment. The June draft removes that language, stating the mission to be resource protection.

The Hoffman and October drafts of Chapter One removed a paragraph that further clarified the Organic Act's interpretation by referring to court cases that describe conservation as the primary mission of the National Park Service. The June draft does not restore this language, except to state that predominance of conservation over enjoyment is "how the courts have consistently interpreted the Organic Act." There is an argument that the management policies do not need to include references to the actual cases, as long as the policies' interpretation is consistent. We reluctantly agree, although it would have been nice, and certainly cause no harm, to include the more detailed clarification.

There is one place in the June draft that still may provide some confusion as to the status of enjoyment as compared to conservation. Sec. 8.1.1 includes a misleading statement that the "fundamental purpose" of parks "also includes providing for the enjoyment of park resources and values" thus if read on its own it implies that the two purposes are equal. We acknowledge that this was simply quoting from Sec. 1.4.3 of the 2001 Policies. But the 2001 Policies, and now we believe that the June draft, both read in combination with the rest of the Sections or in their entireties explains that this—sentence does not mean that providing for "enjoyment"—is a co-equal purpose with conservation. It is part of the purpose, but when there are conflicts, park resource protection prevails. However, unless this language is changed before the document becomes final, future Directors will have to remain vigilant, so that this clause cannot be singled out to be used to undermine the protections provided by the other, more specific sections of the policy.

Appropriate Use and Unacceptable Impacts: The Hoffman and October draft introduced more detailed concepts of "appropriate use" and "unacceptable impacts" that sought to "balance" resource preservation and visitor use, rather than keep preservation as the primary mission. It also promoted the use of "mitigation" of harm over removal of harm. We raised strong concerns that the draft was not, in fact, appropriately balanced, because it de-emphasized the primacy of resource protection when

it comes to the long term protection of the parks. Both of these harmful changes have been removed from the new draft.

Third Party Enforceability: We objected to the new provision that says that the policies do not create any enforceable benefit by a party in a suit against the United States. This provision remains in the June draft—one change we believe to be unfortunate. However, the policies can still be used as evidence in challenges to laws and regulations.

Mandated vs Authorized Activities: The Hoffman and October drafts indicated that if a use is "mandated" rather than authorized, that use must be allowed as long as impacts are "minimized." This would allow unacceptable impacts *just as long as there was an effort made to reduce their effect.* The new draft makes it clear that even if "mandated," uses must be managed to ensure that impacts are acceptable. The Hoffman and October drafts included a bureaucratically difficult procedure that would have to be followed before a use could be considered to cause impairment, essentially reversing the burden of proof. The June draft removed this unnecessary new language.

The Hoffman and October drafts of Section 1.4.7 on decision making allowed the decision makers to take action to mitigate impacts to avoid impairment, which opened the door to allowing impairment as long as it can be argued that some other benefit made up for it. The June draft restores the language that requires the Service to eliminate the impairment.

Inappropriate Delegation of Authority: Throughout the Hoffman and October drafts, the Park Service was instructed to employ "cooperation" in the management of the parks. For example, in Sec. 5.2.1, which addresses consultation related to cultural resource management, the Hoffman and October drafts inserted language on "cooperation" in places that created the impression that superintendents must give outside parties equal standing to NPS in resolving issues, so that NPS is limited in its ability to make responsible management decisions unless consensus is achieved. The June draft removes the new wording and restores the 2001 language.

In yet another example of where a change had been proposed in the Park Service's management authority, the Hoffman and October drafts had added language in the discussion on partnerships (Sec. 1.9) that called for "consensus-based management." It raised the concern that the Park Service would cede to local interests its decision-making authorities and responsibilities required by law. The June draft removes the "consensus-based management" language in its discussion of partnerships (now Sec. 1.10).

Also in its discussion of cooperation in Section 1.6 (Cooperative Conservation Beyond Park Boundaries) the June draft specifies that the Service "will not relinquish any of its authority" when participating in a park network. In addition, the ability of the Park Service to use its authorities and resources to take action if cooperative efforts do not prevent unacceptable impacts to park resources is clarified.

Inconsistency through Flexibility: Throughout the Hoffman and October drafts, the phrase, "whenever practicable" was inserted dozens of times. For example, in Sec. 4.1.5. (Restoration of Natural Systems), the phrase was added three times, making those requirements to restore ecosystems discretionary rather than required. A restoration requirement in section 4.2.1 was also made discretionary using the "whenever practicable" modifier. The final draft removes the added "whenever practicable" throughout the document. Furthermore, with respect to the Restoration of Natural Systems section, the June draft makes a significant improvement over the 2001 policies by inserting "restoration of natural visibility" to its list of potential restoration efforts to consider.

Another terminology change in the Hoffman and October drafts that had the unfortunately consequence of reducing the expectation for action was the substitution of the verbs "strive" or "should" for "will" in a number of places. For example, the Hoffman and October drafts of Sec. 4.4.1 on the management of biological resources reduced the Park Service's requirement of "will" maintain biological resources (native plants and animals) to "strive to" maintain. The June draft restores the verb "will" throughout the document and in the management of biological resources section improves that language stating that the Service "will *successfully*" maintain those resources. (Emphasis added)

The Hoffman and October drafts added a criterion for deciding when to restore native plants and animals that required consideration of restoration on "enjoyment of park resources." The June draft includes new criteria, but it only mentions effects on "park management and use." We feel this is still worrisome—we do not want to see species restoration prevented because a park "user" is afraid of interaction with predators, for example.

