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IMPEDIMENTS TO PUBLIC RECREATION ON PUBLIC LANDS

OVERSIGHT HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS
AND ENVIRONMENTAL REGULATION

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

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OVERSIGHT HEARING ON "IMPEDIMENTS TO PUBLIC RECREATION ON PUBLIC LANDS"

Tuesday, May 7, 2013
U.S. House of Representatives
Subcommittee on Public Lands and Environmental Regulation
Committee on Natural Resources
Washington, D.C.

The Subcommittee met, pursuant to notice, at 10:07 a.m., in Room 1324, Longworth House Office Building, Hon. Rob Bishop [Chairman of the Subcommittee] presiding.

Present: Representatives Bishop, McClintock, Lummis, Labrador, Daines; Grijalva, DeFazio, Shea-Porter, and Garcia.

Also Present: Representative Heck.

Mr. BISHOP. All right, this hearing will come to order. Even though it sounds like a mausoleum out there anyway, you will be orderly now. The Chair notes the presence of a quorum on the Subcommittee on Public Lands and Environmental Regulation. We are meeting here today to have oversight testimony on "Impediments to Public Recreation on Public Lands."

So, under the rules, opening statements are limited to the Chairman and the Ranking Member. However, I ask unanimous consent to include any other Members' opening statement in the record, if they submit it to the clerk by close of business today. And, hearing no objections, it is so ordered.

If I can start with my opening statement and see if we can move this along as best we can.

STATEMENT OF THE HON. ROB BISHOP, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

Mr. BISHOP. Americans are clearly blessed with vast expanses of land suitable for almost every type of outdoor recreation: hunting, fishing, off-road vehicles, hiking, camping, boating. They are among the recreational activities that, for generations, American families have enjoyed on public lands.

In my home State of Utah, outdoor recreation opportunities are aplenty, from world-class skiing in the north, to the Red Rock Country in the south, Utah is a truly remarkable place to enjoy the great outdoors. Utah is leading the way when it comes to accommodating outdoor recreation enthusiasts and business. Governor Herbert recently released the "State of Utah's Outdoor Recreation Visit," which we could probably kill a whole lot of trees if I put that in the record, but it is there.

The State legislature adopted this vision, its first recommendations, when they created the Office of Outdoor Recreation. And I have initiated a multi-stakeholder process to harness Eastern Utah's conservation, outdoor recreation, and mineral assets into a balanced, locally driven concept.

Although our opportunities on Federal lands are unsurpassed, they are not being realized as fully as they should, simply because Federal land management has become often bureaucratic, always autocratic, and traditionally dysfunctional. I believe this dysfunction has catapulted Federal land management to the forefront of the public lands issues. And I believe we are in the midst of a paradigm shift when it comes to the management of our Federal lands. Put simply, a major reassessment of our Federal land management apparatus is clearly needed.

Public use is one of the fundamental purposes of public lands, and it requires an open and a fair process. Properly managed, our lands could provide far more toward our economic well-being, our recreational use, and our conservation interest. To be good stewards of the Federal land, we need to encourage all three objectives, and they are compatible. It is not a zero-sum game. The land and all the nature of this big continent is resilient, it is dynamic, it responds well to good management.

In many instances, public access and enjoyment depends upon the service of outfitters and guides. These outfitters and guides are typically small, locally owned businesses who operate on a very small profit margin. They provide jobs, they are integral to the communities that surround our public lands, and they provide essential expertise, training, and equipment to visitors. Increased fees, bureaucratic resistance, regulations, processing times, and especially litigation, are driving up the costs of running private businesses on public lands and making a profitable operation difficult, putting many out of business and threatening the continuation of the services that make visitor access possible and affordable for families.

Unless there is a change in direction, a generation of Americans could lose this opportunity to participate in the outdoor adventure, and thousands of local jobs could be lost, as well. In our hearing today, we will see testimony from outfitters and guides, along with representatives from insurance companies and trade associations that support their work. These are skilled professionals dedicated to public enjoyment of our public lands which provide services that government simply cannot.

To truly appreciate the abundance of natural resources the Lord has blessed our land with, we should encourage, not hinder, a full range of public uses that our land can provide. Today we are going to hear from individuals who experienced firsthand how Federal land managers are performing their task of providing open and fair access, and we are going to hear recommendations on how to overcome impediments to public recreation on public lands.

So, I would like to specifically welcome Brian Merrill and Aaron Bannon. These gentlemen have been active participants in our Eastern Utah planning process, and have been very helpful in outlining the challenges and opportunities that we face with the outdoor recreation community.

With that, I will recognize the Ranking Member, Mr. Grijalva, for any opening statement he wishes to make.

STATEMENT OF THE HON. RAÚL M. GRIJALVA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Mr. GRIJALVA. Thank you, Chairman Bishop. Thank you for holding this hearing today. I think this is a critical issue, and one that deserves attention. And we appreciate the attention you have brought to it by holding this hearing. Thank you.

And I also want to thank everyone that is testifying today. Your testifying today means you aren't home running your businesses, so we appreciate the sacrifice you made to come to D.C.

Recreation and the money recreation generates from our public lands is important. Too often we fight over oil and gas development, logging, mining, when the real economic engine fueling many communities is the recreation economy. The Outdoor Industry Association estimates that outdoor recreation creates $646 billion in direct consumer spending, and $80 billion in Federal, State, and local taxes. This is bigger than the pharmaceutical or automobile industry. In my home State of Arizona, outdoor recreation is a $10 billion industry that supports $3.5 billion in wages and salaries.

The importance of the industry is why I have introduced legislation to create a 21st Century Great Outdoors Commission. This legislation is modeled after the bipartisan Outdoor Recreation Resource Review Commission that was enacted in the Eisenhower Administration. When enacted, the 21st Century Great Outdoors Commission will be charged with making policy recommendations to Congress on how to promote and protect this valuable activity.

As everyone testifying today says, in one way or another we need to relook at how people in America are using these resources, and what can be done to make sure the Federal Government is meeting the needs of its taxpayers. And, by the way, no Federal money would be spent on this Commission.

My legislation has the support of the Outdoor Industry Association, the Trust for Public Land, and the Nature Conservancy, the Outdoor Alliance, and the National Parks Conservation Association.

Again, I want to thank the Chairman for holding this important hearing, and I look forward to the hearing and to the comments by our witnesses. I yield back.

[The prepared statement of Mr. Grijalva follows:]

Statement of The Honorable Raúl M. Grijalva, Ranking Member, Subcommittee on Public Lands and Environmental Regulation

Thank you, Chairman Bishop, for holding this hearing today. I think this is a critical issue—and one that deserves more attention. Thank you also to those of you who are testifying. For many of you, testifying today means you aren't home running your businesses so we appreciate the sacrifice you made to come to D.C.

Recreation and the money recreation generates from our public lands is important. Too often, we fight over oil and gas development, logging, and mining when the real economic engine fueling many communities is the recreation economy.

The Outdoor Industry Association estimates that outdoor recreation creates $646 billion in direct consumer spending and $80 billion in federal, state, and local taxes. This is bigger than the pharmaceutical or automobile industry. In my home state of Arizona, outdoor recreation is a $10 billion industry that supports $3.5 billion in wages and salaries.

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My legislation has the support of the Outdoor Industry Association, the National Wildlife Federal, the Trust for Public Land, the Nature Conservancy, the Outdoor Alliance, and the National Parks Conservation Association.

Again, I want to thank the Chairman for holding this important hearing and I look forward to hearing from our witnesses.

Mr. BISHOP. Thank you. I appreciate it. With today's hearing we are going to have three distinct panels. The first panel will consist of our colleague, Congressman Joe Heck, a representative from the third district in Nevada.

The subsequent panels we are going to hear from representatives from the outdoor recreation and insurance industries. These are the small business operators and outfitters we talked about.

Mr. Heck, at the end of your presentation, if you would like to join us, we will be happy to accommodate that. So far I have yet to have anybody take me up on that offer in my entire career here, but I am always looking for somebody to do that. Mr. Heck, you have 5 minutes for your testimony.

STATEMENT OF THE HON. JOSEPH J. HECK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEVADA

Mr. HECK. Thank you, Mr. Chairman. I also want to thank the Ranking Member, Mr. Grijalva.

More than 85 percent of my State is owned by the Federal Government. So Nevadans know how critical public lands are for environmental and recreational purposes. And the topic of today's hearing, "Impediments to Public Recreation on Public Lands," is an important one. Nevada's lands have been used for generations by folks who enjoy the many activities that the Chairman listed in his opening statement. And our land should be open for these activities. I thank the Committee for their continued vigilance in this matter.

But I want to turn briefly to another topic that is very timely related to public lands usage. It is a topic that I am hopeful this Committee will look into more thoroughly in the coming weeks, and that is the issue of bureaucratic impediments to volunteer search and rescue efforts on public lands.

On January 31, 2012, Las Vegas taxi driver Keith Goldberg went missing. Investigators believed that he was killed and the body disposed of in the desert in the vicinity of the Lake Mead National Recreation Area. Local law enforcement suspended their search when Keith was not found, and arrests were made in April of 2012. But the Goldberg family and Keith's sister, Jody, who is with us today in the audience, still wanted answers. They wanted to find Keith and bring closure to what had been a heart-wrenching experience.

The Goldberg family turned to Red Rock Search and Rescue, a nonprofit search and rescue team that helps families like the Goldbergs when loved ones go missing. The team at Red Rock is a trained group of volunteers with extensive experience. And the

Goldbergs were hopeful that, with Red Rock's help, they would be able to close this tragic chapter of their lives.

As Red Rock prepared to start their search, they ran into a number of bureaucratic road blocks at the National Park Service. Valuable time was consumed with the processes needed to obtain a special use permit and to obtain a liability insurance policy. Now recall this is a trained, nonprofit, volunteer, Good Samaritan organization trying to bring closure to a family by searching for their lost family member for free, and at no expense to the taxpayer. They provide a valuable community service. And they need to be able to get in to the public park and make their search.

Some 15 months after Keith Goldberg disappeared, Red Rock was finally able to find an insurance policy and obtain the requisite permits that would allow them to start their search. And on April 14th, after less than 2 hours of searching, Red Rock Search and Rescue discovered the remains that had been matched to Keith Goldberg. The Goldberg family had their closure.

But the Goldberg's story is not unique. Air Force Staff Sergeant Antonio Tucker was presumed drowned in Lake Mead on June 23, 2012. As the National Park Service searched, they were contacted by an owner of a company specializing in underwater recovery and survey work. He offered to help. He was told the Park Service had all the help it needed.

Ten months later, after hiring an attorney, filing a request for public documents, and applying for a special use permit, he was finally cleared to search the lake. Staff Sergeant Antonio Tucker's body was recovered on April 17th of this year, in less than 2 days of searching. Antonio Tucker's family waited 10 months for closure. A spokesman for the Lake Mead National Recreation Area now acknowledged that the company had more advanced equipment than the service and stated, "We should be able to utilize their services much more rapidly."

Now, neither of these examples is intended to be an indictment of the men and women who work at the Lake Mead National Recreation Area or any of our public lands. They are truly dedicated professionals working to the best of their ability within a bureaucratic framework that hinders the acceptance of Good Samaritans offering to help.

Having thought about these issues, and as a former member of the Las Vegas Metropolitan Police Department Search and Rescue Team, developing legislation that would require the National Park Service and other Federal land management agencies to streamline and expedite the permitting process, as well as waive any liability insurance requirements for nonprofit, accredited search and rescue organizations for the purpose of carrying out privately requested missions on Federal lands.

Again, I am hopeful that the Committee will give this matter its due consideration so that families like the Goldbergs and the Tuckers can have the closure they deserve when unfortunately faced with a missing loved one.

I again thank the Committee for allowing me the chance to testify here today. I look forward to working with you on the public land access issues in the future, and as much as I would love to

join the Committee at this time, I do have another committee meeting to get to, and I yield back the balance of my time.

Mr. BISHOP. Mr. Heck, we appreciate your testimony here, and I appreciate you alerting us to what is really an astonishing failure on the part of land managers. I also appreciate having some of the members of the family of those who were involved in this here with us today, as well. So thank you for doing that.

My assumption is, Mr. Heck, that you are working on legislation to address this problem.

Mr. HECK. That is correct. We have the discussion draft back; we should have it ready by next week.

Mr. BISHOP. All right. We hope to be able to have a quick hearing and be able to move that forward and do whatever we can to help you on that.

I don't have any other questions. Mr. Grijalva, do you have questions of the Representative?

Mr. GRIJALVA. No, just to thank our colleague for bringing this to all of our attention, and to extend condolences to the family that is here. This is a policy, not based on regulation, based on, I think, the lead land manager's discretion and their ability to assess and understand. It is unfortunate that discretion was not what it should have been in this case. But I look forward to discussing that legislation as you prepare it and finalize it. And again, thank you for bringing it to our attention. And to the family, condolences. Thank you.

Mr. BISHOP. Thank you for joining us today, Congressman.

We would like to call our second panel up. We are going to have two more panels. Panel two will be Rick Lindsey, who is from Prime Insurance Company; Terry Kauffman, the Rancho Red Rock; Scott McFarland, High Point Hummer; Mike Friedman, the Adventure Partners; and Sutton Bacon from the Nantahala Outdoor Center—if I even came close to saying that properly.

We can invite you up to the table. We will just start with Rick and go from left to right, as I look at you. For many of you who have been here before, for those who have not, your written testimony is part of the record. We will ask for some oral testimony at this time. We are granting you 5 minutes each for that oral testimony. So, if you would, watch the clock ahead of you. When you have 5 minutes the time will start, it will be green. When you see it hit yellow, that means you have 1 minute left to sum up. And when you see it hit red again, that is like any traffic light. We would like you to stop.

So, thank you for being here. Rick, I will turn to you first for 5 minutes.

STATEMENT OF RICK J. LINDSEY, PRIME INSURANCE COMPANY

Mr. LINDSEY. Thanks, Chairman Bishop, members of the Subcommittee. As you may recall, I testified before the Subcommittee on August 2, 2012, and respectfully request that you enter my written and oral testimony of that date by herein incorporating by reference such that it will be continued to form my ongoing position on this matter.

[Statement for the record can be found on page 67:]

Mr. LINDSEY. Further, to my August 2nd testimony, I would like to bring your attention to some of the additional information that has come to my attention in the time period since that time.

The National Park Service has failed to adequately address the issues brought to the Subcommittee's attention on August 2nd. When the National Park Service representative testified before the Subcommittee last year, there was an inadequate response to the request for the National Park Service to provide actual case-specific examples of the current insurance requirements being inadequate to cover a claim for any injury. In fact, no such examples have been provided by the National Park Service to this day.

I have personally been contacted by distressed concessioners from around the country, telling me of their horror stories. These individual examples range from insurance requirements of $7 million in the U.S. Virgin Islands to $11 million in Virginia. Non-insurance issues that have either put small concessioners out of business or soon will. Many of these concessioners have expressed their emotional and heartfelt fear that they will be even further victimized by the Federal Government if they fully disclose their identity.

Small businesses are particularly harmed by the government agency's actions. As you will hear from the other witnesses today, I have personally been informed by many concessioners and Federal permit holders around the country that their small businesses have been directly targeted and significantly harmed by the Federal agencies.

It is clear to me that these agencies are trying to put small operators out of business, which runs contrary to Ms. Peggy O'Dell's testimony on August 2, 2012, that the National Park Service adheres to its guidelines not to unduly burden small businesses. This means, sadly, that smaller operators who are usually safer, more experienced, and provide a better experience for the public, will be a thing of the past to be replaced by a few large conglomerates. This reminds me of the 2008 mortgage crisis, where the largest banks had been considered too big to fail.

Public access on the public lands will be curtailed with the obviously putting out of business of these small permit holders, outfitters, and guides, and concessioners. This could only affect the chilling public access, which, for some unknown political reason, appears to be what the Federal agencies are hoping to achieve. The further increase of insurance requirements is unnecessary, and only serve to add to the issues that will continue to put small business operators out of business.

Release forms being disallowed. Outfitters, outdoor operators, and their insurance companies indemnify and hold harmless the Federal agencies that have immunity. But some Federal agencies attempt to sever these protections by taking away the assumption of risk and release of liability forms. Some Federal agencies will not allow assumption of risk forms or release of liability forms. This means that no matter the facts of the injury to the outdoor participant, they never assume the risk. This places an undue burden of possible liability on the permit holders, the Federal agencies, and their insurance carriers.

However, companies that do not hold permits with the Federal agencies are protected by these release claims without interference

from the Federal agencies from patrons renting equipment outside of the park and for use on public lands, but used to enjoy outdoor recreational activities on public lands.

Thank you for your ongoing interest in these important matters of not allowing small operators to be put out of business, and ensuring that the public access is not restricted as a result. Thank you.

[The prepared statement of Mr. Lindsey follows:]

Statement of Rick J. Lindsey, President, Chairman & CEO, Prime Insurance Company

Dear Chairman Bishop, Ranking Member Grijalva and Members of the Subcommittee:

As you will recall, I testified before this Subcommittee on August 2nd 2012, and I respectfully request that my written and oral testimony of that date be herein **incorporated by reference** such that it will continue to form my ongoing position in this matter.

Further to my August 2nd 2012 testimony, I would like to bring to your attention some additional information that has come to my attention in the time period since that time, as follows:

- **The NPS has failed to adequately address the issues brought to this Subcommittee's attention at the August 2, 2012 Hearing.** When the NPS representative testified before this Subcommittee last year, there was an inadequate response to the request for the NPS to provide actual case specific examples of the current insurance requirements being inadequate to cover a claim for injury. In fact, no such examples have been provided by the NPS to this day.
- **I have personally been contacted by distressed Concessioners from around the country telling me of their "NPS/NFS/BLM Horror Stories".** These individual examples range from examples of insurance requirements for $7.0MM of liability limits in the U.S. Virgin Islands and $11.0MM in Virginia, to broader, non-insurance issues that have either put small concessions out of business, or soon will. Many of these Concessioners have expressed their emotional and heart-felt fear that they will be even **further victimized** by the Federal Government if they disclose their identity.
- **Small businesses are particularly harmed by the NPS, BLM and NFS actions:** As you will hear from the other witnesses today, I have been personally informed by many Concessioners and Federal Permit Holders around the country that their small businesses have been directly targeted and significantly harmed by these federal agencies. It is clear to me that these agencies are trying to put small operators out of business which runs contrary to Ms. Peggy O'Dell's testimony on August 2nd, 2012 that the NPS adheres to its guidelines NOT to unduly burden small businesses. This means, sadly, that the smaller operators who are usually safer, more experienced, and provide a better experience for the public will be a thing of the past, to be replaced by a few large conglomerates. This reminds me of the 2008 mortgage crisis where the largest banks had been considered "Too big to Fail!"
- **Public Access to Public Lands will be Curtailed:** With the obvious putting out of business of all the smaller permit holders, outfitters, guides, and concessioners, this can only have the effect of chilling public access, which for some unknown political reason, appears to be what these Federal Agencies are hoping to achieve. The proposed further increases in insurance requirements are unnecessary and only serve to add to the issues that will continue to put small businesses and operators out of business.
- **Release Forms Disallowed:** Outdoor operators and their insurance companies indemnify or hold harmless the federal agencies that have immunity but some federal agencies attempt to sever these protections by taking away the assumption of risk and release of liability. Some Federal Agencies will not allow assumption of risk and release of liability forms this means that no matter the facts of the injury to the outdoor participant, they never assume the risk. This places an undue burden of possible liability on the permit holders, the Federal Agencies and the insurance carriers. However, companies that do not hold permits with these Federal Agencies are protected by the release of claims, without interference of the Federal Agencies, from patrons

renting equipment rented outside of public lands but used to enjoy outdoor recreation activities on public lands.

Thank you for your ongoing interest in these important matters of **Not allowing Small Operators to be put out of business** and **Ensuring that Public Access is Not Restricted as a result.**

Mr. BISHOP. Thank you, Mr. Lindsey.

Terry, if we can turn to you now, same 5 minutes, please.

STATEMENT OF TERESA "TERRY" KAUFFMAN, RANCHO RED ROCK

Ms. KAUFFMAN. Mr. Chairman and members of the Committee, thank you for the opportunity to be here.

Mr. BISHOP. Can you make sure that is as close to your mouth as you can get it?

Ms. KAUFFMAN. OK, sorry.

Mr. BISHOP. Thank you.

Ms. KAUFFMAN. OK. My name is Teresa Kauffman, and I run a small horse farm riding stable near Reno, Nevada. Since 1975, I have managed riding stables with my sons in the Reno-Tahoe area, most notably North Star Stables, from 1975 to 2011.