SPECIFIC RESOURCE PROTECTIONS RESTORED

Water: The Hoffman and October drafts weakened the "water rights" provisions (Sec. 4.6.2) by adding language that required more cooperation and consultation in water rights negotiations. The June draft includes language that makes it clear that the Park Service must keep its own resource protection interests in conflict resolution.

Air Quality: The Air Quality section (Sec. 4.7.1) was changed in the Hoffman and October drafts to improperly weaken the park protection duties in the Clean Air Act, create a complex, costly, and unworkable new obligation for NPS to assist states in the permitting of hundreds of new major sources of air pollution, and improperly interfere with effective communication between NPS and authorities responsible for permitting major polluting sources. The Clean Air section in the June draft retains all of the protections in the 2001 policies, removing the offending new provisions.

Natural Sounds: The Hoffman and October drafts removed the protection of "the atmosphere of peace and tranquility and natural soundscapes" from the criteria for unacceptable impacts. In fact, soundscape protection was diminished throughout the entire document. The June draft restores that criteria and level of protection.

Wilderness: The Hoffman and October drafts changed Chapter 6 (wilderness Preservation and Management) to significantly reduce protection of wilderness areas. Among other objectionable changes, the new language removed the Park Service's mandate to inventory its lands for wilderness designation and forward the recommendation to Congress, as the wilderness Act requires. Also removed was the mandate to conduct these reviews in a timely manner, many of which are decades overdue. The June draft rejects this change, and instead makes only a slight amendment that allows lands deemed "eligible" (a term reasonably changed from "suitable") could be managed in a slightly less protective way than other wilderness categories, but that land must still be managed to maintain its eligible status. This is acceptable language.

Use of the Parks

The Hoffman and October drafts of Chapter 8 on Park Uses set up a process to assess park uses in a way that made it much easier for higher impact uses to be found acceptable. The process switched the burden of proof from ensuring that resources are protected to assuming that the use is acceptable until it can be shown that it will cause a very high level of harm. As mentioned, it also removed the consideration of the use's effects on soundscapes. The June draft restores the soundscape criteria, and restores the correct burden of proof.

The Hoffman and October drafts of the sections about recreational uses removed the requirement to analyze environmental effects before approval of a use, made visitor use plans, river use plans discretionary, and weakened backcountry management provisions. They also stripped away the ability to consider the impacts of motorized equipment on intangible park qualities and natural quiet, and removed the requirement that the "least impacting" equipment, vehicles and transportation systems be used. The June draft restores all these protections and mandates.

ORVs: In the section 8.2.3.1 on motorized off-road vehicles (ORVs), the Hoffman and October drafts removed the references to the types of off-road vehicle impacts, including soil, vegetation, wildlife, cultural and visitor impacts, that are to be prevented, as well as reference to the ORV Executive Order. In the June draft, all of the objectionable deletions were restored to the 2001 policy language. Moreover, the section was even improved from the 2001 policies, by actually quoting regulatory provisions that implement the executive order that limit ORV routes and areas to National Recreation Areas, Seashores, Lakeshores, and Preserves.

Airports: In addition to trying to mitigate or avoid harmful effects, the Hoffman and October drafts contained a mystifying new provision in Sec. 8.4.8 (Airports and Landing Sites) that instructed parks to cooperate with the Federal Aviation Administration on nearby private airports to achieve better opportunities for visitors to see and visit the parks. This language essentially would have required the Park Service to support construction of airports near park boundaries. Fortunately, this language has been removed in the June draft.

Grazing: The Hoffman and October drafts changed the agricultural grazing provisions by inexplicably removing the need to show that grazing will not cause unacceptable impacts before permitting it, and removing the requirement to devise plans and many specific resource protection protocols. The June draft includes the requirement to eliminate unacceptable impacts, restores many specific resource protection requirements, and requires parks to show how resources would be conserved in a planning document, although not necessarily a separate plan. This is acceptable.

Cell Towers: The June draft improves upon the 2001 policies by requiring park managers to consider the impact of towers on the setting and scenery of a park before approving a siting permit. It also requires that towers that are allowed be located where they will have the least impact on park resources and that their visual impact will be minimized.

Park Facilities: In Chapter 9, the Hoffman and October drafts required all facilities to be managed to provide for visitor enjoyment, despite the fact that all of them are not meant for visitation. Also, Sec. 9.1.1.6 (sustainable Energy Design) changed a mandate to improve energy efficiency in new buildings to a discretionary duty. The June draft changes it back to a requirement.

Sections on waste management energy management were slightly weakened by the Hoffman and October drafts, but the 2001 language was restored.