In 2010, Vale Resorts purchased North Star Resort. And at the end of the 2011 season, I was handed a new contract. My insurance requirement went from $1 million to $5 million. Employee compensation was to double, and we were required to have a $2 million policy on all our private vehicles. This was impossible. We could in no way finance this or continue to run the business. Corporate headquarters would not even discuss a possible solution with us or our insurance company. Sadly, we gave up North Star Stables, a good 80 percent of our family income.

Since then, I have dug my heels in, so to speak. I am trying to make a living from my little farm. We sold half our horses, my sons have work elsewhere. Here at Rancho Red Rock, I own 20 acres in a valley with home owners associations. The parcels are large enough and I can do a fair amount of rides on private land. Best of all, I have BLM land all around me. Tourists and locals alike enjoy being taken out in the hills where they can see antelope and deer and wild horses and super views.

I had a permit from 2001 to 2011. Last year I spent several months doing necessary paperwork to renew my permit. The BLM contact, Mr. Arthur Callan, was very helpful, even loaning us a GPS and helping us to map the routes. It has been a long process. We miss being able to go up in the hills. Last month the big brown envelope came. But insurance requirements have now gone from $300,000 to $1 million. Here we go again, I thought. I emailed Rick Lindsey, President at the insurance company, Worldwide Outfitters and Guides. He confirmed this was the trend. Then he asked me if I could come to Washington and tell my story.

So, here I am. This is my story. I don't see anything good coming from the higher insurance rates. Small, local outfitters will not be able to finance the increases, and go out of business. Big corporations will come in with less qualified, non-local employees to fill the gap. Or, certain activities will just be dropped. The public will lose, similar to my time at Lake Tahoe. When we started in 1975 there were 13 riding stables. Now there are only three.

Yes, some were on private land, but the issues are related. As private land is lost, public land becomes more important to our industry. And who benefits? The government will lose the fees.

Just in my valley we have a good example. There is a local hunt club. They have been taking guests on horseback in BLM for 30 years. Last year they were required to have an EIS statement, and no way could they do that. So, what did they do? They founded a private hunt club, elected officials, members pay dues, all nonprofit. They still hunt, but there is no regulation, and they pay no fees. And people will still continue to go out in the private lands, and more accidents will happen.

In conclusion, I feel I have provided the public with a valuable and enjoyable resource for 38 years. I have lost my main location due to high insurance requirements. I see the writing on the wall. It is happening again.

Human beings need high-risk activities to be truly human, to shake out the cobwebs, to use our brains and nerves and feelings, to help us deal with our computerized, technical world.

Thank you for your time.

[The prepared statement of Ms. Kauffman follows:]

Statement of Teresa Kauffman, Rancho Red Rock

Mr Chairman:

My name is Teresa Kauffman and I run a small horse farm/riding stable near Reno, NV. Since 1975 I have managed riding stables with my sons in the Reno/Tahoe area, most notably Northstar Stables from 1975 to 2011. In 2010 Vailresorts purchased Northstar Resort, and at the end of the 2011 season I was handed a new contract. My insurance requirement went from $1 million to $5 million, my employee compensation was to more than double and we were required to have a $2 million policy on all our private vehicles. This was impossible. We could in no way continue to run the business. Corporate headquarters would not even discuss a possible solution with us or our insurance company. Sadly, we gave up Northstar Stables, a good 80% or our family income.

So I have "dug my heels in" so to speak, and am trying to make a living from my little farm. We sold half our horses, and my sons have work elsewhere. Here at Rancho Red Rock I own 20 acres in a valley with a homeowners assn. The parcels are large and I can do a fair amount of rides on private land. Best of all, I have BLM land all around me. Tourists and locals alike enjoy being taken out in the hills where they can see antelope, deer and wild horses. And super views. I had a permit 2001 to 2011. Last year I spent several months doing the necessary paperwork to renew my permit. My BLM contact Arthur Callan was very helpful, even loaning my son Leo and me a GPS to help us map routes. It has been a long process, and we miss being able to go out in the hills . . . last month the big brown envelope with my 10 year permit came. BUT . . . insurance requirements have gone from $300,000 to $1 million. HERE WE GO AGAIN I thought!! I emailed Rick Lindsey, president of my insurance company, Worldwide Outfitters and Guides. He confirmed that was the trend, then he asked me if I could come tell my story in Washinton DC.

So here I am, this is my story. I do not see anything good coming from the higher insurance rates. Small local outfitters will not be able to finance the increases and go out of business. Big corporations will come in with less qualified, non local employees to fill the gap. Or certain activities will just be dropped. The public will lose. Similar to my time at Lake Tahoe . . . when we started in 1975 there were 13 riding stables in the area. Now there are 3. Yes some were on private land, but the issues are all related. Again, who benefits? The government will lose the fees these small outfitters pay. Just in my valley we have a prime example. There is a local hunt club that has been taking guests hunting on horseback on BLM land for 30 years. Last year when it was time for them to renew their permit. They were told they had to get an EIS statement. That was totally impossible financially. So what did they do? Founded a private hunt club, elected officers, members pay dues . . . all non profit. They still hunt . . . each week in the winter with 5 to 20 riders and 30 hounds. But it is all non regulated and they pay no fees.

In conclusion I feel I have provided the public with a valuable and enjoyable resource 38 years. I have lost my main location due to higher insurance requirements. I see the writing on the wall. It is happening again. Human beings need "high risk" activities to be truly human . . . to shake the cobwebs out...use our brains and nerves and feelings . . . to help us deal with our computerized, technical world.

Thank you for your time.

Mr. BISHOP. Thank you, Ms. Kauffman, for your personal story. Scott from High Point Hummer, if you can, once again, pull that as close to you as you possibly can.

Mr. MCFARLAND. Thank you.

Mr. BISHOP. And you have 5 minutes, please.

STATEMENT OF SCOTT McFARLAND, HIGH POINT HUMMER

Mr. MCFARLAND. Mr. Chairman and members of the Committee, thank you for the opportunity to express my views on issues regarding guides and outfitters on public lands. Over the past 19 years I have worked in the outdoor recreation industry and have had the experience and opportunity to work with each of the different land management agencies.

Public land supervisors have a duty to preserve the natural resources within their jurisdiction, while facilitating public enjoyment and access to these lands. The constant evolution of the recreational opportunities that take place on public lands challenges stewardship efforts. Confronted with this task, I believe that land management agencies should be more proactive in cooperating with local governments, partnering with outfitters and guides, and avoid broad measures that will have unintended consequences.

A very successful partnership between the Moab, Utah BLM office and the local county government is the Sand Flats Recreation Area. This partnership was formed in 1995, in which county employees manage and maintain a very popular camping and recreational area of BLM lands known as Sand Flats. The Sand Flats area is over 8,000 acres with 120 campsites and home to 2 world-renowned trails: the Slick Rock Mountain Bike Trail and Hell's Revenge OHV Trail, that host over 100,000 visitors each year.

The Recreation Area is well-planned, well-maintained, and also financially self-sustaining. I would like to reiterate: financially self-sustaining. The relatively inexpensive fees collected for entrance and campsite use exceed $300,000 annually, with an average budget surplus of $40,000 that then is reinvested into the recreation area.

Through mutual hard work and respect the Moab BLM office and county managers have developed a very important high level of trust among all involved. Through partnerships and private outfitters and guides, private land supervisors can increase opportunities for environmental education and natural resource interpretation.

Outfitters and guides have multiple roles. While providing outdoor education and recreational opportunities to our clients, we often come in contact with non-commercial visitors in the back country. Through these informal encounters, guides act as the eyes and ears of land management agencies. As stewards of our precious lands, guides strive to preserve the quality of the natural resources of the area that we guide in. Guides and outfitters also frequently

provide non-commercial visitors with area information, direction, additional equipment, supplies, and even emergency assistance.

Another way public lands will suffer an unintended resource loss is by choosing to increase the liability insurance policies that are required for all commercial outfitters and guides. In addition to higher premium costs, having a large amount of insurance monies available for payout to anyone that can plan a possibly winning lawsuit against a guide or outfitting company will only incentivize more claims. Defending against even the most frivolous claim is still very time consuming and expensive. At some point, operating with too many obstacles in the way and battles to fight, it becomes unfeasible for responsible outfitters and guides to continue on. The loss of outfitting and guide services on public lands will result in a much larger negative impact on these areas than most would predict.

In conclusion, a typical scenario on recreational public lands is that a certain location becomes popular, then becomes over-used and under-managed. Then, in an effort to stop the negative impacts to the area, the area is closed to all access and public use. What must become the scenario in the future is to have Federal public land agencies partner with local governments and outfitters and guides to plan, implement, and manage these areas before undesired environmental impacts occur.

Thank you for the opportunity to express my views on these important issues.

[The prepared statement of Mr. McFarland follows:]

Statement of Scott McFarland, Owner High Point Adventures

Mr. Chairman and members of the committee, Thank you for the opportunity to express my views on issues regarding guides and outfitters on Public Lands, National Forests and National Parks. Over the past 19 years, I have worked in the outdoor recreation industry and have had the experience and opportunity to work with each of the different land management agencies.

Public lands supervisors have a duty to preserve the natural resources within their jurisdiction while facilitating public enjoyment and access to these lands. We are only beginning to understand the complexity of these resources. Furthermore, the constant evolution of the recreational opportunities that take place on public lands challenges our stewardship efforts. Confronted with this task I believe that land management agencies should be more proactive in cooperating with local governments, partnering with outfitters and guides and avoid broad measures that will have unintended consequences.

One existing successful partnership model is the Sand Flats BLM recreational area.

A very successful partnership between the Moab Utah BLM office and the local county government is the Sand Flats Recreation Area in Moab, Utah. This partnership was formed in 1995 in which county employees manage and maintain a very popular camping and recreational area of BLM lands known as Sand Flats. The Sand Flats area is over 8,000 acres with 120 campsites and home to two world renowned trails, the Slick Rock Mountain Bike Trail and the Hell's Revenge OHV Trail that host over 100,000 visitors each year.

The recreation area is well planned, well maintained and also financially self-sustaining. The relatively inexpensive fees collected for entrance and campsite use exceed $300,000 annually with an average budget surplus of $40,000 that is then reinvested into the recreation area.

Through mutual hard work and respect the Moab BLM office and county managers have developed a very important high level of trust among all involved.

Guides and Outfitters are often an overlooked land resource.

Through partnerships with private outfitters and guides, public land supervisors can increase opportunities for environmental education and natural resource inter-

pretation. Outfitters and guides have multiple roles. While providing outdoor educational and recreational opportunities to our clients we often come in contact with non-commercial visitors in the backcountry. Through these informal encounters guides act as the eyes and ears of land management agencies. As stewards of our precious lands, guides strive to preserve the quality of the natural resources of the areas we guide in and at times even report vandals to the appropriate authorities. Guides and outfitters also frequently provide non-commercial visitors with area information, direction, additional equipment, supplies and even emergency assistance.

Overreaching bureaucratic processes make forming successful partnerships challenging and in some instances increase negative environmental impacts.

Two years ago at a National Park a moratorium was placed on guided commercial canyoneering trips. Up to this time the park had only issued one Commercial Use Authorization for this activity. The park did not have a management plan in place when they issued this permit. After a couple of years the park management determined that they needed to suspend the commercial activity altogether until they had a chance to develop a use plan. The park management chose to issue a broad moratorium as opposed to utilizing the operating permit holder's familiarity and presence to increase the effectiveness and timeliness of any management action. On several occasions, prior to this moratorium, the guides leading the commercial trips came upon private groups that were "in over their heads" and in need of assistance with everything from directions to drinking water. In these cases the guides were able to prevent the need for a Search and Rescue response to aid these park visitors. This moratorium had the unintended consequence of suspending all the benefits to the park of having the existing guide service in the back country.

Another way public lands will suffer an unintended resource loss is by choosing to increase the liability insurance policies that are required for all commercial outfitters and guides. In addition to higher premium costs, having a large amount of insurance monies available for pay out to anyone that can plan a possible winning law suit against a guide or outfitting company will only incentivize more claims. Defending against even the most frivolous claim is still very time consuming and expensive. At some point, operating with too many obstacles in the way and battles to fight it becomes unfeasible for responsible outfitters and guides to continue on. The loss of outfitting and guide services on public lands will result in a much larger negative impact on these areas than most would predict.

Conclusion

A typical scenario in recreational public areas is that a certain location becomes popular then becomes over used and under managed then in an effort to stop negative impacts to the area, the area is closed to all access and public use. What must become the scenario in the future is to have Federal Public Land Agencies partner with local governments and outfitters and guides to plan, implement and manage these areas before undesired environmental impacts occur. Thank you for this opportunity to express my views on these important issues.

Mr. BISHOP. Thank you, Mr. McFarland. I appreciate that.

Mike, we will turn to you, from Adventure Partners.

STATEMENT OF MIKE FRIEDMAN, ADVENTURE PARTNERS, LLC

Mr. FRIEDMAN. Mr. Chairman and members of the Committee, thank you for providing me with the opportunity to share my views as an outfitter guide. For 30 years I have earned a living on National Forest, BLM, and National Park Service lands. My company, Adventure Partners, has a dozen full-time employees and many more seasonal staff. We hold commercial use authorizations, CUAs, in Grand Canyon National Park, Zion, Glen Canyon National Recreation Area, as well as special recreation permits in Grand Staircase-Escalante National Monument, Vermillion Cliffs National Monument, Utah and Arizona strip BLM lands, Kaibab National Forest, and Santa Fe National Forest.

I am also privileged to serve as the guide outfitter representative on Grand Staircase-Escalante National Monument's advisory committee, where BLM staff and an outstanding group of local stakeholders work together to gather information and develop recommendations concerning the use and management of the monument. This is no easy task, as the monument's very existence remains highly polarized.

Mr. Chairman, I would like to take a moment to encourage Congress and the BLM to provide the necessary base funding for full-time operation of BLM visitor centers located in Cannonville, Escalante, Kanab, and Big Water, Utah. These facilities and their knowledgeable, friendly staffs are vital to the area. They provide much-needed interpretive services, access to tourism information, and local seasonal employment.

Economic opportunity is always central to any conversation about recreation on Federal lands. The public's appetite for guided activities continues to grow, along with the frequency of requests by entrepreneurs for CUAs and SRPs to serve this demand. The trajectory of use requires land managers to display extraordinary vision, leadership, and a can-do attitude to achieve responsiveness and efficiency, while balancing conservation and tourism.

From my perspective as an outfitter and guide, I would like to share several challenges which Congress and land management agencies need to address if small businesses are going to effectively meet the public's expectations for commercial recreation.

The BLM, Forest Service, and Park Service are required by the National Environmental Policy Act to analyze any land use authorization occurring on public lands, including management of commercial use requests. Every commercial permit application is required to undergo a determination of NEPA adequacy, which may be as simple as reviewing the proponent's operating plan and proposed areas of use. These applications pile up on the desks of recreation specialists. Regulations dictate processing them within 180 days.

If the field office cannot fulfill or complete all the necessary steps of use authorization within this time frame due to workload priorities, then no commercial use will be granted. This scenario effectively creates a permit moratorium. Increasingly, land managers are required to initiate a programmatic environmental assessment for allocation of commercial use. This is a tiered, over-arching study with the ultimate goal of streamlining and simplifying the issuance of permits.

I have recently participated in this process at two national monuments with very different outcomes. In the case of Vermillion Cliffs National Monument, 3 contentious years of scoping and analysis produced a 130-page document filled with largely arbitrary and capricious commercial use allocations, and a very blunt management tool. It was based on de facto, cookie-cutter-style of decision-making, rather than reflecting on-the-ground reality.

On the other hand, Grand Staircase-Escalante National Monument's recreation staff produced a programmatic EA in less than 2 years. This document utilized a site and problem-specific approach to managing commercial operations.

The key to success was embracing the concept of adaptive management, a flexible decision-making process which treats plans and activities as working hypotheses, rather than final solutions to complex problems. Adaptive management emphasizes stakeholder participation, helps resource managers maintain flexibility in their decisions, and leaves open future allocations of commercial and public use to ongoing analysis. It also reduces the necessity of burdening small business with cost recovery by streamlining permit evaluation processes.

I would encourage Congress to press all Federal land agencies to place a much greater emphasis on adaptive management whenever possible, and tackling increasingly time-consuming and contentious recreation planning.

In conclusion, recreation is rapidly superseding traditional uses on public land. In many parts of the country, recreation has become the primary economic engine. As such, it needs to be administered in a practical and sustainable way. Recreation can no longer be an after-thought. Land managers are simply overwhelmed by workloads associated with mandated regulations and lack the efficiency, agency leadership and culture of innovation required to succeed.

My clients are not merely consuming a product, they are discovering and becoming a constituency of a place. As outfitters and guides, we are inspired by these lands, and want to share our knowledge and passion while simultaneously protecting our livelihoods and way of life. We understand our guests, like non-commercial users of public lands, need to be accountable for their impacts and, when necessary, regulated on actual changes on the ground. I have always considered it a privilege to make my living on public lands.

And again, want to thank you, Mr. Chairman and the Committee, for this opportunity to share my thoughts.

[The prepared statement of Mr. Friedman follows:]

Statement of Michael Friedman,
Managing Partner, Adventure Partners, LLC

Mr. Chairman and members of the Committee, thank you for providing me with the opportunity to share my views as an outfitter and guide. For thirty years I have earned a living on National Forest, BLM and National Park Service lands. My company, Adventure Partners, has a dozen full time employees and many more seasonal staff. We hold commercial use authorizations (CUAs) in Grand Canyon National Park, Zion National Park and Glen Canyon National Recreation Area, as well as Special Recreation Permits (SRPs) in Grand Staircase-Escalante National Monument, Vermillion Cliffs National Monument, Utah and Arizona Strip BLM Lands, Kaibab National Forest, and Santa Fe National Forest.

I am also privileged to serve as the Guide and Outfitter representative on Grand Staircase-Escalante National Monument's Advisory Committee, where BLM staff and an outstanding group of local stakeholders work together to gather information and develop recommendations concerning the use and management of the Monument. This is no easy task as the Monument's very existence remains highly polarized. In the midst of this ongoing controversy, guide services are playing an ever expanding role in the economic fabric of gateway communities, who increasingly depend on tourism dollars for their tax base and job creation. Mr. Chairman, I would like to take a moment to encourage Congress and the BLM to provide the necessary base funding for full-time operation of BLM visitor centers located in Cannonville, Escalante, Kanab and Big Water, Utah. These facilities and their knowledgeable, friendly staffs are vital to the area, as they provide much needed interpretive services, access to tourism information and local seasonal employment.

Economic opportunity is always central to any conversation about recreation on federal lands. The public's appetite for guided activities continues to grow, along

with the frequency of requests by entrepreneurs for CUAs and SRPs to serve this demand. This trajectory of use requires land managers to display extraordinary vision, leadership and a "can-do" attitude to achieve responsiveness and efficiency while balancing conservation and tourism. The demographics of our business are compelling. At age sixty-two you can purchase a lifetime pass for ten dollars which allows free entry and discounted camping in over two thousand federal recreation sites. Every day over ten thousand Americans become eligible for this benefit, and a great many are planning to live active, outdoor lifestyles.

From my perspective as an outfitter and guide, I would like to share several challenges which Congress and land management agencies need to address if small businesses are going to effectively meet the public's expectations for commercial recreational opportunities.

NEPA and Adaptive Management

The BLM, Forest Service and Park Service are required by the National Environmental Policy Act (NEPA) to analyze any land use authorization occurring on public lands, including management of commercial use requests. Every commercial permit application is required to undergo a Determination of NEPA Adequacy (DNA) which may be as simple as reviewing the proponent's operating plan and proposed areas of use. As these applications pile up on the desks of recreation specialists, regulations dictate processing them within 180 days. If the field office cannot fulfill or complete all the necessary steps of a use authorization within this time frame, due to workload priorities, then no commercial use will be granted. This scenario effectively creates a "permit moratorium". Increasingly, land managers are required to initiate a Programmatic Environmental Assessment for the allocation of commercial use. This is a tiered, overarching study with the ultimate goal of streamlining and simplifying the issuance of permits. I have recently participated in this process at two National Monuments with very different outcomes. In the case of Vermillion Cliffs National Monument, three contentious years of scoping and analysis produced a hundred and thirty page document, filled with largely arbitrary and capricious commercial use allocations and a very blunt management tool. It was based on a defacto, cookie cutter style of decision-making rather than reflecting on the ground reality.

On the other hand, Grand Staircase-Escalante National Monument's recreation staff produced a Programmatic EA in less than two years. At sixty-seven pages in length, this document utilizes a site and problem specific approach to managing commercial operators. The key to their success was embracing the concept of "Adaptive Management"—a flexible decision making process which treats plans and activities as working hypotheses rather than final solutions to complex problems. Adaptive management emphasizes stakeholder participation, helps resource managers maintain flexibility in their decisions and leaves open future allocation of commercial and public use to ongoing analysis. It also reduces the necessity of burdening small business with cost recovery by streamlining the permit evaluation process. I would encourage Congress to press *all* federal land agencies to place a much greater emphasis on Adaptive Management, whenever possible, in tackling increasingly time consuming and contentious recreation planning.

This circles back to economic opportunity. In the case of Grand Staircase-Escalante National Monument, seventy-eight percent of issued guide and outfitter permits are operated by local and regional businesses[1]. These companies create jobs. They are advocates for land conservation, skilled practitioners of leave-no-trace ethics and often report resource abuse to the BLM for enforcement action. Prematurely allocating finite commercial use, as was the case in Vermillion Cliffs National Monument's Programmatic EA, can have the unintended consequence of tying the hands of land managers, creating permit exclusivity and ultimately limiting the public's choice based on the value and quality of a guided experience.

National Land Conservation System and Recreation

When Congress authorized the National Land Conservation Act in 2009, it legislatively formalized a BLM policy shift which began with the proclamation of Grand Staircase Escalante National Monument, the first BLM unit to hold NLCS designation. I want to emphasize the importance of expressly naming "recreation" as a stated *value* in *any* future authorizing language creating an NLCS area. In addition, recreation needs to be recognized within the accompanying EIS analysis and Management Plan.

Failing to acknowledge this essential value comes at a financial and opportunity cost to guides, outfitters and the general public; as the subsequent implementation

[1] GSENM, Environmental Assessment, DOI–BLM–UT–0030–2011–0002–EA

of NEPA makes it progressively more controversial, costly and time consuming to manage recreation and stimulate tourism. The ambiguous language put forward in many of these designations and associated management plans, particularly in the absence of a flexible management tool like adaptive management, is causing gridlock within our field offices. We all hold passionate views on the highest and best use of public lands, but it seems increasingly that outfitters and guides are trapped in the middle of these legislative and regulatory debates.

NLCS units are created to conserve, restore or enhance their unique and special resources, while serving as playgrounds for the recreating public and a critical source of economic activity for businesses and communities. To achieve this seemingly contradictory goal, we must continue to embrace a multiple use approach to management, and seek out real world solutions to this dual objective of conservation and economic development.

Conclusion

In conclusion, recreation is rapidly superseding traditional uses on public land, and in many parts of the country has become the primary economic engine. As such, it needs to be administered in a practical and sustainable way. Recreation can no longer be an after-thought. Land managers are simply overwhelmed by the work load associated with mandated regulations, and lack the efficiency, agency leadership and culture of innovation required to succeed.

My clients are not merely consuming a product, they are discovering and becoming the constituency of a place. As outfitters and guides, we are inspired by these lands and want to share our knowledge and passion, while simultaneously protecting our livelihoods and way of life. We understand our guests, like non-commercial users of public lands, need to be accountable for their impacts and when necessary regulated based on actual changes on the ground.

As you have heard, running a guide service in the twenty-first century requires a broad understanding of public policy and complex regulatory directives; it's no longer a few backpacks and a first aid card. I have always considered it a privilege to make my living on public lands, and again want to thank you Mr. Chairman and the Committee for this opportunity to share my thoughts.

Mr. MCCLINTOCK [presiding]. Great. Thank you very much, Mr. Friedman.

Our next witness is Mr. Sutton Bacon of the Nantahala Outdoor Center. Mr. Bacon, you have 5 minutes.

STATEMENT OF SUTTON BACON, NANTAHALA OUTDOOR CENTER

Mr. BACON. Thank you very much. My name is Sutton Bacon. I am from Asheville, North Carolina. And I am the CEO of the Nantahala Outdoor Center. I am also on the Board of Directors of the Outdoor Industry Association.

NOC was founded in 1972, and we are one of the Nation's largest outdoor recreation businesses, operating under special use permits in 12 National forests and parks. Through our activities and resorts, we introduce over a million Americans to the outdoors every year. We also employ over 1,000 employees.

NOC is located high in the rugged mountains of Western North Carolina, at the intersection of the Nantahala River and the Appalachian Trail in the Nantahala National Forest. And, like so many other small, rural communities, our economy has suffered immensely through the recession. However, our small community has fully embraced the notion that our public lands are the pathway to a growing and sustainable prosperity, a type of prosperity that cannot be outsourced overseas, and is rooted in the value of experiencing these places directly.

Swain County's new economy is an experience-based economy, and it is because of the vibrant public-private partnership we have

between the outfitter guides, the Forest Service, Duke Energy, which supplies water on the river, and Swain County. According to the OIA, as we heard earlier, Americans spend $646 billion per year on outdoor recreation. And in North Carolina alone it is $19 billion. Those numbers are so staggering and, in some ways, hard to grasp.

So, what does that mean at a local level in a small, rural community like ours? The economic impact of outdoor recreation on the Nantahala River is an $85 million-per-year industry supporting over 1,000 jobs. Over 20 percent of employees, all workers in our community, are employed because of the outdoor recreation economy. None of this economic revitalization would happen without our public lands.

And we, as a business, believe in the outdoor recreation economy, and have directed significant investments toward it. In fact, we have invested over $10 million in capital in support of our outfitting operations on public lands. We have grown at a 15 percent compounded annual growth rate since the recession, and added over 200 jobs.

Unfortunately, the Federal Government doesn't approach lands management and investment through the same business lens. The outdoor industry, as a whole, grew at a 5 percent growth rate during the recession, while most industries contracted. If the government took a business-style profit-and-loss approach to land management, it would take notice of the powerful financial dividends from the $646 billion recreation economy in concert with the healthy, positive growth rates of our industry. It would then invest capital in our Nation's recreation infrastructure to help fuel future growth and enhance these financial returns even further.

In order to sustain this thriving and successful and sustainable recreation economy, there are three primary requests I have. One, Congress must endorse a national outdoor recreation system with increased investments in all agency recreation budgets. Two, we must fully fund the land and water conservation fund, especially the stateside program that allows for investments in fundamental recreational infrastructure. And, three, we must definitively partition off the exorbitant and unpredictable cost of fire suppression from impacting our agency recreation land and habitat protection budgets.

Now, all of that being said, our Nation is facing, as we all know, a very serious budget and debt crisis. And simply requesting from Congress that it increase the funding of Federal recreation programs is not the only solution, nor is it practical. The government cannot and should not do it alone.

First, we must seek a holistic, comprehensive approach that reaches out to the private sector and the outfitter guide community. Private partners can further the interpretive and recreational mission of the Agency, enhance guest services and social experience, invest in the infrastructure, market to new and diverse audiences, and generate jobs.

For example, there is nationwide demand for front country developed multiple-experience recreation, similar to what the ski areas are doing through the Ski Area Recreation Opportunity Enhancement Act, which this Committee brought forward. However, Con-

gress and the Forest Service must develop a 21st century concession model that can invite private investment and other non-ski area lands to redevelop and rejuvenate developed front-country recreation areas and close-to-home settings.

And in fact, we at NOC are exploring partnership concepts with the Cherokee National Forest to revitalize the Ocoee Whitewater Center, site of the 1996 Olympic kayaking events, but largely dormant since, to restore waterflows, international events, and economic impact to that facility. We are making great progress with our local forests, but it is clear the Forest Service lacks a defined and streamlined pathway to effectuate private investment on public land.

Second, I will echo the comments previously that the Agency also struggles with a shortfall of skilled special-use permit administrators and professionals. One potential solution is to incentivize our local forests to partner with the private sector through fee retention. For example, allow a local forest to retain as many locally generated fees as possible, as long as they are then reinvesting a meaningful portion of those receipts back into permit administration. This would greatly enhance the availability of high-quality outfitted services on public lands.

And finally—I know I am running late on time—this Committee should lead the conversation on establishing a recreation culture within our agencies. We need to foster a culture shift, whereby outdoor recreation, healthy Americans, and prosperous rural economies are considered agency mandates, missions, and mantras. Thank you very much.

[The prepared statement of Mr. Bacon follows:]

Statement of Sutton Bacon, Chief Executive Officer, Nantahala Outdoor Center; Board of Directors, Outdoor Industry Association, Bryson City, North Carolina

Introduction

Mr. Chairman, Ranking Member Grijalva, and members of the Committee, thank you for the opportunity to testify before you today. My name is Sutton Bacon, and I am the Chief Executive Officer of the Nantahala Outdoor Center. Established in 1972, NOC is an outdoor recreation company located at the intersection of the Appalachian Trail and the Nantahala River in the Nantahala National Forest in Swain County, North Carolina. Originally a roadside inn, the company has evolved into one of the largest outdoor recreation companies in the nation. We are also one of Western North Carolina's largest employers with approximately 250 full-time employees and over 1,000 employees during peak season.

Over one million guests visit NOC annually to embark on a diverse collection of over 120 different river and land-based itineraries predominantly on public lands, learn to kayak at NOC's world-renowned Paddling School, travel abroad to foreign countries with NOC's Adventure Travel program, shop at one of our LEED-certified flagship retail stores, or enjoy NOC's resort amenities including our three restaurants and multi-tiered lodging. Each year, NOC guests paddle over one million river miles on federal lands, enough for two voyages to the moon and back. NOC has recently been recognized as "The Nation's Premier Paddling School" by *The New York Times,* "Best Place to Learn" by *Outside Magazine,* and as "One of the Best Outfitters on Earth" by *National Geographic ADVENTURE.* In addition, 22 Olympians, including two Olympic Gold Medalists, have called NOC home.

Through our programming, we strive to educate and engage adventure-seekers through dynamic, world-class instruction and tours on some of the world's most beautiful whitewater rivers and landscapes. We are committed to sharing our passion for the outdoors and our penchant for exploration with our guests. Our employees share a common vision of keeping NOC a dynamic, enjoyable, and successful place to work and of participating actively, considerately, and sustainably in the

communities in which we operate. We firmly believe in the triple bottom line of people, planet, and profits.

My testimony today will discuss how our nation's public lands and waterways offer a pathway for economic prosperity, especially in rural communities. I will articulate how NOC and our partners have established a vibrant public-private partnership in the Nantahala National Forest. I will discuss the present challenges at a federal level in actualizing additional opportunities for recreational access and economic impact through the outdoors. Finally, I will provide some solutions I feel can assist the federal government in fostering enhanced partnership opportunities in this difficult economic and budget environment.

Public-Private Partnerships and Rural Economic Development

NOC is located high in the rugged mountains of Western North Carolina in a small county with a population of 14,000 and a county seat of only 1,400 residents. Like so many other small, rural communities, our economy has suffered immensely through the recession. We continue to suffer from the loss of traditional manufacturing jobs to international outsourcing, as textile, garment, and furniture plants continue to close. Our housing and construction industries have collapsed. And Swain County suffers from one of the highest unemployment rates in North Carolina (19.0%) and an equally-disturbing rate of poverty (22.5%). A recent study indicated that 19.9% of Swain residents faced "food insecurity," in other words, not knowing from where their next meal would come.

Approximately 88% of Swain County is federally-owned, such as the Nantahala National Forest and Great Smoky Mountains National Park. Some might say that our current economic situation is exacerbated by these large federal land holdings diminishing our tax base. However, nothing could be further from the truth. In fact, our small community has fully embraced that our public lands and waters are the pathway to a growing and sustainable prosperity—a type of prosperity that cannot be outsourced overseas and is rooted in the value of experiencing these places directly.

Swain County's new economy is an experience-based economy. Whereas extraction and manufacturing industries have come and gone, our public lands boast a wealth of waterways, trails, and recreation areas, making Swain County a popular destination for outdoor enthusiasts. In fact, while our local manufacturing base continues to contract, the region's outdoor-based tourism economy has seen exponential growth, as has interest in tourism re-development, the enhancement of existing public-private tourism product, and the utilization of tourism-related natural resources in an environmentally-sensitive manner. Human-powered outdoor tourism is the backbone of our future.

Our community recognizes the importance of activating public-private partnerships with our natural resources to affect rural economic development. The collaboration we have amongst the outfitting community, the U.S. Forest Service, Duke Energy, and Swain County is worthy of examination and even imitation. These diverse organizations all manage and utilize the Nantahala Gorge and work together every day to share the resource with hundreds of thousands of paddlers, hikers, and bikers, to meet the energy needs of our region, and to maintain the forest's healthy local ecosystem. Our collaboration is based on trust, mutual respect and admiration, open communication, and alignment.

I can cite numerous examples of how this stakeholder group collaborated and compromised for the benefit of our community and our forest user groups, from a decade's-long FERC relicensing project that ensured consistent water flows on the Nantahala to a successful bid to host the 2013 World Freestyle Kayaking Championships to collectively mitigating drought conditions to participating actively in the new forest planning process. The impact of our continual collaboration enhances our river and forest's reputation, informs the investments we make in our communities, and contributes to the branding and positioning of our entire region as an international destination for active outdoor enthusiasts.

At a national level, we all recognize the economic impacts of outdoor recreation. According to a recent study by the Outdoor Industry Association, Americans spend $646 billion on outdoor recreation every year. This is twice as much as they spend on pharmaceuticals or cars. Outdoor recreation creates $40 billion in federal tax revenue and $40 billion in state and local tax revenue. And, over six million Americans are directly employed by outdoor recreation providers, retailers, manufacturers, outfitters, and guides. In North Carolina, outdoor recreation generates $19 billion in consumer spending and supports 192,000 jobs.

The national and state numbers are staggering and in some ways hard to grasp. But, what does that mean at a local level, in a rural community such as Swain County? Several years ago we commissioned a study from Western Carolina Univer-

sity to quantify the economic impact of the Nantahala Outdoor Center and public outdoor recreation on the Nantahala River. The researchers calculated that the direct annual economic impact from the Nantahala was $62 million with another $23 million of indirect economic impact, for a total annual contribution of over $85 million to our local economy—while employing directly and indirectly supporting over 1,000 full-time jobs in our community. If you then compare that number to the total workforce in Swain County, it can be said that 20% of Swain County workers are now employed due to the outdoor recreation economy.

None of this economic and civic revitalization would happen without our cherished public lands and waters. Our guests travel from all over the world to experience our mountains, rivers, and forests in a direct and meaningful way. The jobs created by using our natural resources to provide experience rather than extraction cannot be outsourced. As long as the health and integrity of our lands and waters are maintained, these jobs will never go away.

Challenges Inherent to Fully Activating the Outdoor Recreation Economy

In a time filled with economic uncertainty nationwide, instead of hunkering down, NOC has been boldly embarking on a number of new initiatives we firmly believe will transform our company. We have invested nearly $10 million of capital in the last three years in support of our outfitting operations on federal lands. We believe in the power of the outdoor recreation economy, and we have seen significant financial dividends from it. Since the recession, NOC has grown at a compounded annual growth rate of nearly 15% and added over 150 jobs, with plans to increase employment again in 2013. For a mature, 40-year old business in such a remote rural area, we are proud of our business growth.

Unfortunately, the federal government does not approach public lands management and investment through the same business lens. The outdoor industry on a national basis grew at a 5% growth rate during the recession while many if not most other industries contracted. Americans value recreation and having quality spaces to get outside and recreate, especially in these trying economic times. If government took a business-style profit and loss approach to land management, it would take notice of the significant financial dividends from the $646 billion outdoor recreation economy along with the healthy, positive growth rates of the industry. It would then invest significant capital into our nation's outdoor recreation infrastructure to fuel future growth and enhance financial returns, just as NOC and many other outdoor businesses have invested their own capital into this growing segment.

However, the future of recreation lands and waters is neither protected nor vested. The nation's outdoor recreation economy depends primarily on the integrity, protection and stewardship of our natural resources, but it also depends on fundamental recreational infrastructure, including parks, trails, and open spaces necessary to enjoy places both remote and close to home. America's public lands and waters are to the outdoor recreation industry what highways are to the transportation industry, or power lines to the energy industry—absolutely critical infrastructure that requires recognition and funding. For example, the USFS recreation budgets—both nationally and locally—are declining at an alarming rate. Trails, campgrounds, and recreation sites close every day, and the funding to manage others is evaporating. Our rangers are doing more with less and are having to cut important services from interpretative programming for children to basic trash collection along our river corridors. When the outdoors is such a critical economic driver for our country, these cuts are impacting visitor experiences and will, over time, turn visitors away.

Where I live, we are known for the Great Smoky Mountains National Park. However, millions more people visit the three National Forests that surround the Great Smoky Mountains National Park—the Nantahala, Pisgah, and Cherokee National Forests—than the GSMNP itself. These National Forests have remarkable public recreation venues, wilderness areas, and treasured landscapes that rival if not soundly exceed what the GSMNP offers. Yet, when our Forests had to close trails and limit recreation areas due to budget cuts and the sequester, they did not receive nearly the national media attention and public outcry as the closures in the Smokies and other iconic National Parks around the country. Nonetheless, cuts in those National Forests will impact far more visitors and local economies. It is crucial that we elevate the discourse around funding shortfalls in our National Forests to the same level as our National Parks, as they are of equal importance.

Today, this Congress and the Forest Service allocate roughly $300 million dollars to manage recreation on 193 million acres. That equates to about $1.50 an acre. Amazingly, there is good news here. With that investment, Forest Service lands and waters host an amazing array of world-class recreation on which NOC is able to pro-

vide a spectrum of recreational opportunities, from world-class extreme whitewater rivers to relaxed, family-oriented float trips to wilderness-oriented Wild and Scenic excursions. However, in order to sustain this thriving, unique, and sustainable outdoor recreation economy, Congress must fully fund a national outdoor recreation system with investments in all agency recreation programs, it must fully fund the Land and Water Conservation Fund—especially the stateside program—that allows for fundamental recreation infrastructure investment, and we must partition the exorbitant and unpredictable costs of fire suppression from impacting our agency recreation, habitat protection, and public lands health budgets.

Comprehensive Solutions to Foster the Outdoor Recreation Economy

All of this said, we all know that our nation is facing a serious budget and debt crisis. Simply requesting from Congress that it increase funding of federal recreation programs is not the only solution nor is it practical. Instead, we must seek a holistic, comprehensive approach—inclusive of the private sector—in order to fully actualize the potential economic benefits of outdoor recreation. By replicating in other places the public-private partnership model on the Nantahala, we can put more Americans to work, especially in rural areas, we can provide Americans more close-to-home access to their public lands, and we can create a guest-centric approach to our public lands whereby we are managing them to meet the changing desires, demographics, and geographies of our nation.

America is changing. In order for our natural resources to remain relevant, we must examine the outfitted public and who they are. For example, we are witnessing the aging of adventurous baby boomers who built the outdoor recreation business decades ago. They still want to stay active and outdoors but with softer recreation. We are experiencing declining participation rates in outdoor recreation from the millennial generation, who are bombarded with technology and distractions. 80% of Americans now live in urban settings, often with limited access to or knowledge of the outdoors, and we are faced with a dilemma of how to reach this audience and introduce a new generation to their inheritance.

Resources like our southern forests—located near major population centers with compelling developed recreation opportunities already within—are positioned squarely at these changing demographics. Americans increasingly seek and demand ready access to recreation experiences, professional guides and rental equipment that are off-the-shelf and close to their homes. Multiple-experience, developed recreation areas in front-country settings represent the future reality to reach new audiences. There is nationwide demand for this style of front-country developed recreation. Facilitated through the Ski Area Recreation Opportunity Enhancement Act, a bill sponsored by this committee and which passed the House unanimously, ski areas are moving assertively toward this approach.

Likewise Forest Service must develop a 21st century concession model that can address and, most importantly, fund evolving guest desires and expectations on public lands. Rejuvenating existing developed recreation sites can be both costly and ambitious. Without even funds to address even the most critical backlogged maintenance, the Forest Service must create streamlined pathways to encourage willing, local partners to invest private-sector capital, resources, and expertise on public lands. These partners can further the interpretive and recreational mission of the agency, enhance guest services and social experiences, invest in core infrastructure and address deferred maintenance, market to new audiences, and create jobs and rural economic development.

In fact, we are collaborating with Cherokee National Forest on partnership concepts to revitalize the USFS Ocoee Whitewater Center, site of the 1996 Olympic kayaking events but largely dormant since. We are working with the agency, local partners, and the TVA to restore water flows, host international events, invest in recreation and guest facilities, assist the local Forest with funding shortfalls, and catalyze significant economic development and job growth just as we have done on the Nantahala. We are making great progress, but it is clear that the agency lacks a defined pathway to effectuate impactful change at a local level without incurring substantial costs to either the local forest or potential partner.

To that end, our local forests must also have the ability to retain as many locally-collected fees as possible to provide for maximum local economic and forest impact. The agency also struggles with a shortfall of skilled special use permit professionals and an intense and growing backlog of permit requests. One potential solution is for the local forest to retain all permit receipts so long as they are then reinvesting those receipts into permit administration to enhance public access to our forests as well the availability of high-quality outfitted services. While potentially controversial, the agency must focus on localized revenue generation activity to address agency funding gaps. If forest managers are incentivized through fee retention to sen-

sibly partner with the private sector and outfitting community, the localized rural economic impacts of each forest will be greatly enhanced.