Conclusion

Over the course of the coming three weeks, we intend to confer with as many current and retired national park professionals as possible, in order to ensure that they do not perceive problems with this draft that we have not recognized at this point. We are well aware that this draft is not yet final. In addition to being based on our rapid analysis of the draft the Park Service has just released, our testimony today is given in good faith based our conversations with Park Service professionals involved in the process. Although we continue to believe that this process need not have been launched in the first place, we are enormously encouraged that this new product looks very different from the one presented in October. We congratulate the Park Service for making such enormous progress and credit the Interior Department for supporting the Park Service in this rewrite. The question now will be whether the document that is finalized remains at least as protective as the one the Park Service has released this week.

Senator ALEXANDER. Senator Akaka.

STATEMENT OF HON. DANIEL K. AKAKA, U.S. SENATOR FROM HAWAII

Senator AKAKA. Thank you very much, Mr. Chairman. I would like to have my full statement included in the record.

Senator ALEXANDER. It will be.

Senator AKAKA. Mr. Chairman, I am so glad to hear already from the two witnesses. In general, I believe that the latest revision is a significant improvement over the previous drafts and I am encouraged that the new policies—in general, I believe the latest revision is a significant improvement over the previous drafts and I am encouraged that the new policies contain one of the key provisions from 2001, that to the extent there is a conflict between conserving park resources and providing for enjoyment of them, that conservation be predominant. I have previously expressed my concern with what I viewed to be an overly political process that was used in the development of the first proposed revision. It is my understanding that the most recent revision was developed, for the most part, with career park service employees. While the new version is much improved over the initial revision, there are still a few areas primarily involving cultural resource issues that I hope can be clarified and improved before the policies are finalized.

For example, the 2001 policies included a clear statement that, and I quote, "Planning will always seek to avoid harm to cultural resources and consider the values of traditionally associated peoples." But that sentence was dropped from the 2006 draft.

For the most part, however, I am encouraged that the 2006 policies have returned to, or in some areas improved upon, the 2001 policies. I hope the events of the last year will reinforce the merits of allowing the professional career employees of the National Park Service and the public to fully participate in the planning process

rather than allowing a few political employees to try and advance their ideological views.

Thank you very much, Mr. Chairman.

[The prepared statement of Senator Akaka follows:]

PREPARED STATEMENT OF HON. DANIEL K. AKAKA, U.S. SENATOR FROM HAWAII

Mr. Chairman, thank you for scheduling this hearing to review the National Park Service's revised draft of its management policies. In general, I believe the latest revision is a significant improvement over the previous drafts, and I am encouraged that the new policies have retained one of the key provisions from 2001, that to the extent there is a conflict between conserving park resources and providing for enjoyment of them, that conservation is to be predominant.

I had previously expressed my concern with what I viewed to be an overly political process that was used in the development of the first proposed revision. It is my understanding that the most recent revision was developed, for the most part, with career Park Service employees.

While the new version is much improved over the initial revision, there are still a few areas—primarily involving cultural resource issues—that I hope can be clarified and improved before the policies are finalized. For example, the 2001 policies included a clear statement that "planning will always seek to avoid harm to cultural resources, and consider the values of traditionally associated peoples." Similarly, it appears that clear direction in the 2001 policies to protect archeological resources has been changed to protecting those resources "whenever practicable."

For the most part, however, I'm encouraged that the 2006 policies have returned to or improved upon the 2001 policies. I hope the events of the last year will reinforce the merits of allowing the professional career employees of the National Park Service and the public to fully participate in the planning process, rather than allowing a few political employees to try and advance their ideological views.

Mr. Chairman, I would like to welcome our two witnesses here this afternoon, and I look forward to hearing more about the new policies during the hearing. Thank you.

Senator ALEXANDER. Thank you, Senator Akaka. Now we will have some questions. We will each take 5 minutes and then we'll go back around, if anyone wants to do that.

Let me start. Mr. Martin, how many National Park Service properties are there to manage?

Mr. MARTIN. There are 390-plus affiliated areas and trails.

Senator ALEXANDER. And the various categories are generally parks; what are the other categories?

Mr. MARTIN. We manage parks and monuments and lakeshores in a variety of areas, but all under one inclusive goal, which is the high level of protection.

Senator ALEXANDER. These are management policies for the managers of all those areas?

Mr. MARTIN. Right.

Senator ALEXANDER. And there is—they vary widely. Some of them are wilderness areas, some of them are far-from-wilderness areas.

Mr. MARTIN. Right.

Senator ALEXANDER. I'm just trying to create a sense of the importance of these management policies. You've been at various levels within the National Park Service. As a manager of a property, how did you use the management policies and how important were they to you in terms of making decisions about conservation, about air quality, about noise pollution? Can you give us an example or two of how they might be used in everyday management?

Mr. MARTIN. They're definitely brought out when you have a complex situation or a contentious situation or where you are just looking for guidance in areas of park management that you're not

familiar with. Our superintendents and managers have a broad array of responsibilities and they serve that purpose. I think that what we try to do—because, as you pointed out, we're everything from Langston Golf Course, here in Washington, DC, to the Gates of the Arctic, north of the Arctic Circle. What these do is they provide a lot of direct guidance, but they also provide process to think through tough decisions, and to be able to help clarify what the key purposes are for the area that you are in and how to best set that high standard for management.