Another critical issue facing our National Forests is branding and communication. As previously mentioned, the three National Forests surrounding the Great Smoky Mountains National Park attract substantially more visitors annually than does the Park itself. However, these beloved forests have little name recognition and no friends groups supporting the forests. This is because the Forest Service provides protection, management and enhancement of its resources, but it does not bestow an identity or a sense of place. This is critical. The Smokies gateway communities thrive off the Smokies' reputation, and the Park's admirers rally around this identity. In fact, the sense of place relative to the Smokies is so significant than many visitors to our National Forests think that all of our mountains here are "in the Smokies." Cultivation of identity and communication of value are specialties of the National Park Service, and they have created self-sustaining momentum.

With better branding, our agencies can do much more to reach out to their gateway communities. In the Southeast, the economies of our gateway communities to our national parks and forests are booming. The reason that guests visit destinations such as Gatlinburg, Tennessee and Asheville, North Carolina is because of their connection to nearby public treasures. Therefore, the Forest Service should consider a program branding its exemplary recreation areas and treasured landscapes as premier venues for human-powered recreation, conferring a special status to specific locations that gateway communities can rally behind. These communities should be relied on to help promote their local natural resources and play an active role in introducing forests and active outdoor recreation to new audiences. Having location-specific identities and shareback programs (using, for example, the Ski Conservation Fund as a model) whereby visitors to gateway communities can directly invest in these forests also make it easier to raise funds and support. Most forest users have no idea how they can support the Forest Service or if that money will go to benefit locations that they care about or simply be directed to the Treasury.

Finally, as authorizers, this committee needs to lead the conversation on establishing a recreation culture, mission, and workforce within the agencies. We need to foster a culture shift within our agencies to where outdoor recreation, healthy Americans, and healthy local economies are considered agency mandates, missions and mantras. The agencies must all support recreation through their land and water use plans, prioritize recreation to reflect, for example, 21st century demands for developed, front-country recreation so that the American people have a wide spectrum of opportunities and experiences on public lands, conducted in a variety of settings, from river trips to hiking to biking. The goal of this subcommittee should be to foster that spectrum of opportunities, services, and experiences on federal lands and waters while providing them in a sustainable manner that formally recognizes, nurtures, and overtly supports local recreation economies.

Conclusion

In these trying economic times, it is clear that Americans need more than ever the physical, emotional, and psychological benefits that human-powered outdoor recreation provides. Another OIA research project showed that 80% of Americans feel that they are happier, have better family relationships and less stress in their lives when they engage in outdoor recreation. Anecdotally, during the recession, we have seen more hikers pass through NOC on the Appalachian Trail than we have in years.

Our own internal research over the last 40 years indicates whenever there is economic uncertainty or a precipitous rise in gas prices, our guest numbers increase. This affirms the importance of human-powered outdoor recreation during difficult times. We take this charge seriously and appreciate our guests' confidence in our ability to deliver these authentic outdoor experiences. We also take seriously our ability to create jobs and positively impact local economies in need, especially in rural areas such as ours. The jobs we are creating through the outdoor recreation economy can never be outsourced so long as we have open spaces, healthy forests, free-flowing rivers, and recreation infrastructure.

I truly appreciate this invitation to speak with you today. Thank you for your attention, and I would be pleased to answer any questions you may have.

Mr. McCLINTOCK. Great. Thank you for your testimony. That completes the testimony of the first panel of witnesses, and we will now move to questions from the members of the Subcommittee. And I will begin.

Ms. Kauffman, let me start with you. I represent the Sierra Nevadas of California. And I have been absolutely inundated by complaints from folks involving both the National Forest Service and the National Park Service. I have Yosemite in my district. The Park Service is in the process of proceeding with the plan to remove long-standing tourist amenities, including bicycle and raft rentals, horseback riding.

They are planning to rip out an ice-skating rink at Curry Village that has been there since the 1920s. Snack shops, swimming pools, and tennis courts at the Ahwahnee Lodge, just literally hanging a "Tourists Go Home" sign in the National Park.

In the meantime, the National Forest Service has been employing activities that range from imposing inflated fees that are forcing the abandonment of family cabins, some of which have been held for generations; shutting down long-established community events upon which many of these small and struggling mountain towns depend for tourism; expelling long-standing grazing operations on specious grounds; causing damage both to the local economy and the Federal Government's revenues; closing long-used roads, many of which are parts of county road systems that are essential to local residents; and even obstructing county efforts to provide maintenance from local budgets to keep these roads open; obstructing the sound management of our forests, creating both severe fire dangers and chronic unemployment.

Are you seeing the same thing in your neck of the woods, there?

Ms. KAUFFMAN. Yes, I think we are. I mean we were just talking this morning about the Black Rock Desert. And with the new designation up there, well, they didn't really close down the ranching operation, but with closing roads and having more limitations on where you can take vehicles, yes, it impacted the ranchers quite a bit, and a lot of them are just quitting.

Mr. MCCLINTOCK. This is the National Forest Service, specifically?

Ms. KAUFFMAN. No, no. This is, I believe, a national monument. The Black Rock Desert. It is where Burning Man is held, and everything.

Mr. MCCLINTOCK. OK, so this would be Bureau of Land Management.

Ms. KAUFFMAN. Yes. It is public land, that is——

Mr. MCCLINTOCK. And this is the declaration of, as you say, a wilderness area? Or a national monument?

Ms. KAUFFMAN. A national monument, I believe, yes.

Mr. MCCLINTOCK. That would be under the Antiquities Act of 1906?

Ms. KAUFFMAN. I don't know, I just know that is something I have heard about, because——

Mr. MCCLINTOCK. Well, I believe the designation of monuments—because we have had a similar situation up in my area, where the Administration is proposing literally declaring a monument of a million acres in Modoc County in California—the Antiquities Act was actually originally established to give the Administration emergency power to protect newly discovered archeological sites from raiding. And how that has grown from that very limited

power to this expansive power asserted by this Administration is beyond me.

Mr. McFarland, what are you seeing?

Mr. MCFARLAND. Along that same lines also, there is a proposal to possibly make a national monument out of an additional 1.4 million acres surrounding Canyonlands National Park. We already have two national parks, we are blessed to have two national parks in Moab. But an additional 1.4 million acres is just too much land to be managed well.

Mr. MCCLINTOCK. Are you seeing the same kind of exclusionary attitude seeping into the management of our public lands as I have just described in my area?

Mr. MCFARLAND. Very much so. In one instance, in Arches National Park, there was one permit for canyoneering guiding hiking trips in the national park, existed for 2 years. One day they revoked that without warning, claiming that they needed to make a management plan to assess the activity. The consequence of doing that is that private users, without commercial guides assisting them, continued to do that activity in those areas, making a huge negative impact.

They could have, in turn, opted to utilize the experience and knowledge of that guiding company to help to make the plan. It has now been 2 years in the planning process, still no permits, no guiding activities, and still erosion to the natural resource that we have in the park.

Mr. MCCLINTOCK. Thank you. Mr. Friedman, just in 10 seconds, in your neck of the woods, are you seeing the same attitude?

Mr. FRIEDMAN. I think that this issue of monument proclamations and designations is a growing challenge for the BLM, and it is something that Congress needs to take a closer look at.

Mr. MCCLINTOCK. Great. Thank you. And, Mr. Grijalva?

Mr. GRIJALVA. Thank you, Mr. Chairman. Mr. Bacon, thanks for testifying today.

Mr. BACON. Yes.

Mr. GRIJALVA. I appreciate your leadership in the industry. You make a very poignant observation, that the future of recreation lands and water is neither protected nor vested.

Mr. BACON. Correct.

Mr. GRIJALVA. And having introduced the 21st Century Outdoor Commission legislation, which I see as the first step in getting a grasp on how recreation use is changing and where policy needs to catch up to that change, if you could take a few minutes and talk about the changes you have seen, both in terms of the clients of your business, but also broadly across the industry. Any particular thoughts on how changing demographics are impacting the industry.

Mr. BACON. Certainly. I think we all realize and recognize that America is changing. When you look at the outdoor landscape, the Baby Boomers who built the outdoor recreation business generations ago are aging, but they still want to be active. They still want to be outdoors. But they are aging.

Then we all know the issues in terms of really attracting the millennial generation and all the distractions that go along with that. And 80 percent of Americans now live in urban settings and not

rural settings. So, what I see, from a demographic perspective, is that we have to look at close-to-home, developed, multi-experience recreational sites and venues as a remarkable opportunity to attract new audiences that are close to home to our public lands.

Per the previous question, and just to dig in specifically, we are working on a great initiative on the Cherokee National Forest to revitalize a close-to-home outdoor recreation facility on the Ocoee River in the Cherokee National Forest, an hour from our main location on the Nantahala.

And it is remarkable, what the ski industries have done, in terms of looking at it from a holistic, developed recreation approach, especially through their ski area recreation enhancement bill. And I think that the Forest Service specifically—they are talking about partnerships, they want to be partners, but they don't have a great pathway to encourage private investment on public lands because, ultimately, the private sector must step up and help the Forest Service and all the agencies address the shifting demographics, market creatively and inventively, which is not a specialty of the Federal Government in the land management agencies, and try to address agency funding issues and really invest in the close-to-home outdoor recreation infrastructure to attract urban audiences from the City of Atlanta, for example, up to the mountains in a close-to-home setting to experience the wonderful inheritance that they have in our public lands.

Mr. GRIJALVA. Thank you very much. Mr. Friedman, you operate in Utah and Arizona. Both the legislatures in those States passed legislation that would turn over Federal lands to the State. What would happen to your business if the Federal lands your business relies on were turned over to the State of Utah or to the State of Arizona to be developed primarily for extraction industries?

Mr. FRIEDMAN. Well, I feel that—me, personally—it is important that the Federal Government continues to manage these public lands in a responsible and fair way. And I think that there is always this tension between the State and the Federal Government, that is never going to go away. And it has just become such a dysfunctional relationship that a lot of the problems that we are facing as guide-outfitters relates back to that inability of the State and Federal Government to really communicate in an effective way.

So, I think that your——

Mr. GRIJALVA. You think this nonpartisan commission that I have been talking about could address some of those issues that you brought up?

Mr. FRIEDMAN. Well, I mean, working in Grand Staircase-Escalante, that is a pretty—like I said, highly polarized environment. And I do think that commissions and monument advisory committees, these collaborative efforts, have a lot of potential value to working through some of these problems.

Mr. GRIJALVA. Yes. I was also going to ask Ms. Kauffman. Do you think such a commission should look at the liability insurance requirements that you brought up during your testimony?

Ms. KAUFFMAN. Well, yes. I mean if nobody looks at them and tries to make an evaluation, I just see everything going up.

Mr. GRIJALVA. Thank you. I just want, for the record, before I yield back, the Black Rock Desert-High Rock Canyon Emigrant

Trail was created by Congress in 2000, not by agency designation or a Presidential fiat. I yield back.

Mr. MCCLINTOCK. Mr. Daines.

Mr. DAINES. Thank you, Mr. Chairman. I represent the State of Montana. This is a subject very near and dear to my heart. In my home State our outdoor recreation industry is very, very important to our economy, as you well know.

Just last week, when we were in recess, I was back home. I toured different sportsmen groups throughout our State. In fact, Friday I was at a roundtable with the Rocky Mountain Elk Foundation. In fact, at their world headquarters in Missoula, Montana. Boone and Crockett, Ducks Unlimited, Trout Unlimited, and then there is a group called Hellgate Hunters & Anglers Club of Missoula, as well as the Wildlife Federation. I am one who is a fifth-generation Montanan. I have spent a lot of time above 10,000 feet, climbed Montana's highest peak, and I love taking my kids hunting and fishing. It is part of the heritage I inherited from my grandfather and my parents and passed on to my kids.

So, as a fifth-generation Montanan, as a passionate sportsman myself, these are industries that are critical to our way of life in our State and it is paramount that our Federal Government doesn't stand in the way of obstructing our economy.

One of the challenges we face in Montana are the wilderness study areas. And I was wondering if you could comment—maybe start with Mr. Friedman—and I saw some other heads nodding, as well—around how a WSA becomes almost a de facto wilderness. And I enjoy experiencing the wilderness, I enjoy multiple use. So this is not a discrediting wilderness. But wilderness study areas, can you expand on the restrictions to outdoor recreation in WSAs?

Mr. FRIEDMAN. Well, I think that the WSAs present a real challenge, again, for land managers, for local BLM and Forest Service offices to try to figure out how to manage recreation in that context.

And that also relates to the National Land Conservation System designation, as well. Once a piece of land is given the special area title, and a designation, then it is really important that recreation is included as a value of that particular unit so that land managers can actually pursue the NEPA process in a straightforward and unobstructed way.

I mean WSAs and LCS lands, they all require an additional level of scrutiny and analysis in order to be managed. And if recreation isn't specifically stated as a purpose and value on those lands, then it definitely creates major problems for folks like us down the road.

Mr. DAINES. Mr. Bacon, do you have a thought on that?

Mr. BACON. Yes, I agree. I think certainly from a perspective of multiple use, and recognizing the outstanding recreational values in many of these wilderness study areas certainly needs to be part of the conservation relative to them. I think we have some great national treasures that are in wilderness study areas. Certainly we are a very pro-multiple-use company. But certainly outdoor recreation in these areas needs to be a part of the mix.

Mr. DAINES. Any other comments from any panelist on WSAs?

[No response.]

Mr. DAINES. I also want to talk a bit about the length of time it takes for Federal agencies to issue recreation permits. How much of these delays do you think can be attributed to NEPA analysis or the threat of litigation from fringe groups? Who would like to take that question?

Mr. BACON. I would say, NEPA is a complex piece of legislation. It has its merits and its downfalls. Certainly, I think from our perspective and working with our land managers, they each have a different perspective on NEPA and how it applies and a different sensitivity to threats of litigation from environmental groups.

Certainly, it does present a challenge when we are looking at, for example, like I have testified earlier to, developed recreation areas, existing developed recreation areas. On the Ocoee project I have mentioned where we are looking at literally just taking over, potentially, a visitor's center that is already there, it was the site of the Olympic Games. The local forest personnel is saying that the NEPA analysis would be $2, $3 million, 2 to 3 years' worth of analysis, when we are doing something much less invasive than having 20,000 people there for the Olympics.

So, I think it does present a challenge, and I think the Agency needs a streamlined process for NEPA to be able to issue outfitter guide permits, be incentivized to have private sector investment on public lands, and do so in an——

Mr. DAINES. And who is paying that $2 to $3 million for that NEPA review?

Mr. BACON. That would be the private business looking at potentially partnering with the Forest Service on a project with no guarantees that the special use permit would be issued.

Mr. DAINES. OK, Mr. Friedman, just maybe answer that and then I am out of time.

Mr. FRIEDMAN. Yes. No, I think that it really varies from office to office and from staff person to staff person. Some land managers overreach in how they approach the NEPA process. They try to take in too much information, and they end up with a, like I said in my statement, kind of a cookie-cutter product versus something that allows them flexibility. So I think adaptive management and the application of adaptive management is a really key point here to make this all run more efficiently, because NEPA isn't going to go anywhere.

Mr. DAINES. Thank you.

Mr. BISHOP [presiding]. Mr. McClintock, did you have a chance to ask questions?

Mr. MCCLINTOCK. I did, thank you.

Mr. BISHOP. Let me just pose a couple very quickly, if I could.

Mr. Lindsey, you are an insurance guy, and insurance companies benefit by bigger policies. You seem to be testifying against yourself in requiring these increases. Wouldn't that be a benefit to you? And why are you so adamant that this is one of the things that are moving us in the wrong direction?

Mr. LINDSEY. Well, if you look back at history, in 1985, 1986, Congress, or the National Park Service, actually, waived the insurance requirement for Grand Canyon Outfitters, because nobody would insure them. And so the insurance market is very unstable, especially in these small recreational classes. Companies come and

go. Many of the companies that have offered coverage historically have gone broke, leaving outfitters and the government exposed.

Some admitted insurance companies have guarantee funds, but the limit on those guarantee funds is $300,000.

Mr. BISHOP. So what you are telling me is there is a tipping point in all this stuff.

Mr. LINDSEY. Correct.

Mr. BISHOP. At which you actually create more harm than you create good, as you are going up the scale.

Mr. LINDSEY. You create huge instability by having the limits go up and down.

Mr. BISHOP. The Canadian Park System has about the same range of public activities as we do. Do you or maybe anyone else on the panel know what kind of insurance companies coverage is required in Canada?

Mr. LINDSEY. Well, we have actually provided coverage for the Canadian Mountain Guides Association in the past. And in Canada they don't have the legal system that we have here. They don't have the same medical system that we have here. So, I mean, the coverage up there is much less expensive because of the litigation system.

Mr. BISHOP. Bad one, though. Mr. McFarland, you spoke about the Salt Flats Recreation Area and the ability of working together in that particular—with the people working together to create something that was very positive. In your opinion, is that a structural situation, or is that the personalities working together? Is this a personality issue or a structural issue?

Mr. MCFARLAND. It is a structural issue. The structure that was implemented has created positive personalities.

Mr. BISHOP. So the structure of having that cooperation actually put forth in that direction. But one of you—maybe it was Mr. Friedman—was talking about Vermillion Cliffs before.

Mr. FRIEDMAN. Yes.

Mr. BISHOP. Was that you?

Mr. FRIEDMAN. Yes.

Mr. BISHOP. That came up with an entirely different result as Grand Staircase.

Mr. FRIEDMAN. Correct.

Mr. BISHOP. Is that simply because of personality, or was there a structural cause that created that difference of decision?

Mr. FRIEDMAN. I think it was leadership, absence of direction from either the monument manager, or maybe from the Washington office, about how to approach this programmatic environmental assessment process.

In Grand Staircase, the recreation planner there took a more open approach to managing the monument using adaptive management, again, as a tool to not tie their hands, as far as how they are going to deal with allocations of use. And, for some reason, Vermillion Cliffs chose to try to come up with some specific limits without really looking at what was really happening on the ground. I can't really explain why they chose to go that route.

Mr. BISHOP. I appreciate you going in that particular direction. I think one of the things the State of Utah did and the Governor did with his outdoor recreation vision is simply try to recognize

that places like Utah, for example, is a public land State, it is always going to be a public land State. The issue is not whether it is public lands, but who is actually making the decisions on those public lands. Is it made by people who are there locally, or is it going to be made by people here in Washington? That is the kind of situation I think you have identified some ways in which, based on personality, but perhaps by the structure of how we create those things, you can produce a better product.

I will just ask Ms. Kauffman, just in the last question I have, you talked about kind of the options either being big companies taking all those areas or your services being dropped. Which do you think is the more likely approach? Will big companies step in and do this? Or are we just going to lose services and opportunities?

Ms. KAUFFMAN. I think it depends how profitable the particular operation is. I mean, I guess——

Mr. BISHOP. But you are working on a very low profit margin, aren't you?

Ms. KAUFFMAN. Well, yes. And I mean my specific example is a corporation, it is not public. It is not a public entity. And what happened there, because I was unable to get the insurance, because I couldn't finance it, they no longer have riding up there. The corporation decided it wasn't worth it to go ahead with the activity.

Mr. BISHOP. Thank you. I appreciate those. We have two Members who just came in. Do you have questions for these panelists, by any chance? Mr. Labrador? OK.

With that, we thank you all, and I apologize for having to leave and come back in the middle of this. But we thank you all for your presence here and for the testimony that you have given. You are excused at this time. I will bring up the last panel, if possible.

Once again, I do appreciate your time and travel to come here. So, in panel three, I have: Mr. David Brown, who is from the American Outdoors Association; Grant Simonds—you will tell me how I messed up that name—from the Idaho Outfitters and Guides Association; Brian Merrill, from Western Rivers Guides; Aaron Bannon, from the National Outdoor Leadership School; and John Duncan, from Telluride Outside.

So, I am assuming—once again, we welcome you. We thank you for being here. I think you saw the drill in the last panel. Your written testimony is already included in the record. We are going to simply ask you to add it verbally, and watch the timer in front of you. The other panel was very good about keeping within the 5-minute limit. Once it goes to yellow it means you have 1 minute left. And, like every good semi, when it goes to yellow, then you speed up so that you don't get caught in the red zone.

[Laughter.]

Mr. BISHOP. Mr. Brown—if I can just go from my left to right here—Mr. Brown, we recognize you for 5 minutes to give us your oral testimony.

STATEMENT OF DAVID L. BROWN, AMERICAN OUTDOORS ASSOCIATION

Mr. BROWN. Thank you, Mr. Chairman, Ranking Member Grijalva, and members of the Subcommittee. I really do appreciate you taking the time to address these issues that I think are very

important to the future of recreational public lands. Because I think, unless we address these issues, we are likely to see a contraction in recreation access. And I want to touch on some of the major issues that I see, and some other witnesses are going to touch on some other issues, so we are not repeating ourselves. But we are, I think, at a point where we have to address these issues or we are going to see some problems down the line. And we are already starting to see them.

First of all, as some of the other witnesses have identified, the processes and analysis required to plan and authorize outdoor recreation are becoming more complex, especially in congressionally designated areas. Those processes have to be streamlined or the public will lose access to some incomparable experiences. They evolved in a different budget environment, and they are simply no longer sustainable.

In my written testimony, I document how the Forest Service's own assessment of their cost of excessive analysis has contributed to some of their logjams in authorizing activities. The authorization of recreation permits has become more complex over time, as a result of court rulings and agency rulemakings which extend NEPA compliance to the smallest permit decision.

For example, some rangers feel it necessary to complete a 2-year need assessment and NEPA analysis to make a decision as simple as moving 300 or 400 service days in wilderness from the fall to the summer.

Another example of how extensive documentation can be just to issue permits in national forests is the 10-year process to issue six permits for pack and stock use in wilderness areas in the Okanogan-Wenatchee National Forest. The final EIS was 700 pages in length to enable these outfitters to provide services to approximately 1,200 people per year.

Before issuing outfitter permits in designated wilderness areas, agencies are required to determine if the service is necessary to fulfill the recreational purpose of the Wilderness Act. The Forest Service is extending this process to non-wilderness areas, even though it does not have the funding to complete these studies. These logjams will become most apparent when permits need to be renewed in designated areas. Permitting new activities is simply too expensive in national forests, except for minor uses.

I think one of the key points that was made earlier in the testimony, and it has come up in court cases now, is when these areas are designated it is going to be very important to make recreation a purpose, and then to be very specific about what the types of recreation activities can be authorized or managed. It shouldn't be totally exclusive, but it could be including, but not limited to, and name those activities. Because we have seen a recent court case where kayaking on the Upper Chattooga, for example, was prohibited, and the Agency was given discretion to do that.

One of the issues that I do want to touch on is that cost recovery will not solve this problem. As some of you, I think, have experienced in your districts, the Agency is trying to pass the costs on for these analyses to these small businesses, which is just simply not affordable, to do a 700-page EIS for 6 stock outfitters who carry 1,200 people a year.

So, that is where, I think, you are going to see the erosion or elimination of these services, and certainly no new services, as Mr. Bacon indicated, because the cost of the analysis are just too expensive. And who is going to risk the money, when you don't know what the outcome is going to be?

One of the key issues that I am really hopeful this Committee will address is reauthorization of the Federal Lands Recreation Enhancement Act, which is the authority under which outfitter and guide permits are issued. It also allows the agencies to retain the money generated from permits and amenity fees for use at the resource. I do think that authority needs to be amended so that we can ensure that those funds are being used properly—sport recreation activities—there are some other adjustments we think that need to be made, but we think that is a critical element, and we would like to see this Committee put together a model bill. I know there is some talk about extending that authority, but I believe you certainly have the understanding that would be required to make that bill successful.

Road and trail infrastructure degradation is another big issue. I am not going to go into the details of that, because we have other witnesses who are going to testify, but we have to have a new strategy to clear trails that are becoming impassible, especially in wilderness areas. Thank you so much for the opportunity to testify.

[The prepared statement of Mr. Brown follows:]

Statement of David L. Brown, Executive Director, America Outdoors Association

Mr. Chairman and members of the Committee, thank you for giving me the opportunity to testify on some of the critical issues which threaten recreation access on public lands throughout the United States. America Outdoors Association represents the interests of more than 1,000 outfitters, guides and outdoor recreation service providers who are members of our association and our affiliate state organizations. Most of our members provide services to the public in National Parks, National Forests, on BLM lands, including units within the National Landscape Conservation System, and in U.S. Fish and Wildlife Service Refuges.

Please accept my sincere appreciation on behalf of outfitters and guides for your concern about the future of recreation and outfitted services on public lands.

Why Recreation Access May Soon Contract on Public Lands

I believe we are facing the potential for contraction of recreation access for the general public unless the Congress and agencies work together with the recreation community to resolve critical, emerging impediments to authorizing and facilitating recreation activities on public lands. My testimony will cover several broad areas that I believe will inevitably lead to this contraction unless action is taken.

The Cost of Recreation Management as a Barrier to Recreation.

Agency processes for planning and authorizing outfitting and other recreation activities are becoming more complex and expensive. The trend is especially notable in congressionally designated areas within National Forests, National Parks and the BLM's National Landscape Conservation System (NLCS). On the other hand, some users are not managed at all at some resources so the impacts and costs for recreational use unfairly falls on those who are permitted and regulated.

If these trends continue, the processes for managing outfitted use in some congressionally designated areas will no longer be sustainable and will lead to contraction of recreation access. The costs for the more complex analyses required to authorize recreation activities cannot be transferred to users, especially in outfitting which is a low profit-margin business. Those processes have to be streamlined. Because agencies are diverting funding from recreation management to other programs, the capacity for new recreation activities is very limited.

With a new swarm of congressional designations under consideration, we believe that advocates and the Congress should consider the impact that the required management processes will have on use and enjoyment of these designated areas.

1. The National Landscape Conservation System Does Not Advance Outdoor Recreation.

The Bureau of Land Management's (BLM) National Landscape Conservation System (NLCS) includes all congressionally designated areas and other lands such as Wilderness Study Areas (WSA's). The NLCS was authorized in 2009 to conserve landscapes for scientific, cultural and ecological values. Overnight, the NLCS went from "working landscapes" to educational preserves. Recreation and outfitted recreation activities are not an emphasis on NLCS lands unless the congressional designation makes recreation a purpose and management plans specify recreation management areas (RMA's). We suggest some legislative adjustments to the BLM's NLCS authorizing language to give recreation a higher status.

We have concerns that the requirement for a science plan for NLCS units and aggressive strategies to engage and educate youth, while noble in their intent, are not fully funded and could divert funds needed for recreation management which will further depress access.

Remarkably, the BLM Manuals and Handbooks for management of the vast NLCS lands were issued without public comment. We believe Congress should require those policies to be re-issued and make them subject to public comment. The importance of understanding these management regimes prior to additional congressional designations of BLM lands cannot be understated.

I respectfully submit that Congress should carefully consider the following issues when designating BLM lands, which are automatically part of the NLCS:

- Where appropriate future designations should ensure that the recreational values of those resources are specifically recognized as a purpose in the legislation;
- Where wilderness is designated, a provision which recognizes outfitted services as "necessary" should be included. Senator Udall's draft for the Brown's Canyon National Monument does that with the following language: "(2) OUTFITTING AND GUIDE ACTIVITIES.—Consistent with section (d)(5) of the Wilderness Act (16 U.S.C. 1133(d)(5)), commercial services (including authorized outfitting and guide activities) are authorized in the Wilderness to the extent necessary for activities that fulfill the recreational or other wilderness purposes of the Wilderness." The agency will still be required to develop a new management plan and complete capacity analysis to determine "the extent" to which outfitted services are "necessary".
- Senator Udall's draft for the Brown's Canyon National Monument authorizes planning for specific recreation activities within the Monument and excludes the Arkansas River, one of the nation's most popular whitewater rafting rivers, from the Monument boundaries on each side of the river. The State of Colorado retains management authority over commercial rafting on the river. This strategy represents one way to eliminate the potential impacts on access of the monument designations. While state management is appropriate for the Arkansas River, not every state is capable of managing a significant recreation resource on federal lands.

2. Excessive Analysis in the Forest Service as an Impediment to Recreation Activities

The Forest Service described the torpor that results from "excessive analysis" when they concluded in 2002 that "These factors frequently place line officers in a costly procedural quagmire, where a single project can take years to move forward and where planning costs alone can exceed $1 million. Even noncontroversial projects often proceed at a snail's pace." (The Process Predicament, USDA Forest Service, June 2002, page 5).

In National Forests these processes have become more complex over time as a result of court rulings and agency rule-makings which extend NEPA compliance to even the smallest permit decision. For example, some rangers feel it is necessary to complete a two-year "need" assessment and NEPA compliance to make a decision as simple as moving 300 or 400 service days in wilderness from the fall to the summer.

Before a new recreation permit is issued for a significant new activity or a level of use changed, the Forest Service may have to:

- determine if the recreation activity and extent of use is authorized in the Forest plan and, if not, amend the plan and comply with the National Environmental Policy Act (NEPA) by completing NEPA documentation;
- assess the "need" for the commercial recreation services, a process which is not well defined by the agency and more likely to be directed by the Courts, especially in designated wilderness where the Forest Service must determine

the extent of outfitted activity allowable and its impact on wilderness values in addition to the need for the services consistent with The Wilderness Act;
- complete an elaborate capacity analysis;
- complete site specific NEPA analyses upon reviewing the permit application, which for some permits, may require an environmental assessment or a full environmental impact statement;
- engage the Fish and Wildlife Service or National Marine Fisheries Service in Section 7 consultation and complete various biological assessments related to the impact of the permitted activities.

One recent example of how extensive documentation can be in National Forests is the 10-year process to issue six (6) permits for pack and stock use in the Okanogan-Wenatchee National Forest. The Final EIS (FEIS) was nearly 700 pages in length to enable these outfitters to provide services to approximately 1,200 people per year. This extensive analysis was driven by fear of lawsuits by those opposed to outfitted use, which totals about 10% of overall use of the wilderness. The FEIS was preceded by a study to determine if the services were "necessary" during which users were surveyed. We appreciate the Forest Service's efforts to authorize this use, but realize this is not a sustainable process if it has to be repeated in most National Forests. Fortunately, cost recovery was not applied in this instance because the process began long before cost recovery was authorized and it was simply not affordable.

3. Re-examining Visitor Use and Capacity in National Parks

Legal challenges have greatly impacted recreation access in some National Parks and National Forests. Equine activities are especially vulnerable to these attacks. For example, equine activities have been eliminated in Grand Canyon National Park and are under threat in Yosemite and Yellowstone. Lawsuits were filed over equine activities in National Forests in California and Idaho.

In 2012 Congress had to pass the Sequoia and Kings Canyon National Parks Backcountry Access Act (H.R. 4849) to enable NPS to issue permits for historical horse pack trips after a lawsuit successfully blocked their issuance in designated wilderness. The Court agreed with the plaintiffs that NPS had not adequately assessed "the need" for those services in the wilderness. The plaintiffs also charged that the trips used items that were unnecessary for the enjoyment of wilderness, such as tables, chairs and other "luxury" items.

Other commercial services are also under greater scrutiny. The court ruling in the lawsuit over the re-development plan to restore flood-damaged facilities in Yosemite National Park now requires NPS to establish a numerical carrying capacity consistent with the Wild and Scenic River designation for the Merced River, which flows through an area with historic facilities and recreation activities. Recreation activities are being eliminated if they are deemed to be inconsistent with the Merced's designation. This 9th Circuit ruling rippled through NPS as the agency became sensitive to any uses which were not backed up by planning documentation. The ruling also impacted Wild and Scenic River management in other areas resulting in restricted access at rivers in National Forests in northern California and Idaho where carrying capacity had not been an issue.

An internal 2008 briefing from the NPS planning division addressed the issue of "Visitor Use and Capacity Planning and Management" by describing the broad impacts of the Yosemite Court decision.

> *"The Yosemite litigation emphasizes the complexity and conflict inherent in visitor use and capacity management, and the increasing debate over the "right way" to balance visitor opportunities and resource protection goals. Yosemite is not alone. There are many other costly lawsuits and political battles being waged over visitor use and capacity management-related issues, such as river use in Grand Canyon, equestrian recreation in Sequoia, off-road vehicle use in Cape Hatteras, and dog walking in Golden Gate National Recreation Area, to name just a few."* (Briefing Statement, Visitor Use and Capacity Planning and Management, March 2008).

NPS units have to complete an array of plans to accommodate visitors. Among the plans that may be necessary to authorize recreational use are: General Management Plans, Special Resource Studies, Commercial Services Plans, Resource Management Plans, Wilderness Plans, and Transportation Plans.

4. Management Streamlining Strategies

We understand and appreciate the many conflicting demands placed on federal land managing agencies. However, despite all the challenges, many areas manage to get things done by defensibly authorizing use without spending years preparing documentation. The best practices within each agency to facilitate recreation access

should be identified, encouraged and used as a basis for facilitating recreation access rather than eliminating it. The BLM appears to have developed a successful strategy in some areas by using Programmatic Environmental Assessments combined with needs assessments.

The National Park Service and Forest Service documents at one point recognized the need for legislative changes regarding their planning processes. The NPS Briefing Statement suggested the agency, "evaluate the need for amendments to legislation or notice and comment rulemaking to reflect a broader and more comprehensive definition and related best practices on visitor use and capacity management". The Forest Service report from 2002 stated, "The need for so much planning is questionable. For example, much of the environmental information that the Forest Service collects is of dubious scientific or practical value. Although it might be needed to meet procedural requirements or to withstand appeals and litigation, resources spent on process cannot be put to other uses. The opportunity costs alone—which might range into the tens of millions of dollars—suggest a fundamental lack of efficiency and effectiveness in national forest management. "

One concern we have in proposing these necessary changes is that Congress not exempt certain groups and establish double standards for documentation and regulation. For example, the 1998 Concession Reform legislation exempted non-profit entities from the requirement to have a commercial use authorization to provide commercial services in National Parks unless the activities produce taxable income. This double standard is not appropriate and makes it harder for taxpaying businesses to compete when providing similar services. America Outdoors Association has nonprofit members and we understand and respect their role in providing educational services to the public. Some of them do not agree with this exemption in National Parks.

5. The Public Cannot Be Expected to Pay More for Less.

Some agencies are diminishing access, which they claim is necessary as a result of budget cuts.

More reports surface each day detailing access and campground closures, which seem to be more prevalent within National Parks. These negative reports alone could depress visitation to National Parks this year. NPS may be surprised to find fewer visits are used to justify even deeper cuts. Here are some examples from press reports:

- Delaware Water Gap National Recreation Area has closed two important public access points at Milford and Kittatinny Point which some canoes liveries estimate will cost them between 25% and 50% of their business. These closures eliminate a float trip on the river that is popular with families. The Superintendent says it is too expensive to collect the garbage in those areas on weekends.
- Cuyahoga Valley National Park is reducing visitor center hours, education programming, restroom cleaning, trail maintenance, and mowing.
- The Great Smoky Mountains National Park closed five campgrounds and picnic areas, and reduced road maintenance.
- Yellowstone National Park delayed road openings, reduced staffing, and delayed access to Grant Village and Yellowstone Lake, although some of these closures may have been rescinded.
- Glacier National Park says they will delay plowing Going-to-the-Sun Road, the only road providing access to the entire park, which impacts visitors and concessioners' services.

Most businesses in America had to absorb a 5% decline in revenues during the latest recession but few cut-off services to the public to accommodate the decline. Agencies should look at opportunities to improve their efficiency instead of cutting access and services to the public. Streamlining documentation requirements and reviewing organizational structures for duplicative programs are two strategies that might yield some savings.

6. Cost Recovery Will Not Solve the Process Problem.

Both the Forest Service and the Bureau of Land Management have a cost recovery regulation designed to fund the cost of environmental analyses and permit administration when the time required to process a special recreation permit exceeds 50 hours. The BLM appears to be the leader among agencies in streamlining processes, such as the use of programmatic Environmental Assessments. The Forest Service, on the other hand, seems to be increasing process requirements and initiating cost recovery more aggressively. If fully implemented in both agencies, cost recovery will eliminate many outfitted services, especially in designated wilderness, on NLCS lands, where threatened or endangered species are present, or where so-

cial conflicts require the agency to engage in higher levels of National Environmental Policy Act (NEPA) compliance.

We have proposals to amend the Forest Service and the BLM's cost recovery authority which expires in September of this year, which we ask the committee to consider.

- If a permitted use has been ongoing for a number of years and there are no significant changes to the use or the resource, categorical exclusions for NEPA compliance should be authorized.
- Compliance with the Endangered Species Act should not be subject to cost recovery for existing permits.
- Programmatic EA's are another strategy BLM is adopting with success in some areas to eliminate the cost recovery requirement.
- Eliminate the needs assessment requirement in non-wilderness areas.

These changes could be included in the reauthorization of the Federal Lands Recreation Enhancement Act.

7. Unrealistic Restrictions Imposed by Wilderness Management.

Restrictions on group sizes in wilderness areas are increasingly limiting access for groups and commercial parties. We understand the need to have some limitation on group size in wilderness. However, limits on groups to as few as five (5) or six (6) persons in some wilderness areas eliminate families, social and outfitted groups from using the wilderness. Group size restrictions may expand to wilderness study areas (WSA's) in the NLCS and in the backcountry eligible for wilderness in National Parks, according to agency policies, which suggests that those areas must be managed as wilderness. Activities which might not be suitable under a wilderness designation are discouraged by the BLM's NLCS Manual for WSA's. These restrictions should be considered before extending a wilderness designation to a recreation area that is popular with groups.

The primary motivation of group size limitations is to manage wilderness to provide for "outstanding opportunities for solitude or a primitive and unconfined type of recreation", one of the four mandatory requirements for managing wilderness, according to the BLM Manual on Management of Wilderness (BLM Manual 6340, page 8,9).

- Group size restrictions vary from wilderness to wilderness, but can be as low as five (5) or six (6) people in the most restrictive wilderness areas.
- Within National Forests ten (10) is the most common group size limit, a restriction found in 63 wilderness areas.
- 30 wilderness areas in National Forests limit access by the total number of "heartbeats", meaning people and stock. 12 heartbeats per group are allowed in 18 wilderness areas.
- The upper limit is 25 heartbeats (or people and stock) per group found in 23 wilderness areas.

For some outfitted trips, a group size of eight (8) to ten (10) is appropriate, such as hunting parties, which require a higher guide to guest ratio. But higher group sizes are usually necessary to make rafting trips affordable and cost effective.

The expansion of the need assessment requirement for commercial services in designated wilderness has also created unnecessary log jams in the authorization of outfitted services. Agencies must determine the need for commercial services through an ambiguous process before permitting outfitted activities. Now, need assessments, which the agency does not have the funding to complete, are being implemented in some Forests, suppressing new outfitter permits, another example of mushrooming agency processes. Permits for new activities are rare in National Forests because the agency field staff can't jump through all the hoops to issue permits.

To overcome the need assessment hurdle any future wilderness designations should establish in the authorizing legislation that historic outfitted activities are "necessary" to fulfill the recreational purposes of The Wilderness Act. At some point Congress may wish to consider an alternative to wilderness designations to give agencies more freedom to authorize recreation activities.

8. Reauthorizing and Amending the Federal Lands Recreation Enhancement Act

Recreation access will contract even more dramatically unless The Federal Lands Recreation Enhancement Act (FLREA), which expires in 2014, is amended and reauthorized. FLREA is the authority for issuing outfitter and guide permits in National Forests, on BLM lands and within U.S. Fish and Wildlife Service Refuges. Without reauthorization, the agencies will have to find some other authority but the fees generated by permitted activities will not be retained. Recreation fees are supposed to be retained to support recreation activities where they are collected, although

that does not always happen. While FLREA should be reauthorized, that reauthorization should not occur without changes.

- Lack of accountability for use of the fees is a problem in some areas. We believe, because we have reports from field staff, that the fees are being spent inappropriately at some sites. A portion of the fee money should be used by Congress to conduct random or targeted audits of agency expenditures of fee revenues at fee sites.
- Permit fees should be applied to permit administration. However, a limitation on that authority is needed to prevent the agency from using it to impose crippling fee burdens. We believe the fee structure should be standard across the agency as it is now and any changes subject to comment. Administration of amenity fees should be separated from other recreation fees.
- The current FLREA law authorizes the agencies to go into the concessions business, to run reservations services, rent cabins, rent equipment and to offer specialized tours. This authority should be altered to allow agency-provided services only when they cannot be provided by the private sector or when they are part of the agency's core mission.
- Congress should consider authorizing non-profits to collect donations from users and others to support recreation activities and the goals of FLREA in lieu of agency-collected amenity fees where the non-profit can use fees more efficiently. These entities may accept outside contributions as well as be responsible for cost effectively collecting donations from recreation users. The overhead associated with the operation would have to be limited to ensure appropriate use of the funds and some limitations on advocacy established. While this option will not work everywhere, there are examples of workable strategies which should be considered.
- Rather than permanent authorization, we believe it is better for FLREA to sunset every 10 years so that it can be adjusted when needed. We also strongly urge this committee to write a model bill this year. An extension is necessary if a bill cannot be passed in this session.