Senator ALEXANDER. Well, for example—can you think of an example or can you, Mr. Kiernan, take the basic statement that we've all cited, where the Secretary says or repeats what seems to have been the basic idea ever since the first Federal law about national parks, when there is a conflict between the protection of resources and use, conservation will be predominant, and give me an example of some instance in the last few years of how a change in that would make a difference?

Mr. MARTIN. I think that, of course, we like it the way it's stated, but it's something where the fundamental goal of the Park Service is passing the resources on unimpaired. As an example, if you were thinking about allowing a new trail system in a park like Yellowstone—and this is hypothetical—you would evaluate what impacts that might have on the resources. And if it was something that was compatible with the legislative and the management goals of the park, and you did the research and you found that this was an appropriate use, you could allow that. But if there was uncertainty or you felt that somehow the resources would not be protected, then you would say, this is something that we just can't do. And we feel that is laid out more clearly in this document than it has been.

Senator ALEXANDER. If the Senators don't mind, I'm going to ask one more question. The clean air was another concern that I expressed about these management policies. I live near an area in Tennessee, the Great Smoky Mountains National Park, which you visited recently, which is the most polluted national park in America in terms of air pollution. The park has a—the Park Service has had the authority to weigh in on air pollution when permits for new coal-fired power plants are built. According to the Department of Energy, there are 129 new coal-fired power plants in various stages of planning or development. Some of these are bound to affect visibility in the parks, such as the Great Smoky Mountains National Park. Does the Park Service, under these management policies, expect to weigh in on giving its opinion about whether the creation of these new plants will adversely affect our National Park System?

Mr. MARTIN. The answer is yes, We would weigh in, and we would hope to work with potential permitees and others to ensure that the construction of plants and the operation of plants does not hurt the national parks. And we have a very important role in that, in getting the information out there and solutions out there as well.

Senator ALEXANDER. Thank you.

Senator Salazar.

Senator SALAZAR. Thank you very much for both Mr. Martin and for Mr. Kiernan. My question is whether or not, at this point in time, there should be additional public review and input into the policies as they were announced yesterday? My thought is simply this: there has been a dramatic change, and I think a positive change, in what the National Park Service is proposing here. I know we're getting an opportunity now to provide some response to you and you've mentioned, Mr. Martin, that there were actually—you posted the rules on the website, allowing the public then to review them and provide comment. Is there more that we ought to do to allow these proposed rules to receive additional public scrutiny or are you comfortable with where we are and what we're doing at this point in time?

Mr. KIERNAN. From our prospective, we are comfortable with the process that the Park Service and the Department have laid out. We do think it is important for the Park Service employees to spend the coming 21 days reading through this and seeing if there are any details or subtleties between the chapters, and if they have, from their management perspective, any questions or confusion. So we think this next phase is an important one. We also appreciate the Park Service's willingness to post it on the website so that those Americans that have been involved in this process do have a chance to see it and can contribute their comments. But the totality of those two processes, we think, is appropriate. Also, given that what we believe is in this document is—or what we know is there is a lot of the 2001 policies, the current policies, with a number of enhancements, improvements, adjustments, additions, but a lot of it is the current set of policies. So I think this is an appropriate public process from here forward before they finalize it.

Senator ALEXANDER. Thank you, Mr. Kiernan.

Mr. Martin.

Mr. MARTIN. I would agree with that. It was important to us to certainly get it back out to the employees. It is just like Senator Akaka pointed out, there will be some places where perhaps we moved things or things have dropped out that we need to make adjustments to. We felt it was important to have it available for the public, so they could read it. And like with all of our process, we certainly will listen to comments that come in over the next few weeks as well. We hope that this dialog that we have can continue, not just for the next few weeks but for the future, as we work through a lot of really complex issues.

Senator SALAZAR. Thank you very much.

Mr. Martin, this question is for you. In terms of the non-impairment standard, I think that was what was driving the concerns and the echoes of fear from so many people around the country with respect to our national treasures. I want you to describe to us how, in reality, the non-impairment standard will be applied, if, in fact, we have a conflict between the conservation purpose and some other use. How will the National Park Service process that conflict?

Mr. MARTIN. It will depend on the nature of the conflict. If it is something of significance, obviously we'll have a planning process, a need for process that would disclose that, discuss it, analyze it scientifically. I think on a day-to-day basis, it allows superintendents an opportunity to deploy the resources to make sure that the

ongoing activities within park are future activities, and as people come in with new ideas, they have a methodology to consider that.

I think that it is important to note that what this does do, too, is it allows for the embracing of appropriate uses. I think that the thing that makes that a key to have that high-level enjoyment standard is knowing that there are rules and there are bounds to that that are well communicated so people understand what the right uses are. And I think it will make managers' jobs easier in the parks.

Mr. KIERNAN. Senator, if I could add something. This is one of the areas that we're quite pleased with this draft, the concept that was interjected—inserted on unacceptable impact. That is, as we see it, a methodological enhancement that prior to impairment—obviously, the standard is impairment, but if a superintendent is seeing some unacceptable impacts that may be heading toward impairment, it allows the superintendent to take some management action to head things off at the pass so that we don't butt all the way up against impairment and then, if you will, have to have the park overreact in a very strong way. They are able to manage it as there is increasing impact, to the point at which, if there is an unacceptable impact, the superintendent can take action and this is before impairment occurs. So this is, we think, a much improved process that Mr. Martin has added to this and we applaud it.