9. Road and Trail Infrastructure Degradation.

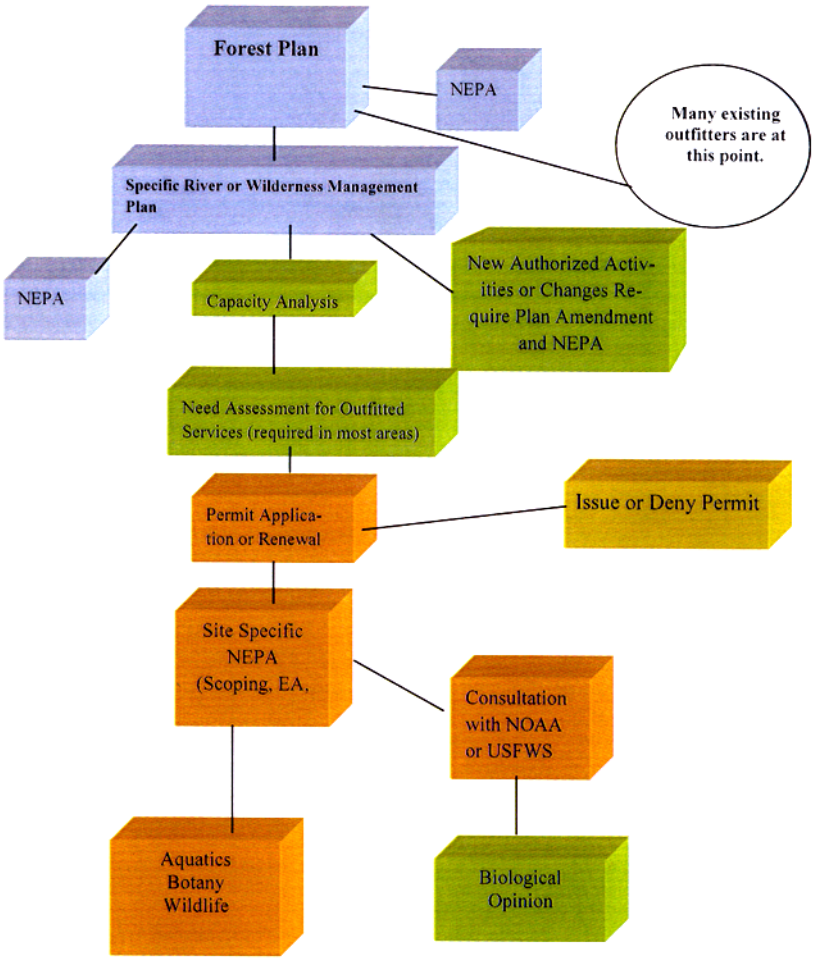
There is no question that new strategies are needed to maintain the road and trail infrastructure on public lands. Beetle kill and fires have resulted in dramatic degradation of the trail infrastructure especially in National Forests and on BLM lands. Wilderness lands are among the hardest hit because mechanized equipment cannot be used to clear trails. Outfitters are often required to open up trails prior to the start of each season with crosscut saws, a task which has become overwhelming after winter blow downs block public access. Agency trail crews often arrive too late in the season or are simply understaffed to get the work done. Outfitters are reporting that secondary trails are being abandoned forcing more use on to mainline trails, which will undoubtedly result in someone complaining about overuse. Other witnesses at the hearing will testify to the magnitude of the problem in their areas.

We have suggested some strategies to facilitate maintaining these trails.

- A portion of the fees generated by FLREA was intended for agency-wide use although the agencies have the flexibility to retain all the fees locally. A portion of agency-wide fees could be used for trail maintenance and river access to reimburse the Forest for fee credits given to outfitters which would be deducted from their annual fee bill. Revenue from the account could also be used to support volunteer groups and other entities to clear trails. The money would have to be held in a special account for trail maintenance to avoid its diversion.
- Some authorization for limited use of chain saws in wilderness may be necessary to open up impassable trails and rivers to protect the public from dead fall and strainers.
- One concern is that a road use fee will be applied exclusively to permit holders when FLREA is reauthorized, even though outfitters are often the minority users of Forest and BLM roads. If any road use fees are approved, they should be broad-based and include all users of those roads.

Thank you for this opportunity to submit testimony and for your attention to outdoor recreation on public lands.

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



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

Mr. BISHOP. Thank you. I appreciate that. We will now turn to Grant—and it is Simonds? Is that the correct way?

Mr. SIMONDS. Yes, sir.

Mr. BISHOP. From the Idaho Outfitters. You are recognized for 5 minutes.

STATEMENT OF GRANT SIMONDS,
IDAHO OUTFITTERS AND GUIDES ASSOCIATION

Mr. SIMONDS. Thank you, Mr. Chairman and Committee members, for this opportunity to testify on this topic. Idaho is a State in which nearly two-thirds of the land base is public lands managed primarily by the Forest Service and BLM. So adequate and safe access to our public lands is fundamental for outdoor recreation, including trails utilized by hikers.

The Frank Church River of No Return Wilderness is the largest forest wilderness at 2.3 million acres in the Lower 48. At the time of enactment of the Act in 1980, this wilderness area had nearly 2,500 miles of catalog trails, and Section 5(b) of that Act says, "The Secretary shall, to the extent practicable, consistent with the management plan required by this section, clear obstructions from all of the national forest trails and adjacent to the wilderness on at least an annual basis." For several decades, the Forest Service has not met the requirements of the law.

Recently, the Agency has been able to maintain approximately 20 percent of the 2,500 miles. The large fires since 1988 have cumulatively increased the damage to the trail system. Invariably, after a wind storm, blow-downs of both dead and live trees further clog mainline and secondary trails. Each year this phenomenon has become more apparent to those who visit the wilderness.

Outfitter and guide trail maintenance provides access to portions of this wilderness on secondary trails, thereby providing access to little-used areas of the wilderness while spreading out use. However, the increasing costs associated with maintaining these trails have outstripped the ability of these small businesses to do so, especially in this new economy for which there has been no recovery for the Idaho industry.

The trail maintenance backlog and out-year damage from fires to the trail system could benefit from policy changes that would allow for a window of mechanized use from tools such as wheelbarrows and chainsaws. Additionally, outfitters and guides would be further incentivized to clear more trails through institution of a credit toward the annual fees they pay the government for the privilege of providing outfitter services on public lands. Dealing with the trail maintenance backlog needs to strongly consider ideas outside the proverbial box.

The situation is so dire in the Frank Church that the State legislature passed a resolution that contained the following language: "Now, therefore, be it resolved by the members of the Idaho Legislature that we urge the Secretary of the Department of Agriculture to declare the Frank Church River of No Return and adjacent national forest lands to be a natural resource disaster area."

I would like to talk just a little bit about cost recovery. To a certain extent, small businesses in Idaho have become a poster child for cost recovery, especially where threatened endangered species were present. Recently an Idaho base land outfitter with a historic base camp that is now exemplary in how the outfitter maintains it for minimum impact has been assessed a $5,600 cost recovery fee by the Boise National Forest for environmental analysis that may or may not lead to permit renewal. While $5,600 may seem minor

to a ski area or mining operation, it is a significant amount for a company with insignificant earnings.

The base camp is located within 300 feet of the south fork of the Salmon River, a stream where endangered Chinook Salmon also spawn. This base camp is utilized during the summer as headquarters for a week-long outdoor education camp for teenagers. The non-outfitter public, however, is not allowed to approach the banks of the stream to watch the returning fish during the summer, an educational opportunity not afforded to the kids who choose this opportunity through the outfitter.

I would like to echo the need to amend the Forest Service and BLM's cost recovery authority. Compliance with the Endangered Species Act should not be subject to cost recovery for existing permits. This analysis should be programmatic and not one that individual small businesses should incur. If use has been ongoing for a number of years and there is no significant change to the use of the resource, categorical exclusions for NEPA compliance should be authorized. Also, if cost recovery is to continue for outfitter permit renewal, then the Agency should provide credit for the first 50 hours of work. This is not currently the case.

In summary, Mr. Chairman, outfitting is an important contributor to the Idaho rural economy. Reduction of the trail maintenance backlog and the elimination of cost recovery for NEPA compliance would assist our industry and encourage the continuation of the small businesses in the Idaho rural economy. Thank you.

[The prepared statement of Mr. Simonds follows:]

Statement of Grant Simonds, Executive Director, Idaho Outfitters and Guides Association

Thank you, Mr. Chairman for this opportunity to testify on the topic of impediments to public recreation on public lands. My name is Grant Simonds, and I have been the executive director of the Idaho Outfitters and Guides Association, a statewide non-profit business trade organization, since 1985. IOGA represents the interests of more than 200 outfitters, guides and outdoor recreation service providers. Idaho outfitters provide service to more than 200,000 persons each year that would not have the opportunity to enjoy a guided vacation without the assistance of an outfitter.

Idaho is a state of which nearly two-thirds of the land base is public lands managed primarily by several federal agencies such as the Forest Service and the BLM. Adequate and safe access to our public lands is fundamental for outdoor recreationists, including trails utilized by hikers and stock users. The Frank Church River of No Return Wilderness is the largest forest wilderness at 2.3 million acres in the lower 48. At the time of enactment of the Central Idaho Wilderness Act (CIWA) in 1980, this wilderness area had nearly 2,500 miles of catalogued trails. Section 5b of the CIWA states:

> *The Secretary shall, to the maximum extent practicable, consistent with the management plan required by this section, clear obstructions from all of the national forest trails within and adjacent to the wilderness on at least an annual basis.*

For several decades the Forest Service has not met the requirement of the law. Recently, the agency is able to maintain approximately twenty percent of the 2,500 miles annually. The large fires since 1988 have cumulatively increased the damage to the trail system. Invariably after a wind storm, blow downs of both dead and live trees further clog mainline and secondary trails. Each year this phenomenon has become more apparent to those who visit the Wilderness whereby outfitters and their guests and the self-guided public are no longer able to access portions of the Wilderness. Further, fire rehabilitation funds need to be extended beyond the initial year of the fire to specifically deal with damage to trails that occur long after fire control is achieved. The trail maintenance backlog is similar on other nearby public lands.

Outfitter and guide trail maintenance provides access to portions of the Wilderness on secondary trails, thereby providing access to little used areas of the Wilderness while spreading out use. However, the increasing costs associated with maintaining trails for access have outstripped the ability of small rural-based businesses to do so, especially in this age of the new economy associated with the Great Recession for which there has been no recovery for the Idaho industry.

The trail maintenance backlog and out-year damage from fires to the trail system could benefit from a policy change that would allow for a window for mechanized use annually from tools such as wheelbarrows and chainsaws. Additionally, outfitters and guides could be further incentivized to clear more trail though institution of a credit toward the annual fees they pay the government for the privilege of providing outfitter servicers on public lands. Dealing with the trail maintenance backlog needs to strongly consider ideas outside the proverbial box.

The situation is so dire in the Frank Church that the state legislature passed a resolution that contained the following language:

> *"WHEREAS, the Chief of the United States Forest Service has not placed emphasis on efficient and economical methods of trail restoration and maintenance, and has in fact aggressively limited methods and tools by Forest Service crews, contractors and volunteers that would greatly increase accomplishment and lower costs without adverse effect on wilderness values or visitors; and WHEREAS, use of outfitter and guide permittees, contractors and volunteers from various organizations to accomplish trail work is well below potential due to a lack of emphasis by the United States Forest Service on using innovative ways to offset permittee fees and streamline and simplify contracting procedures.*
>
> *NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that we urge the Secretary of the United States Department of Agriculture to declare the Frank Church-River of No Return Wilderness and adjacent national forest lands to be a Natural Resources Disaster Area."*

To a certain extent Idaho has become the poster child for cost recovery for environmental analysis and outfitter permit administration especially where threatened and endangered species are present. Recently, an Idaho land-based outfitter with a historic base camp that is now exemplary in how the outfitter maintains it for minimum impact has been accessed a $5,600 cost recovery fee by the Boise National Forest for environmental analysis that may or may not lead to permit renewal. While $5,600 may seem minor to a ski area or mining operation, it is a significant amount for a company with insignificant earnings. The base camp is located within 300 feet of South Fork of the Salmon River, a stream where endangered Chinook salmon also spawn.

This base camp is utilized during the summer as headquarters for week-long outdoor education camps for teenagers. The non-outfitted public is allowed to approach the banks of this stream to watch the returning fish during the summer, an educational opportunity not afforded to the kids who choose an outfitted outdoor education summer experience with this outfitter. During the fall, this site serves as a base camp for outfitted hunters. Complicating this matter is that there is apparently no suitable location for moving the base camp, and even if that were to occur, cost recovery analysis would be invoked since the outfitters assigned area of operation is within the South Fork Salmon drainage.

Since 1992 this outfitter has requested that activities that were once permitted to the previous owner be added in order to extend the season while diversifying his operation. Now, in order for these activities to be added, the environmental analysis and associated cost recovery bill would increase substantially.

Cost recovery was invoked on float trip operators on the Upper Main Salmon during the height of the recession because the Forest Service was unable to complete its analysis in less than 50 hours. The Forest Service had to complete Section 7 consultation and other biological assessment related to endangered Chinook salmon which return to the river each year to spawn. The analysis does not begin until the special use permittee agrees to pay for the analysis up front. Then there is no guarantee that the outfitter will be permitted once the analysis is complete. Never mind that the Idaho Department of Fish and Game Department was simultaneously applying for a take permit from the National Marine Fisheries Service for the same stretch of river that allows the general public to walk and wade during spawning season. The analysis, while required by law, seems superfluous for float trips with the same fish are more likely to be disturbed by fishing and wading.

I would like to echo the need to amend the Forest Service and BLM's cost recovery authority. Compliance with the Endangered Species Act should not be subject

to cost recovery for existing permits. This analysis should be programmatic and not one that an individual small business should incur. If a use has been ongoing for a number of years and there is no significant change to the use or the resource, categorical exclusions for NEPA compliance should be authorized. Also, if cost recovery is to continue for outfitter permit renewal, then the agency should provide credit for the first 50 hours of work. This is not currently the case.

Our Idaho industry studies indicate the average net after all the bills are paid is less than five percent. Cost recovery means that small businesses are forced to make decisions such as whether to continue operating or not, how much health care to afford, whether to reduce staffing and marketing.

Outfitting is an important contributor to the Idaho rural economy. Reduction of the trail maintenance backlog and elimination of cost recovery for NEPA compliance would assist in maintaining viable small businesses and options for the public that chooses an outfitted vacation to enjoy our public lands.

Mr. BISHOP. Thank you. So I thank you and Mr. Brown both for watching that red light like a hawk. I appreciate that.

I will turn now to Brian Merrill, welcome, you are recognized for 5 minutes to address us.

STATEMENT OF BRIAN I. MERRILL, WESTERN RIVERS GUIDES

Mr. MERRILL. Thank you, Mr. Chairman, Mr. Grijalva, and the rest of the members of the Subcommittee. I am grateful for the opportunity to testify on issues that are important to the future of recreation on public lands. I am particularly concerned about lands that are located in Utah. And, as the Chairman knows, 63 percent of Utah's lands are owned by the Federal Government. Only Nevada has a higher percentage. And what happens on that land is of critical importance to the economy of our State.

I am concerned that we maintain specifically public access to these lands for recreation and multiple uses. Recently Chairman Bishop sent a letter to a number of groups asking for their thoughts on designation of lands that could be included in future legislation for public lands in Utah. I very much appreciate the Chairman's approach, because there are areas that I particularly would like to see protected, and most of all I would like to see access to those areas maintained for people who want to recreate there. And, more specifically, for commercial recreation. I make my living taking people out on these lands, and so that is my bias.

But I am also very appreciative of this approach because I believe bringing these disparate groups together, everything from the environmental community to extractive industries and all of us in between, is important because in meetings I have had with a lot of these groups, private meetings, a lot of times we are saying the same things. And I think there is a lot of common ground that we can find. And the Chairman's leadership is very much appreciated.

The focus of my testimony today is about the national landscape conservation system, NLCS. And in a recent presentation to the Utah BLM Advisory Council—I sat through a presentation about their 3-year plan for implementing the NLCS. And it is a real ambitious document. It talks about developing friends groups, extensive media campaigns, student and volunteer-led monitoring efforts, development of friends groups, programs for youth and disabled veterans, massive amounts of science, and only occasionally is recreation mentioned in that document. Maybe four sentences.

And even when you get down to discussion of management of specific resources, it hardly mentions recreation at all, even though recreation is a significant part of just about every BLM-managed resource in Utah.

I worry about that for the NLCS on the grand scale, too. And when I think about the implementation of management under NLCS, again, I see very little mention of recreation and, specifically, guiding and outfitting.

As you know, the NLCS was established in 2009 to include all congressionally designated areas to conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values. And, as I have already said, recreation is not a value for which an NLCS unit is managed, unless it is included as a purpose in the authorizing legislation for the area.

And if there is one message I would like to send today it is that any legislation going forward ought to specifically mention recreation as a value for which the area ought to be managed. And, even more specifically, I would hope that they would mention guiding and outfitting services.

In these areas, recreation can be allowed, but it is only a secondary use in most situations. Clearly, recreation needs to be compatible with the other objectives of the NLCS. And, in fact, in the case of commercial outfitting, it already is. Commercial outfitters, including Mr. Bannon's organization here, have invented all of the low-impact camping protocols and low-impact use protocols that are the standard in our industry. They were invented by our industry. And so we know how to take care of these lands. And it is in the best interest of the agencies to use us as their partners. We are the eyes and ears on the ground, as has already been said here today.

Oh, I am running out of time. I am out of time, aren't I? I will just say that the combination of the Chairman's leadership in bringing these groups together and Governor Herbert's recreation vision, outdoor recreation vision in Utah, I think are the right recipe for fixing the way lands are managed in Utah. We do not have a specific designation that accommodates recreation, and I would encourage the members of the Committee to read my oral or my written testimony, because I have some great ideas, I think, in there about how to do that.

[The prepared statement of Mr. Merrill follows:]

Statement of Brian I. Merrill, CEO,
Western River Expeditions, Salt Lake City, Utah

Mr. Chairman and members of the Committee, thank you for the opportunity to testify on issues that are important to the future of recreation on public lands. I want to make it clear that I am representing my company and myself in this testimony.

As you know, 63% of the land in Utah is under federal ownership. Only Nevada has a higher percentage of federal land ownership. What happens on that land is of critical importance to the economy of the state. That is why I am grateful to be able to testify today, because I am concerned that we maintain public access to these lands for recreation and multiple uses.

Recently, Chairman Bishop sent a letter to a number of groups and individuals asking for suggestions on designation of lands that should be included in future legislation for public lands in Utah. I very much appreciate the Chairman's approach because there are areas I would like to see set aside for recreation, as well as scenic and cultural values provided they remain available for public access and multiple-

use. Of course, in highlighting recreation, I want to emphasize outfitting and guiding.

In reflecting on the prospect for designating lands under the Bureau of Land Management's authority, I want to focus on concerns about the National Landscape Conservation System (NLCS) and what is an inherent bias against recreation in the authorizing legislation and in the NLCS management manuals. As you know the NLCS was established in 2009 to include all congressionally designated areas "to conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values". **Recreation is not a value for which an NLCS unit is managed unless it is included as a purpose in the authorizing legislation for the area.** Recreational use may be allowed but it is secondary and tolerated only if it is not in conflict with the other purposes for the NLCS, the values prescribed by the congressional designation, and the direction given in the NLCS manuals and BLM handbooks.

Of course recreation needs to be compatible with the other objectives of the NLCS. In the case of professionally guided recreation, it already is. In fact, most if not all of the low-impact use and camping practices that are the standard in our industry were invented and developed by our industry, not by government employees. The idea of "partnership" is given lip-service by BLM, NFS and NPS, but I believe they largely dismiss the value that their outfitters represent in accomplishing their goals. We are truly the only ones who are out there educating visitors and creating constituencies for these resources in any significant way. This is especially true of BLM and NFS.

The NLCS Manual for National Monuments, National Conservation Areas (NCA's), and similar designations were developed without public comment and include provisions and direction which go beyond the obvious intent in the NLCS authorizing legislation. For example, under A. General Principles for the Management of Monuments and NCA's, No. 5 specifies that the BLM's public engagement focus specifically on "youth and veterans on Monument and NCA lands for education, interpretation, partnerships, volunteers and job opportunities". While this focus may be laudable, the omission of other visitors and groups may exclude those segments of the public in the planning and management of these areas. If you run an outfitting business which does not specifically serve these groups, then it would appear your status is in question. What about engagement of the general public?

With wilderness designations, party size limitations and the limitations on commercial services mandated by The Wilderness Act make me reluctant to want that designation for large areas in Utah especially where outfitting and guiding takes place. The BLM Manual for wilderness study areas (WSA's) discourages allowing any uses that could detract from future wilderness designations even if those uses are temporal, transitory and do not involve the construction of permanent structures. For example, jeep tours or river tours could be at risk or not allowed if the direction in the Manual for management of WSA's is followed.