Senator SALAZAR. I appreciate those responses. One final question, if I may, and that is, we seem to have come a long way to what appears to be a happy consensus here on how we move forward with national parks management policies.

Mr. Martin, do you anticipate that there will be a need to change or review these policies in some formal way on down the road, 3, 4, 5, 10 years? What is the future of these national management policies for parks?

Mr. MARTIN. I think that the answer is yes, we will need to continue to evolve our management policies and review them. Hopefully, we'll get the next process off to a little bit better start. I think that one of the reasons we wanted to put the ten key principles in this document is to say that it is good to look at how you're doing business, but you have to do it in a way that it is open and doesn't cause the consternation that the way we started this last process did. And I think that—so the answer is yes, we need to, but hopefully we've learned a lot from how to do that to make it better.

Senator SALAZAR. Well, I appreciate that response. And, again, Chairman Thomas and Senator Akaka, Senator Alexander and the members of this committee appreciate the work we have gone through and the final result we appear to be getting to very quickly. Thank you.

Senator THOMAS [presiding]. Thank you for your presentations. I'm sorry, I was waiting for the vote and we finally got it. But I had read your presentations and I thank you both very much.

Mr. Director, how do these new policies affect wilderness uses and the management of wilderness areas?

Mr. MARTIN. I think largely it's unchanged. We have made a couple of changes in how we manage lands that have not been—that are eligible for wilderness that have not been recommended by the director for inclusion in formal wilderness. And those lands, we

would maintain their eligibility, but we would have a little—which means that we wouldn't construct roads in them, we wouldn't build new facilities, but we would have a little more flexibility in how we manage those lands administratively, like being able to use some—like if you have a windfall, wind blowing down trees, you could use chain saws to clear the trails, those kind of things. But largely our management of wilderness is the same.

Senator THOMAS. Mr. Kiernan, what would you say are the most substantive changes brought about by this management policy?

Mr. KIERNAN. What first comes to mind, comparing back to the October draft, obviously was the re-insertion of chapter one, the fundamentals, going back to the 2001 policies, so I want to recognize that. When you compare it to the 2001 policies, some improvements have been made to the methodology that I mentioned a few minutes ago on the insertion of unacceptable impacts. We think that is an enhancement. We see some other enhancements on cell towers and some other places where it is clearer how the park and the superintendent should manage an issue. We're also pleased with the final inclusion of the concept of cooperative conservation. It is appropriately defined in here. We do see a tone shift, that we think is a welcomed one, to make sure that superintendents are encouraged to reach out and engage with the community and engage with stakeholders. We think the way that is defined is healthy and appropriate but it still maintains that the superintendent is responsible for protecting the resources and that conservation will be predominant. We think it is the right balance.

Senator THOMAS. OK. Thank you, Steve. As we all know, there is some discussion and decisions being made with respect to snow machines in the parks. Does this management policy grant any new authority to restrict snow machines, or what is the situation with regard to the future use of snow machines?

Mr. MARTIN. One of the premises of the document is all of the laws, all of the regulations, and the executive orders that have pertained to the use of snow machines remain the same. However, as we analyze existing snow machine use or potential snow machine use, you would subject it to make sure that if it was allowed—and again, we have many parks where it is—in a number of parks, that that use was consistent with passing the parks on to future generations unimpaired. So that's the key analysis that will take place. It was there before but I think as we look at—and as an example, the Yellowstone situation, I think that if we had these policies in place, we might have caught some of those levels of use that became too high, because we would have had—the question would have been asked, is this use too much? And I think that now, as we go back to analyze snowmobile use in our supplemental EIS, we'll look at that. If it can be allowed at appropriate levels that don't impact resources, then certainly that will be one of the alternatives that is considered.

Senator THOMAS. That is appropriate, but while they are still being used, they're not saying they can't be there.

Mr. MARTIN. Right.

Senator THOMAS. So there is some implication from some reactions that that would be the case. So accessibility to the park on

snow machines is part of the purpose of the park and so on, if it is done in a proper way.

One final question, Steve. You mentioned the communities. One of the keys to the operations, of course, is to have communications and so on with the gateway communities; is this regulation dealing more with that process?

Mr. MARTIN. It definitely talks a lot about the importance of engaging the communities, engaging the States and counties. Actually, we added some language on making sure that we engage needed peoples and others in our activities because of the special relationship parks have with them. So the answer is yes, it really puts a focus on that, but we retain the key responsibility. When it comes down to that final call, that's our responsibility. But, absolutely, that cooperation is important.

Senator THOMAS. Senator Akaka.

Senator AKAKA. Thank you very much, Mr. Chairman, Mr. Martin. Mr. Chairman, Mr. Martin, I would like to ask the question I mentioned in my opening statements. Section 5.2 of the 2001 policies dealt with planning requirements. It included a provision that, "planning will always seek to avoid harm to cultural resources and consider the values of traditionally associated groups." The comments in the 2006 draft are that the provision was deleted because it is addressed in section 2; however, we have not been able to find a similar statement in that section. This is a very important issue in my State of Hawaii and I wondered if you could assure me that the Park Service still believes that park planning should always seek to avoid harm to cultural resources and consider the values of traditionally associated groups, and if so, whether you would consider including that statement in the final version of the management policies.

Mr. MARTIN. The answer is yes to all your concerns. We have added considerable new language on that. Believe me, as soon as we are gone from here, we will evaluate that. It was meant to be in there and we'll either find it or we'll add something like that, because that was the intent.

Senator AKAKA. Thank you for that, Mr. Martin. My final question—I have another that I will place in the record.

My question concerns the role of what the Park Service describes as "traditionally associated groups" in park management. In Hawaii, virtually all of the national parks are also sites of tremendous cultural and religious significance to native Hawaiians. Will the new policies change the way in which the Park Service works with native Hawaiians and other "traditionally associated groups" in managing national parks?

Mr. MARTIN. I think that our goal—I know that our goal is that this document strengthen that relationship. One of the many comments we received, not only from you, but from some of the other American Indian groups and associates peoples, was that we needed to strengthen that part of the document and we made an attempt to do so. So we really hope that this document will increase our ability to understand and work with the groups that find the parks so important from a cultural standpoint.

Senator AKAKA. Thank you very much, Mr. Martin. I have another question that I will place in the record, Mr. Chairman.

Senator THOMAS. Thank you. Mr. Martin, I know this is not oriented specifically toward that, but does this have any impact particularly—we've been reading a lot lately about the budget and the difficulties, the financing and so on; does this deal with that particularly?

Mr. MARTIN. It does, in the general sense, in that we talk a lot about increasing the Park Service's ability in business management, accountability, and efficiency. We also talk in the document about the importance of when we construct facilities, making sure that we've considered maintenance costs, that we've considered making them as sustainable and durable as possible. And so, I think—and it also talks about the development of our work force for the challenges, the new challenges and complexities. So, it doesn't directly talk about dollars, but it certainly talks about work force and programs that will be efficient and effective and promote sustainability.

Senator THOMAS. This is not an appropriations thing, but I know that is the issue. Well, gentlemen, I want to thank you both for the work that has gone into this. I know that, No. 1, it's difficult to come up with something and get the reactions and then do some of the things to it. And as you know, the first draft brought some reactions. I appreciate very much the effort both of you have done to make some changes and to make this thing work. I think it's very key that we have a statement that defines the goals and the purpose of parks. And then, of course, everyone has a little different way of how you interpret some of those things, obviously, but we have to continue to support the purpose for the establishment of these resources. So, thank you very much and we've gotten through very quickly and I appreciate that.

Is there going to be more comment on this now, at this point? What is the status of it?

Mr. MARTIN. We hope to have it finalized in August and we will—it's out to our employees, so we will review their comments and I'm sure that we will get points of clarification and we really want to make these the best we possibly can. It is also on our website for the public, and we anticipate that we'll probably get some comments from the public as well. We will certainly consider those before we finalize it.

Senator THOMAS. Thank you, gentlemen. Thank you very much. We appreciate it.

[Whereupon, at 3:15 p.m., the hearing was adjourned.]

[The following statement was received for the record:]

STATEMENT OF MAUREEN A. HEALEY, EXECUTIVE DIRECTOR, PERSONAL WATERCRAFT INDUSTRY ASSOCIATION

The Personal Watercraft Industry Association (PWIA) and its member companies, American Honda Motor Co., Inc., Bombardier Recreational Products, Inc., Kawasaki Motors Corp., U.S.A., and Yamaha Motor Corporation, U.S.A. (collectively, "PWC Companies") submit these comments in response to the hearing the subcommittee held on June 20, 2006 to discuss the National Park Service's (NPS) updated draft to the policies ("Draft Policies") that guide the management of the national park system. The PWC Companies manufacture and/or distribute personal watercraft (PWC). PWIA and the PWC Companies are dedicated to ensuring that PWC use continues, on fair and nondiscriminatory terms, in units of the national park system that permit other forms of motorized boating.

The PWC industry commends the National Park Service for updating its policies. PWIA is concerned, however, that the revised Draft Policies might be interpreted by park unit superintendents as authority to prohibit visitor access to the national parks without the backing of a sound scientific analysis. Any decisions that impact the public's use of the national parks should always be based on the best available science.

Upon being asked by Senator Salazar at the June 20 hearing, Deputy Director Martin explained that when conservation and access come to a conflict, decisions will be based on science through a NEPA analysis. We hope Deputy Director Martin's statement underscores the protocol by which conflicts will be resolved. When making these decisions, it is important to use the most current scientific knowledge.

PWIA is particularly interested in NPS management policies because few industries have been so profoundly impacted by NPS decisions based on outdated science and personal bias as the PWC industry. As a result, public access has been greatly impaired.