A primary focus of management in Monuments and NCA's appear to be "science". A "science plan" is required but, at least in the public version of the Manual document, there does not appear to be a requirement for a visitor services plan.

Given the direction in these manuals, any future designations in Utah must specifically identify the recreational values that are to be preserved, maintained or restored in order for them to be protected. I am also concerned about the recreational potential for all the congressionally designated areas that predated the establishment of the NLCS in 2009, which are now, by law, part of it.

There are areas many of us would like to see set aside primarily for their recreational value. Based on the direction of the NLCS policy and legislative authority, it does not appear that including them under the NLCS authority is a good idea unless recreation activities are specifically mentioned as a purpose for the area with clear direction that these are primary values and not secondary to the other values for which the NLCS was established.

Understanding the future direction of management and recreation with the BLM and the NLCS is difficult in part because the Manuals and Handbook which guide recreation planning within the agency have not been widely publicized or available for public comment. Without that knowledge how these areas are managed for recreation, those advocating congressional designations may not get what they bargained for unless specific recreation activities are included in the authorizing legislation. The public versions of the BLM Recreation and Visitor Services Manual published in 2011 states that recreation is "not emphasized" unless the management plan specifies an area as a Recreation Management Area (RMA)". So, it would appear that in addition to making recreation a purpose for the area, any future designations should also designate recreation management areas and recreation activities

that are appropriate in those places. To further complicate planning, a RMA has to be designated as a Special Recreation Management Area (SRMA) or an Extensive Recreation Management Area (ERMA). SRMAs recognize unique and distinctive recreation values and are managed to enhance a targeted set of activities, experiences, benefits, and recreation setting characteristics, which become the priority management focus. ERMA is defined as an administrative unit that requires specific management consideration in order to address recreation use, demand, or R&VS program investments. It is not very clear what the distinction is between these two concepts since there has been little opportunity for public discourse on these issues. Yet these concepts must be understood before recommending any type of congressional designation.

At a Utah BLM Resource Advisory Council meeting, I sat through a presentation of the "NLCS 3-Year Strategy for Utah 2013–2016". It is a very ambitious document including goals such as development of friends groups, extensive media campaigns, student and volunteer led monitoring efforts, development of programs for youth and disabled veterans, and massive amounts of science. Occasionally, recreation is mentioned. Even when you get into the sections discussing management of specific resources, there is little and in most areas no mention of how recreation fits into the management scheme.

We really do not seem to have a congressional designation that specifically promotes recreation as a primary purpose and allows for the accommodation of new and emerging activities. As we consider future congressional designations for recreationally significant lands in Utah and elsewhere, I urge members of the Committee to consider the following actions:

- Either specifically include recreationally significant lands in NLCS management plans or leave recreationally significant lands outside the NLCS. This would require Congress to come up with a specific new designation, exclude recreationally significant areas from the boundaries of the designated area, or alter the existing NLCS authority to give recreation higher standing.
- Create a designation other than wilderness, such as a "*backcountry*" designation, where recreation is the primary purpose for the area without the restrictions imposed by wilderness, the NLCS and Monument status? A backcountry designation would allow new uses to be considered and recognize historic and multiple recreational uses where appropriate.
- In any land use legislation that is created for Utah, specifically define recreation, including outfitting and guiding, as a value for which the appropriate areas should be managed.
- Require that BLM's handbooks manuals or handbooks be subject to public comment prior to becoming agency policy so that we may better participate in designations and management planning decisions.

Mr. BISHOP. Thank you, Mr. Merrill. We gave you the extra 20 seconds because of what you said about me. That should give a hint to the rest of you who are coming up here.

Mr. MERRILL. Thank you.

Mr. BISHOP. We will now hear from the National Outdoor Leadership School, Mr. Aaron Bannon. If you would, please.

STATEMENT OF AARON BANNON, NATIONAL OUTDOOR LEADERSHIP SCHOOL

Mr. BANNON. All right. Thank you, Mr. Chairman, Congressman Grijalva, members of the Committee. It is a pleasure to be here. My name is Aaron Bannon, I am here representing NOLS, the National Outdoor Leadership School. We are a nonprofit outdoor educational institution utilizing the wilderness classroom through month-long expedition-style courses to educate 15,000 students every year. Our 230,000 graduates include high school and college students, naval academy cadets, corporate CEOs, returning veterans, and NASA astronauts. We were founded almost 50 years ago in Lander, Wyoming, and we have since grown to be one of the largest commercial outfitters in the country, offering courses in 14 States, 9 countries, across 6 continents.

So, today I want to talk about outdoor recreation as economic driver in the West, the challenges that NOLS faces in maintaining its operations, and ways that Federal land agencies can help rural economies better realize their market potential of their natural landscapes.

So, first off, the recreation economy. We have heard today some of the national figures for outdoor recreation. It is, indeed, a sleeping giant. In Wyoming alone, travel is a $2.9 billion industry. NOLS has tried to estimate our own economic impact just on Fremont County, where we are headquartered. We know we are the third-largest employer in the county. We generate earnings of over $7 million and provide hundreds of jobs. We know, through our stability, that we have helped our town weather the recent recession.

And this paradigm of outdoor recreation as a foundation for stable growth in rural communities is not unique to NOLS or to Fremont County or even to Wyoming. This is the story with towns across the West, where good access to stunning public lands is driving a healthy and thriving outdoor recreation economy.

We do, however, run into some obstacles. One is group size limits. In the mid-1990s, Canyonlands National Park reduced overall group sizes to seven people, a number we could not sustain economically, and we were forced to stop operating there. Until recently, the Coronado National Forest was considering imposing an overnight group size limit of 6 people, where our current permit stands at 20. We found a solution with Coronado, but we fear that this is a growing trend. Agency personnel are facing a challenging mandate in balancing the preservation and solitude of wilderness with visitation.

Another challenge we face, particularly on National forests, is finding opportunities for growth under the current permitting policy. Today, new or expanded permits can't be issued unless a forest is certain they will not exceed their carrying capacity. The way to do this is to conduct a capacity analysis, a process that follows NEPA, the National Environmental Policy Act. Most forests do not have the resources to complete a capacity analysis, and it has given us opportunities—oh, I am sorry. Most forests do not have the resources to complete a capacity analysis, and permitting, therefore, grinds to a halt.

Now, NEPA is not the problem here. The NEPA process has served us well. It has preserved the integrity of our operating areas, and it has given us opportunities to anticipate potential impacts to our courses. But it was not so long ago that outfitters could sustain their operations through temporary use permits, enabling businesses to continue until the necessary NEPA could be completed.

So, what solutions can we offer? Well, we need to raise the profile of recreation as is considered by our Federal agencies to create a business-friendly climate. We need Congress to reauthorize the Federal Lands and Recreation Enhancement Act, as David mentioned. If 80 percent of these fees are collected and retained at the site, that is a good incentive for recreation. We ask that you consider, through reauthorization, some adjustments, such as setting aside a portion of the fees generated specifically for improvements.

We ask that you support the creation of a 21st Century Outdoors Commission. And thank you, Congressman Grijalva, for introducing this important bill. And we ask that you support the creation of a public lands conservation corps. With a congressional focus on promoting and enhancing our outdoor landscapes, much can improve.

I feel we have a special situation here today. Everybody, from all the panelists to the members of the Subcommittee to the Federal agencies, we want the same thing here: to find more opportunities for people to get outside. We all believe in America's youth. And at NOLS we have since our inception. We are eager to work hard to find ways to ensure that we can continue to educate and inspire the next generation of Americans and expose them to the wild, rugged wilderness that is the heart and soul of our country. Thank you, and I yield my time.

[The prepared statement of Mr. Bannon follows:]

Statement of Aaron Bannon, Environmental Stewardship and Sustainability Director, National Outdoor Leadership School

Members of the Committee, Mr. Chairman, thank you for your time today and for your attention to the challenges facing the outdoor recreation industry. I am here representing NOLS, the National Outdoor Leadership School. We are a non-profit outdoor educational institution offering environmental studies, technical backcountry and leadership skills to students of all ages, usually on month-long expedition-style courses. NOLS utilizes the wilderness classroom—remote wilderness, roadless, and backcountry lands and waters—to educate 15,000 students each year. The lessons learned on NOLS courses have been invaluable to our grads, who range from high school students, college students and Naval Academy Cadets, to Corporate CEOs, returning veterans, and NASA astronauts.

The Recreation Economy

Since it was founded in 1965 in Lander, Wyoming, NOLS has graduated 230,000 students. Our operations have grown steadily over the past 48 years, and we now offer courses in fourteen states from New York to Alaska, in nine countries from Australia to Chile, and across six continents. NOLS is one of the largest commercial outfitters in the country.

NOLS is but one example of the national recreation economy. The economic impact on rural economies of our rural operations is measurable. And the impact of recreation spending nationally is significant.

In Fremont County alone, the economic impact of NOLS and other outdoor businesses in Wyoming's Fremont County is significant. As the 3rd largest employer in the county, NOLS supports 125 full-time and 300 seasonal positions generating earnings of $7.2 million. Our Lander base spends $350,000 on food, $110,000 on outfitter services, and $100,000 on fuel and maintenance for our vehicles. We pay over $60,000 annually to the Shoshone National Forest in fees. Our impact on Fremont County is similar to towns across the west, where good access to stunning public lands is driving a healthy outdoor recreation economy.

Travel spending in Wyoming was $2.9 billion in 2011. In has increased 5.4% per year for 13 years running. Travel spending directly supports nearly 30,000 jobs generating earnings of $731 million. Local and state tax revenues generated by travel spending is approximately $120 million. (Wyoming Travel Impacts, 1998–2011p, published in May 2012)

Accessing Public Lands and Providing Outfitter Services

Not only is NOLS one of the largest holders of federal recreation permits, it is also one of the oldest. Over five decades, we have worked extensively with federal, state, and local land managers, including the National Park Service, the Forest Service, the Bureau of Land Management, the Bureau of Reclamation, and numerous state and tribal authorities. Our experience in permit management is extensive. In our time we have seen major advancements through cooperative work between agencies and the industry. For example, NOLS was instrumental in the creation and adoption of the Leave No Trace style of camping, which has been adopted by the three major federal land management agencies and is the industry standard for responsible travel across backcountry lands.

Being able to access the wilderness classroom to expose Americans of all ages to the great outdoors is a great privilege. It is a privilege for which we willingly procure and manage permits, and for which we willingly pay fees.

Group Size Limits

We face real challenges to our operating paradigm in working with the federal agencies. Our success is entirely dependent upon our ability to operate on and access public lands. Therefore, we expend significant resources preserving the integrity of our permits and of our backcountry operations. We build relationships with land managers, and we advocate our position.

Group size limitations are a persistent threat. Land managers struggle to balance the dual mandates of the Wilderness Act: on one hand preserving naturalness while on the other retaining opportunities for visitors. When the wilderness resource is impacted, the easiest way to preserve and restore its naturalness is to reduce visitation. And the easiest way to manage visitation is through constraining commercial outfitter providers.

We have seen this approach unfold across the three federal land management agencies. In the mid-1990s, Canyonlands National Park reduced overall group sizes to seven, a number we could not sustain economically. We were forced to cease our operations there. In 2005, we saw group size levels in the Dirty Devil drop from 20 to 12. Until recently, the Coronado National Forest was considering a group size of 6, where our permit currently stands at 20. Through a series of constructive discussions, over eight months and countless hours, we have been able to reach an amicable outcome with the Coronado National Forest. We fear, however, that it is becoming common practice to limit group size in order to meet wilderness management objectives. This is not the best answer, and its effectiveness is questionable.

Permitting Policy

Expanding permits today is both expensive and procedurally unclear. For example, our expected payout to cover the environmental analysis required to decide whether we can run four additional courses of 12 students on a single forest will likely exceed $50,000. If these unplanned expenses are difficult for us, they must be daunting for smaller, family-size operations.

We understand and respect the value of following the National Environmental Policy Act. The NEPA process has certainly served to preserve the integrity of our operating areas, and we work with the NEPA process to understand, anticipate, and engage on potential issues impacting our courses. Indeed, it is through the NEPA process that we successfully engaged with the Coronado on our group size issue.

Nevertheless, the bureaucratic morass that has become the new normal is stifling creativity and growth in the outdoor industry. Under the current permitting policy on National Forests, new or expanded permits can't be issued unless their issuance clearly will not exceed the carrying capacity of the forest. If forests are unsure of the carrying capacity, they must conduct a capacity analysis—a NEPA process. Most forests have either not undertaken a capacity analysis, or have initiated and then halted one, due to lack of resources needed to complete it. New permits do not get issued, and long-standing permitees must pay tens of thousands of dollars to conduct an analysis of modest growth on one permit at a time. There is, additionally, a lack of consistency across the national forest system, and forests tend to interpret their guidelines differently, creating a confusing landscape for permittees.

This process stagnation is not just bad for NOLS, it is bad for the would-be recreating public. Many who would pursue outdoor recreation lack the technical skills necessary to engage in a pursuit on their own. They therefore seek out a school that can teach them the necessary skills, or an outfitter who can guide and equip them. There is a public demand for outfitting services. We are service providers, meeting that demand and opening the doors to rich experiences.

In the end, current permitting policy is not a good model for supporting a robust outdoor recreation economy. Federal land management agencies, while being mindful of preserving our natural resources, should be thoughtful and deliberate in creating a business-friendly climate. Regulations should be reasonable. Permitting should be straightforward. Commercial outfitting should not bear a disproportionate burden of management restrictions.

Reauthorizing the Federal Lands and Recreation Enhancement Act

FLREA, the Federal Lands and Recreation Enhancement Act, has provided a good model for how fees collected on public lands are allocated. This is the fee authority under which our federal permits are administered. According to FLREA, at least 80% of fees collected are retained at the site. When it was created, FLREA helped improve the dismal budgets for local forests, national parks, and BLM field offices. As budgets have continued to shrink, revenues generated by FLREA have shifted

from funding enhancements to funding programs and operations. While first and foremost we would like to see FLREA reauthorized, we do think there is room for improvement. Ensure that a portion of fees generated by FLREA are set aside for enhancements. Adopt some measure of accountability to the public, so those who pay fees can have some insight into how the money is spent. Those who pay fees rightly have an expectation that some of those funds will be used for improvements and for restoration projects, and because of their intimate familiarity with the landscape, they often have the best information regarding where work should be done.

Pending Legislation

We would like to express support for a 21st century great outdoors commission. By examining use, values, and economic impacts of America's outdoor resources, this body can equip congress to deal with the challenges that lie ahead. Along with that, I would like to thank the members of this body for their efforts to create a public lands conservation corps. Service is essential to the maintenance of our public lands, and NOLS regularly participates in service projects. The volunteer spirit of America will be alive and well through this effort.

In Conclusion

At NOLS, we believe in the youth of America and desire to serve them well. We strive to create ethical leaders, and these leaders strive to change the world. The ripple effect of NOLS is substantial. We are having a positive impact on rural economies, and we are creating rich, life-changing experiences for our students on a daily basis. We are proud of our legacy, and we look to you to help us ensure that we can continue to provide our unique brand of service.

Mr. BISHOP. Thank you. You and Mr. Merrill balanced out, so that is great.

Mrs. Lummis, did you want to introduce Mr. Bannon to me, even though it is past that time?

Mrs. LUMMIS. I would love to, Mr. Chairman. Thanks for the opportunity. I want to welcome Aaron Bannon from the National Outdoor Leadership School to testify today, and I am delighted to have a Lander, Wyoming gentleman at this hearing.

The National Outdoor Leadership School is headquartered in Lander. And, as some of you know, NOLS is a global leader in outdoor training and leadership education. And we are extremely proud that Lander is the home of NOLS. And I am delighted that Mr. Bannon is here today. NOLS is a critical part of Wyoming's landscape and our multiple-use land tradition. And I just can't say enough how beautiful Lander is and what a great home it is for NOLS. And if you don't have a family member that has participated in NOLS, you ought to.

Anyway, welcome. And thank you, Mr. Chairman.

Mr. BISHOP. Thank you. And I agree with you on the idea of being outdoors in the wild. I tried to do that Monday here on my deck, and it was just too damn cold. So I apologize for that.

Let me turn to John Duncan. And is it Telluride?

Mr. DUNCAN. Yes, Telluride.

Mr. BISHOP. That is the right way of saying it?

Mr. DUNCAN. It is our little town in Southwest Colorado.

Mr. BISHOP. OK. We will recognize you for 5 minutes, sir.

STATEMENT OF JOHN F. DUNCAN, TELLURIDE OUTSIDE

Mr. DUNCAN. Mr. Chairman and members of the Committee, thank you for the opportunity to share my views as a long-time outfitter in Southwest Colorado. Our company, Telluride Outside, was founded in 1984. And today we operate six guide services, pri-

marily on Federal lands. We run fly fishing, four-wheel-drive tours, rafting, mountain bike tours, photography, and also snowmobile tours. I have personally worked on and off for Telluride Outside for 22 years now, and have been a full-time managing owner since May 2001. So about 12 years.

As an overview, I truly believe that small, specialized guide services are excellent partners for the Federal Government in providing safe and high-quality guided experiences for the general public. Telluride Outside maintains a very low guest-to-guide ratio for all of our trips, and that is key to running high-quality, safe trips. Over the last 12 years, we have guided more than 65,000 customers without a single accident claim. And the public clearly grasps the value of this approach.

In our fishing guide service last year—our fishing guide service is our largest guide service, with about 3,000 annual customers—approximately 56 percent of all of our customers were repeat customers. And I think that speaks volumes to that approach to guiding.

Moreover, I believe that these statistics are pretty typical of all specialized outfitters. It is not just us. I know that so many other small specialty guide services build that repeat clientele by running consistently high-quality trips.

Also, we require safety credentials and guide experience that far exceed Federal and State regulations. We purchase and deploy all kinds of expensive operating and safety equipment that is required nowhere by law, and our company volunteers literally hundreds of man hours every year for trash cleanups, wood removal from rivers, trail clearing, and resource protection fundraising. We are truly dedicated stewards of our natural resources. And I have always felt that one of the most significant and valuable contributions to conservation that we make every year is simply to take 7,000 or 8,000 people out and offer them an authentic, unforgettable wilderness experience that affects their future decision-making.

With this backdrop, I would like to address three issues at the heart of our working relationship. First, the consideration of financial feasibility for outfitters with respect to permit management. Keep in mind that guiding is a labor of love. I mean it truly is. Almost all guide services are owner-operated with low margins and little or no investment return.

Telluride Outside is a major guide service within our community with 29 years experience and over 50 employees. And yet, for the last 12 years, our profit margins run about 2.3 percent. By comparison, our insurance premiums are over 3 percent of our gross revenues, and we pay the Forest Service and the BLM the customary 3 percent for operating on public lands.

The point here is that small cost increases can marginalize some of that discretionary professional protocol that I was referring to, and make our trips prohibitively expensive for the general public. And we feel that pressure every day, every week, and every year when we are making our price-setting decisions.

Federal agencies should definitely consider the cost impacts of changing policy. For example, the tenfold increase in insurance minimums would almost certainly result in unrealistic premium in-

creases for outfitters. When issuing or reissuing special use permits, weigh quality and experience over low bids. Outfitter cost-cutting does not benefit the general public.

Previous permit holders with a satisfactory operating record should definitely be favored for permit renewal. Because, with experience, quality and consistency increase. And also, our processes, working together with our Federal agencies, become much more streamlined and more efficient for all of us.

On special use permits, on 10-year priority permits, we need to build some modest growth assumptions into the 10-year priority permits. Many of the 10-year permits, including the ones on which we currently operate, have no room for growth built in to the program. And that is just not realistic for a partnership between a Federal agency and a small business.

Issue number two: methods for establishing and managing resource carrying capacity. Establish realistic time frames for environmental assessments and other carrying capacity studies and clearly communicate those to the whole constituency. When assessing carrying capacity, input should be gathered from three sources: the general public, your active outfitters, and also field biologists. Come up with a target for desirable range of user days and manage your outfitters and permits accordingly. The objective here is not so much to restrict competition, but to keep a handle on the amount of commercial use on a resource.

And the final issue is that user fees should be discreetly earmarked for use on the resources in which they were generated. Priorities include the maintenance of roads, trails, boat ramps, and bathrooms, as well as providing basic access to public lands.

Finally, and of great importance, we need to employ local district officers endowed with flexible management practices and sufficient resources to achieve these goals. In Southwest Colorado, we are really fortunate to work with high-quality, experienced managers with both the Forest Service and also the BLM. Our working relationship seems to improve every year, as does the quality of our guided trips that we provide for the general public.

Thank you, Mr. Chairman. I would like to sincerely thank the Committee for this opportunity, and I feel that I speak not only for our company, but for small outfitters across the West.