In 2000, as a result of a NPS system-wide regulation, PWC use was prohibited in all NPS units with the exception of 21 designated units that continued to allow PWC use for a two-year grace period. During this grace period, each unit was instructed to conduct a full NEPA analysis to determine scientifically what impact, if any, PWC had on the local environment. A no-action decision by superintendents in these 21 park units would default to a PWC ban after the two-year grace period expired. As the chart below indicates, virtually no park unit successfully completed the NEPA environmental review and subsequent rulemaking in time to publish a final rule before the grace period expired in 2002. In fact, today, in 2006, there are still five park units that languish in the process. An economic impact study released in February 2006 estimates that the PWC bans in the national parks have cost the U.S. economy upwards of $2.7 billion in up- and down-stream losses. In fact, for every year these bans continue, these restrictions cost our economy another $567 million. The study also estimates that at least 3,300 U.S. jobs have been lost as a result of the NPS ban on personal watercraft.

The toll of these PWC bans stretch far beyond the plants where PWC are manufactured by hard-working Americans. Countless small business have been negatively impacted because of the steep decline in sales associated with the rumors of a "national ban" and the contagion effect it had on state and locally-managed waterways. PWC dealerships, repair shops, rental businesses, marine accessories retailers, hotels, and marinas have all felt the hit. Considering PWC sales fell from a peak of roughly 200,000 units in 1995 to approximately 80,000 in 2005, this is understandable. A 60 percent decline in sales that tracks the NPS ban history is in no way coincidental, despite what our detractors may claim. It is indeed the most profound, correlating reason.

The adverse economic impact caused by PWC bans amplifies PWIA's grave concern that bias can have a devastating impact. The final rule issued in 2000 that established the grace period for 21 park units and immediately banned PWC in the remaining units was based on outdated science. It was the result of a lawsuit brought by an anti-boating group under the guise of environmentalism and it declared PWC *guilty until proven innocent.* This is why PWIA consistently stresses the need to balance the competing demands. The PWC rule is a perfect case study because today, with 15 NEPA environmental assessment studies having been completed since the grace period expired in 2002, all 15 scientific studies determined that PWC present no unique impact on the environment and recommend they be allowed (with some limitations in particular park units) where other motorized boats are allowed. The PWC industry has been patient throughout the process, despite growing increasingly frustrated with the delays, because the findings of each and every one of these scientific studies confirm what PWIA has asserted for years; that modern personal watercraft are among the most environmentally-friendly motorized boats on the water.

Fortunately, 11 of the 15 park units that have completed the environmental assessment portion of the NEPA analysis, have also completed the rulemaking and published a final rule. PWC use has been restored in all 11 park units. Unfortunately, however, while these park units are reopened it took years to debunk the baseless allegations that caused the bans in the first place. Cape Lookout National Seashore in North Carolina, for instance, did not issue a final rule until six full years after the final rule was published in 2000.

CHART

Progress made by the 16 park units of the 21 that indicated they would conduct a NEPA analysis of PWC use after the final rule in 2000 was issued.

Park Unit	Draft EA/EIS Released	Draft Rule Released	# of Days	Final Rule Released	# of Days	Draft EA to Final			Service-Wide Rule to Final Local Rule		
						Days	Months	Years	Days	Months	Years
Assateauge	April 1, 2002	May 6, 2002	36	May 30, 2003	389	425	14	1.2	1135	38	3.1
Lake Mead	April 24, 2002	September 5, 2002	134	April 9, 2003	216	350	12	1.0	1084	36	2.9
Lake Powell	September 14, 2002	January 17, 2003	125	September 26, 2003	252	377	13	1.0	1254	42	3.4
Amistad	April 8, 2003	October 22, 2003	197	May 27, 2004	217	414	14	1.1	1497	50	4.1
Lake Meredith	March 10, 2003	December 12, 2003	275	May 27, 2004	166	441	15	1.2	1497	50	4.1
Lake Roosevelt	April 29, 2003	February 6, 2004	283	June 25, 2004	139	422	14	1.2	1526	51	4.2
Chickasaw	March 10, 2003	March 25, 2004	380	September 2, 2004	161	541	18	1.5	1595	53	4.4
Bighorn Canyon	June 11, 2003	May 5, 2004	287	June 1, 2005	392	679	23	1.9	1867	62	5.1
Fire Island	September 5, 2002	August 23, 2004	352	July 6, 2005	421	773	26	2.1	1902	63	5.2
Pictured Rocks	July 22, 2002	November 15, 2004	846	October 27, 2005	346	1192	40	3.3	2015	67	5.5
Gulf Islands	April 19, 2004	March 17, 2005	332	May 4, 2006	413	745	25	2.0	2204	74	6.0
Cape Lookout	January 24, 2005	December 29, 2005	339								
Gateway	May 13, 2003	February 24, 2006	918								
Curecanti	June 13, 2003	March 17, 2006	970								
Big Thicket	July 24, 2002	???									
Padre Island	February 13, 2006	???									
Average			391		282.9	578.1	19.3	1.6	1598	53	4.4

THE CASE OF BISCAYNE NATIONAL PARK

Park superintendents yield a great deal of autonomy and, as a result, personal bias can come into play. Therefore, the way in which the new Draft Policies are interpreted by each superintendent will have a huge impact on dictating what recreational uses will be allowed in a particular park. PWIA is currently engaged in a vigorous debate about PWC use in Biscayne National Park in Miami, FL as a result of a previous superintendent with a bias against PWC.

Biscayne National Park is covered almost entirely by water, and while some of it is very shallow and contains sensitive ecosystems that perhaps should not be accessed by motorboats (a decision that should be made only by scientific analysis), the vast majority of Biscayne is open ocean that is very inviting for boats of all kind. In fact, all other types of boats are allowed in Biscayne National Park, only PWC use is restricted. When the NPS system-wide PWC rule was issued in 2000, Biscayne National Park was not on the list of 21 units that had a two-year grace period, therefore PWC were immediately banned. The park superintendent at that time indicated no intent to contest the decision with the National Park-Service on behalf of the many park visitors who enjoyed the park by PWC.

As part of a coalition of local businesses and PWC owners, PWIA filed a petition in 2004 and again in 2006 encouraging the National Park Service to re-examine the arbitrary nature of the Biscayne National Park ban, particularly in light of the 15 other environmental assessments that show PWC present no unique impact on the environment. These environmental assessments represent the best available, most recent studies measuring PWC impact. An owner of a Miami-area PWC dealership testified before a House subcommittee in March 2006 and explained that his personal watercraft business suffered a 75 percent decline in sales as a result of the ban at Biscayne National Park.

The 2004 petition was denied with very little justification other than a brief explanation that Biscayne National Park was intentionally left off the list of park units with a grace period and therefore it had been decided that PWC use should not be allowed at Biscayne National Park. In following, PWIA filed a Freedom of Information Act (FOIA) request for all items and materials related to the decision to deny the petition and perpetuate the ban. Meanwhile, a Department of Interior Assistant Secretary testified before Congress in 2005 and confirmed that there has never been any scientific study conducted at Biscayne National Park to justify this ban.

The FOIA request resulted in very little justification for the 2004 petition denial. It is worth noting that the petition did not request immediate and unfettered PWC access to the Park. To the contrary, it requested a fair and equitable decision process by evaluating PWC use and impact through a NEPA analysis. The minimal results of the FOIA request led to a new petition being submitted in February 2006. As we approach August, nearly six months later, we still have not received a response to this petition despite a NPS official's testimony before a House subcommittee in March that the response was nearly complete and would be released in the "next ten days."

It is also worth noting that while 21 park units were listed in the 2000 Final Rule to remain open to PWC use during the grace period, the Final Rule explicitly states that any other park may commence a NEPA analysis at any time. The Final Rule does not prohibit any park unit from revaluating the PWC ban at the local level.

PWIA is particularly dismayed that the NPS has ignored verbal and written requests from several Members of Congress to begin a NEPA analysis at Biscayne National Park. By engaging this process, all involved could be confident that sound science would make the final decision and put the debate to rest.

Furthermore, the Atlantic Intra-Coastal Waterway (ICW)—a "highway for boats" that runs much of the eastern seaboard—traverses approximately 17 miles through Biscayne National Park. Boats of all shapes and sizes use this waterway to travel from Key Biscayne in southern Miami to Key Largo and farther south into the Florida Keys. The United States Coast Guard (USCG) has authority over the ICW, yet the NPS insists its PWC ban in Biscayne National Park also applies to the USCG-controlled ICW. At present, a PWC operator must leave the safety of the ICW and travel approximately 10 miles into the open Atlantic Ocean around an invisible park boundary to return to the ICW in Key Largo. Since PWC are small boats of approximately 12-15 feet in length, this journey can be very dangerous.

PWIA at a minimum, and in the interest of boater safety, PWC operators should be allowed to traverse Biscayne National Park thought the Intra-Coastal Waterway. It is particularly troubling in the case of Biscayne National Park that it has been virtually impossible for PWC operators to have their day in court, where the issue of a PWC ban can be reopened and reevaluated.

PWC TECHNOLOGY

Personal watercraft and the people who own them have changed dramatically over the last several years. Today's vessels are overwhelmingly sit-down models (99 percent) that carry two and three people including the operator. Since 1998, PWC emissions have been reduced by up to 90 percent and sound has been reduced by 70 percent. The environmentally-friendly four-stroke engine models accounted for a vast majority (80 percent) of sales last year.

Personal watercraft have always complied with all applicable federal and state emissions and sound requirements. In fact, manufacturers met, and in some cases exceeded, the EPA's 2006 standards years ahead of schedule.

As technology has improved, manufacturers have seen a change in their customer base too. The typical PWC buyer today is over 40 years old and is an experienced boater. This comes at no surprise, considering PWC today retail for approximately $10,000 per boat.

CONCLUSION

PWIA recognizes the complexities in balancing all of the competing needs and demands on the national park system. That is positive proof that the final Draft Policies must be very clear in their interpretation. Otherwise, what could result is visitor access being denied based on a biased judgment from a park superintendent and manager. Deputy Director Martin testified that a NEPA analysis would be the instrument used to resolve conflicts between conservation and access. We hope this is boldly expressed in the final policy.

It is PWIA's belief that reasonably regulated PWC use should be permitted wherever other forms of motorized boating are allowed, and we hope that the final management policies will assist in allowing that to happen.

PWIA stands ready to assist the NPS on issues of mutual interest, as evidenced by the recently announced boating safety partnership at Lake Mead National Recreation Area. If you have any questions or would like to further discuss this important matter, please contact me at *mhealey@upwia.org*, or 202-737-9778.

○