[The prepared statement of Mr. Duncan follows:]

Statement of John F. Duncan, Managing Partner,
Telluride Fly Fishing Co., Inc., dba Telluride Outside Outfitter and Guide

Mr. Chairman and members of the committee, thank you for the opportunity to share my views as a longtime outfitter in SW Colorado. Our company, Telluride Outside, was founded in 1984 and today operates six guide services on lands managed by the USFS, BLM and NPS. Our guided activities include fly fishing, 4–WD tours, whitewater rafting, mountain bike tours, photography and snowmobile tours. Approximately 90% of our guided trips are conducted on federal lands, so this is our primary playing field. I have worked on and off for Telluride Outside for 22 years and have been the fulltime managing owner since May, 2001.

It is from this perspective that I would like to offer the following observations and recommendations with regard to the financial impacts of federal policy on small outfitters that operate on NFS, BLM and NPS lands.

Observations

1) Small, specialized guide services are excellent partners for the federal government in providing safe, high quality guided experiences on public lands.

a. Small guide services provide a high quality, safe, authentic experience. For example, our company has guided more than 65,000 customers over the last 12 years without a single accident that led to a customer insurance claim. In our fishing guide service last year, an estimated 56% of trips were repeat customers, which clearly illustrates the quality of our service. I believe these statistics to be typical of specialized outfitters.
b. Specialized guide services generally operate on a low guest-to-guide ratio. Our company is typical. We average a 2:1 ratio for fishing, 4:1 for mountain biking, 5.5:1 for 4–WD tours. 5:1 for rafting and 4:1 for snowmobiling (these are statistical averages). A low ratio improves every aspect of the trip: safety, education, personal care of our guests, consistency, response to changing weather and the overall quality of the experience
c. One of the most valuable contributions to conservation is to take 7,000 or 8,000 people each year and give them a breathtaking, unforgettable outdoor experience that creates a real bond to Mother Nature and invariably instills conservation values that affect their future decision making.
d. In spite of low margins and long hours, dedicated guide services do what it takes to deliver a first-rate experience. This is who we are and what we do.
e. Specialty guide services are stewards of the resources. We pick up trash, police trespassing, illegal fishing, crowding and other frequent occurrences. We keep the peace and take care of the rivers, mountains and canyons in which we operate.
f. Many guide services, like Telluride Outside, go way beyond regulations in terms of safety preparation and guide qualifications. Our company (like most) requires safety credentials and personal experience that far exceeds federal and state regulations. We also purchase and deploy all kinds of expensive operating and safety equipment that is required nowhere by law. Our company volunteers tens or hundreds of man hours every year for trash cleanups, wood removal from rivers, mountain bike trail clearing and resource protection fundraising. Much of this discretionary professional protocol will be pushed to the curb if we are required to pay tens of thousands of dollars in additional insurance premiums, or if the cost of doing business on public lands otherwise increases.

2) High quality guide services are generally owner-operated at very low margins out of a true passion for place and sport. Our company does approximately $1.75 million in annual revenues, including about $600K in retail. We are among the larger guide services in Southern Colorado, but our annual profit margin has averaged only 2.3% over the last 12 years. By comparison, our liability and vehicle insurance average 3% of gross sales and we pay the NFS and BLM fees of 3%.
3) Outfitters can easily be pushed out of business by federal policies and other factors that affect trip margins and the operating playing field. Examples:
a. In the last two years, 2 of the 5 active rafting outfitters in our area have literally walked away from their guide services for lack of profitability (San Miguel Anglers and Telluride Fly Fishers, who held permits for 5 and 23 years, respectively). In the same period, the BLM issued two new permits (without retracting the abandoned ones) and changed all permits to unlimited user days. This is absolutely crushing us. Longstanding local outfitters are hanging up their oars. The BLM appears to have succumbed to outfitters begging for permits rather than sound economic and resource carrying capacity analysis.
b. In 2005, NFS suddenly claimed jurisdiction over local County road systems for 4–WD tours in San Miguel and Ouray counties on the basis that tours surely impact nearby off-road NFS lands. In return, NFS funded a part-time high country ranger position to keep the general public on the road and off sensitive ecosystems. Our company has paid over $45,515 in user fees since 2005, even though our tours rarely or never touch actual NFS lands. How is this fair?
c. According to our underwriters represented by Rick Lindsey and WOGA, the proposed 10-fold increase for insurance minimums may increase our premiums by 300% or more, affecting both liability and auto policies. In our case, that would result in cost increases of at least $60,000 per year. We have operated for 29 years without a claim, but that would certainly put us out of business.
4) There seems to be disagreement between managing agencies as to whether financial feasibility should be taken into consideration when considering out-

fitter management methods, Special Use Permits and NPS CUAs. While testifying before the Subcommittee on National Parks, Forest and Public Lands of the House Committee on Natural Resources, on August 2, 2012, Deputy NPS Director Peggy O'Dell clearly alluded to an NPS policy requiring financial feasibility consideration. In 2012, the Bureau of Land Management rejected our company's appeal for such consideration in the course of local permit management (please see our "outfitter input" letter from 2009, exhibit A), stating that financial feasibility for the outfitter is never taken into consideration in the permitting process. Is there a written policy? Does it apply to NPS, BLM and NFS?

5) In SW Colorado there is little consistency between NFS and BLM in their determinations of carrying capacity on similar resources. The San Miguel and Dolores are similar rivers. The San Miguel is managed primarily by the BLM and the Dolores by the Forest Service. Both are free-flowing, wade fishing trout streams that our company has guided for more than 25 years. When tributary streams are taken into consideration, both watersheds offer more than 20 miles of public access on which we guide under our Special Use Permits. Our BLM permit grants 850 user days, all of which we use, while the NFS permit allows only 250 user days with zero room for growth in our 10-year priority permit.

   Local administrators are best suited to manage the permits. In fact, we have very good people on the ground for both NFS and BLM locally. We have built strong relationships with these agencies based on transparency; trust and performance over 29 years, but there need to be some guiding principles and standardized methods for assessing carrying capacity and managing permits.

6) NFS and BLM need to create a set of standard criteria for determining how many Special Use Permits are issued for each resource and the number of user days for each permit. Market size absolutely must be taken into consideration in order to assure financial feasibility for the outfitters and a high quality customer experience. Healthy competition is desirable, but outfitter free-for-all is not. 10-year permits must contain clauses for growth (presently, ours do not) Study periods need to be specific and limited. Unused permits should be cancelled.

7) Industry rate-of-return benchmarks are inappropriate. In Deputy Director O'Dell's testimony from August 2, 2012, she states that "The projected cost of the insurance is considered as an operating expense of the concession contract as part of an overall financial analysis. A prospectus is released only if a reasonable opportunity for profit exists considering industry internal rate-of-return benchmarks."

   This is really dangerous territory with clear un-American implications. The federal government should consider the impact of its policies on partner outfitters, but an industry standard for rate-of-return would be undeterminable, unmanageable and probably illegal. If such a standard exists for our industry, I would be very surprised. Unlike restaurants or banks, outfitters operate on business models that are often completely unique from one another.

Recommendation: create a written set of policy-making criteria and objectives for future Department of the Interior rule-making. Include the following:

1) Prioritize the guest experience by protecting specialty guide services.
2) Incentivize outfitters to operate safely and contribute to the preservation of the natural resources on which they operate. Rather than raising insurance limits 10-fold, federal agencies should focus on a number of things to actually improve safety and the overall customer experience, including:
   a. Consistent, detailed reviews of each guide service's operating plan and performance.
   b. Spot checking in the field for compliance.
   c. Policing of pirate guides, very common in SW Colorado. Pirate guides are unaccountable for trip quality and customer safety.
   d. Committing more of their budgets to safety-oriented field work, including improvement of 4–WD access roads, wood clearing and trail maintenance on the resources where the revenues are generated.
3) Carrying capacity should be determined and managed by local agency officers within the parameters of reasonable governing criteria, including:
   a) Market size and healthy competition must be taken into consideration in determining the total number of permits issued. If financial health is not considered, the federal agencies will create a situation in which high

quality outfitters cannot make a living by guiding the public. This is a losing situation for all concerned.

b) 10-year permits should contain growth clauses of 5–10%/year.

c) Previous permit holders should be favored for renewal unless their operating record is deemed unacceptable. Experienced outfitters offer a more consistent, high-quality service for the general public and have the opportunity to form a meaningful working relationship with local managing agencies. Unused permits, on the other hand, should be revoked or put into a forced sale.

d) Every permit should have user day limits. Without them, the managing agency forfeits a critical tool for regulating carrying capacity. New permits should never be issued when unused permits are potentially available for purchase.

4) Insurance limits should be based upon compelling demand rather than unfounded hypothetical concepts and irrelevant references to other industries. There is currently no hard evidence that limits should be increased from $500K per incident. Increasing our minimums 10-fold might literally wipe out the guiding industry.

5) Special Use Permit and CUA fees should be earmarked for recovery of the direct costs of managing outfitter use of public lands and enhancing safety on public land resources. Bureaucratic costs that do not directly benefit the general public, nor the outfitters, should be reduced or eliminated. Outfitter use fees should be earmarked for local resource management

6) Public lands jurisdiction issues should be clear cut. Does NFS have jurisdiction over county roads? Does BLM have jurisdiction over waterways that pass through BLM lands if outfitters launch and take out on private property? These questions need to be answered clearly and managed consistently. With respect to outfitting, these rules should be applied consistently by both the NFS and BLM. To the end user there is no important distinction between the two from the standpoint of hiring a guide for a specific activity on public land. The land is either public, or it's not

Mr. Chairman, I would like to sincerely thank the committee for this opportunity to express my views on behalf of our company, Telluride Outside, and hundreds of other specialized guide services that work hard to deliver a superior experience for our customers on public lands.

Mr. BISHOP. Thank you. You forgot that if you are going to go over that long you have to compliment me some way.

[Laughter.]

Mr. DUNCAN. This has been a lot of fun this morning, sir. Thank you.

Mr. BISHOP. OK.

[Laughter.]

Mr. BISHOP. Yes. And for a fact I don't sweat too much, either. Yes, OK, fine.

[Laughter.]

Mr. BISHOP. I appreciate you all being here and giving your testimony. Now I will open it up for questions. Mr. McClintock, do you have questions for this panel?

Mr. MCCLINTOCK. Thank you, Mr. Chairman. Gifford Pinchot, the legendary founder of the National Forest Service, gave a series of lectures at the Yale School of Forestry from 1910 to 1915, and he propounded maxims for "the behavior of foresters in public office." Let me read you a few of these.

"A public official is there to serve the public and not run them." "Public support of acts affecting public rights is absolutely required. It is more trouble to consult the public than to ignore them, but that is what you are hired for." "Find out in advance what the public will stand for. If it is right and they won't stand for it, postpone action and educate them." "Get rid of an attitude of personal arrogance or pride of attainment or superior knowledge."

Let me ask you each briefly, how closely would you say our lands management agencies are adhering to these principles today? Mr. Brown?

Mr. BROWN. Well, I think they have been distracted by some of the processes I described in my testimony, and that actually are probably more removed from the public now than they ever have been, because they are preoccupied by planning environmental analyses and other processes——

Mr. MCCLINTOCK. Thank you.

Mr. BROWN [continuing]. That separate them from the public.

Mr. MCCLINTOCK. Mr. Simonds?

Mr. SIMONDS. It used to be that we could shake hands with the permit manager and know that a deal is a deal. Those were the old days. And invariably the processes have just become so cumbersome that developing a personal relationship is key. And sometimes we get those opportunities, sometimes we don't.

Mr. MCCLINTOCK. Mr. Merrill, briefly.

Mr. MERRILL. There seems to be a disconnect between managers on the ground and folks at the regional level and national level. Often we have really great relationships with on-the-ground people, and they are some of the best people I know. And they can get things done. But then sometimes their hands are tied by their regional managers. And often, people who know nothing about the resource.

Mr. MCCLINTOCK. Let me go on very quickly here. Mr. Simonds, you mentioned that two-thirds of the land in Idaho is set aside by the Federal Government. Is that two-thirds owned by the Federal Government?

Mr. SIMONDS. Yes, sir.

Mr. MCCLINTOCK. And, Mr. Merrill, I didn't catch your—you had a similar statistic for Utah?

Mr. SIMONDS. I think it is 63 percent of Utah lands are owned by the Federal Government.

Mr. MCCLINTOCK. So two-thirds in both cases. Would it surprise you that, in Norman and Plantagenet England, the kings set aside one-third of the land as the king's forest in which commoners were actively discouraged from visiting or participating in? No fewer than five clauses of the Magna Carta were devoted to redress these grievances, they were so annoying to the English people.

If we were to draft a new Magna Carta guaranteeing the public the right to the public's lands, which one single change would each of you—and we have five panelists, five clauses—what is the single most important clause you would write in a new Magna Carta for the public to restore to them the enjoyment of the public's lands? And in 15 or 20 seconds each.

Mr. Brown?

Mr. BROWN. Well, I think recognizing that the general public, the people who don't possess the skills and equipment necessary to enjoy public land should have opportunities to do so. And that is really what outfitters and guides do. They provide that opportunity.

Mr. MCCLINTOCK. OK. Mr. Simonds? One most important clause you would put in.

Mr. SIMONDS. Access is the name of the game. If we can't get there, then outfitters and guides have a hard time providing service to those folks who desire a guided opportunity on our public lands.

Mr. MCCLINTOCK. Great. Mr. Merrill? Fifteen seconds or less.

Mr. MERRILL. Yes. No fair being last, because they both said what I was going to say. But our guests, even though they pay us to do this, are the general public. And sometimes they are viewed as something different from the general public. I am not sure why.

But access to public lands through outfitters and guides is critical.

Mr. MCCLINTOCK. Thank you. Actually, I am going to skip to Mr. Duncan and then back to Mr. Bannon, if we have time. Mr. Duncan?

Mr. DUNCAN. Sure. As our population grows, we need space, access, and freedom of use on public lands.

Mr. MCCLINTOCK. Thank you. And, finally, Mr. Bannon, in three seconds?

Mr. BANNON. I would say opportunities for our youth. Thank you.

Mr. BISHOP. Thank you. Thank you all. Mr. Grijalva, do you have questions?

Mr. GRIJALVA. Thank you, Mr. Chairman. Mr. Bannon, thank you, Mr. Chairman, thanks for coming today. I appreciate the endorsement of the 21st Century Great Outdoors Commission. Thank you for that.

I was going to ask you a similar question that I asked Mr. Bacon in the previous panel. Based on what you have seen directly with NOLS, and indirectly by being part of this industry, how is the population that uses the public lands different from what it was a decade ago or 15 years ago?

Mr. BANNON. Thank you, Congressman Grijalva, for the question. We have a keen awareness that continue to be relevant in the outdoor industry. We need to be very conscious of the changing demographics of America. And we are going out of our way to try and make the courses that we offer exciting, interesting, and affordable to youth from diverse backgrounds.

An excellent example of that would be Expedition Denali, which is a course that is heading to Denali this next month, made up entirely of African Americans who are going to celebrate the 100-year anniversary of the first American son of Denali, but this time it will all be African Americans.

So, we are excited about that, and we are looking at other ways to be able to continue to market our courses to the changing demographics of America.

Mr. GRIJALVA. Yes. And let me extend my personal appreciation for the time and effort you spent for coming up with an agreeable group size for Coronado National Forest.

Do you think that the group size issue is something that this commission that you endorse is—on a uniform level should address, as well?

Mr. BANNON. I think it is exactly the right place where something like this could work. We find that in conversations with the Coronado and elsewhere, we can eventually reach reasonable people who are willing to find reasonable solutions. But to get to that

point is not necessarily obvious or apparent when you are in the midst of a NEPA process.

So, the way that we find opportunities is to find people who are willing to cut through it and find solutions. And we have had great success with the BLM, the Forest Service, and the National Park Service, in having good intent to find better ways to do things. And the group size is a great example of that.

Mr. GRIJALVA. And one more question, if I may, sir. It is my understanding, the Wyoming Legislature—as in other States—is considering adopting legislation that would require the Federal Government to turn over Federal lands to the State. How would this impact your business, your school?

Mr. BANNON. Well, Congressman, thanks for the question, again. That is a complex issue——

Mr. GRIJALVA. Probably not, but——

Mr. BANNON. What is that?

Mr. GRIJALVA. Probably not, but I hope it is.

Mr. BANNON. As challenging as things can sometimes be with the Federal agencies, I have some skepticism that State agencies would really be able to handle that level of capacity.

For example, in Wyoming, you can't camp on State lands. So if they just all became State lands, we wouldn't be able to operate there any more. There are challenges as well with State parks, but I would say that our State parks are a very good place to camp, and the permits are well-managed there.

So, it is problematic. I don't know how they would be able to deal with some of the things that the Forest Service does.

Mr. GRIJALVA. OK. Mr. Merrill, kind of the same follow-up question, if I may, sir. I asked the previous panel, Mr. Friedman, this same question. You do business in Utah and Arizona. If those two legislatures have passed the legislation I was talking about in Wyoming with the primary focus on extraction, how does that affect your business?

Mr. MERRILL. Well, if the primary focus was extraction, it could negatively impact certain areas where we go. I believe that there are areas that are appropriate for extraction, and I believe there are areas that are appropriate to protect maybe even more than they are now.

And then, in between there are all those areas where we can have these multiple uses. And that is the exact process that Chairman Bishop is going through in Utah right now. And I think—I am optimistic that we can find the common ground and define which areas are appropriate for what.

Mr. GRIJALVA. Thank you, sir. Thank you, Mr. Chairman.

Mr. BISHOP. Mrs. Lummis, do you have questions?

Mrs. LUMMIS. I do, Mr. Chairman. Thank you. Mr. Bannon, NOLS has been a pioneer of Leave No Trace camping and hiking techniques. Can you tell us a little more about that?

Mr. BANNON. Absolutely. And thank you, Congressman, for your thoughtful comments a little bit ago. I appreciate it.

Leave No Trace has been a concept in development, certainly, for 60 years. In the last 20 or 30 years we formalized it significantly. As Brian mentioned, NOLS reached out to other leaders in the industry to try to find a way to lessen our impact on lands when we

travel. And that is as far as not just how you impact the land, but how you impact other travelers, how you camp.

So, I will wrap up quickly here, but one of the concepts behind Leave No Trace is not actually to lessen the visitors to the land, but actually to be able to have more visitors have less of an impact so that it is exposed to a greater number of people.

Mrs. LUMMIS. So NOLS teaches courses on how to minimize human impacts to the wilderness. Yet the Federal agencies are forcing you to cut your group sizes, just to keep your already longstanding use permits?

Mr. BANNON. It is interesting.

Mrs. LUMMIS. So when an agency demands that you cut your group size, do they cite any measurable benefits to the wilderness?

Mr. BANNON. What we hear when group size limits are being considered is that there are impacts to the wilderness resource. That might be through user-created trails, that might be through impacted but dispersed campsites, and that would be something they are trying to control.

Mrs. LUMMIS. Do you believe cutting your group sizes produces measurable benefits to preserving the naturalness of the wilderness areas on which your school resides, operates, works?

Mr. BANNON. Congressman, I would argue that I think that is probably one of the least effective ways that an agency could manage their wilderness resource. And much better opportunities exist in education of the public and of outfitter guides in promoting Leave No Trace more aggressively, trail heads, and other opportunities where there are interactions with the public. To go after outfitters and guides, who tend to have larger group sizes, but tend to also be your most conscientious campers, is not really getting the job done, nor is it creating responsible wilderness users everywhere.

Mrs. LUMMIS. To each of our witnesses, who I deeply thank for being here, is a desire for certainty with regard to the future planning of your businesses an important part of your business opportunities?

Mr. BROWN. Well, we represent over 500 members and 1,000, including affiliates. And one of the biggest concerns they have in our surveys is the uncertainty about public policy with regard to management of public lands and fee structures. There was a problem at one point about getting the permits reissued or renewed.

And so, whenever someone goes on a temporary permit or has an annual authorization, you can't plan, you can't invest. So that is a big issue.

Mrs. LUMMIS. Do any of our other witnesses differ with the views just expressed?

[No response.]

Mrs. LUMMIS. OK. Thank you. Mr. Bannon, I know you generally support the NEPA process. But do you think it is being applied efficiently to the recreational permit process?

Mr. BANNON. Congressman, thanks for the question. I think that NEPA is, as you said, very valuable and appropriate when it is well-used. And I see situations with Forest Service planning, for example, where, for 10 or 11 years, they have tried to streamline the NEPA process, make it shorter to achieve planning. And I

think that would be a good way to go, generally, even when you are doing an environmental analysis on a single user.

And we, of course, right now are on the cusp of initiating an environmental analysis for our permit on the Shoshone National Forest. We are asking for four more courses there, and we are looking at an environmental analysis that is going to cost tens of thousands of dollars. So it is daunting to think that we would want to do that for a relatively modest increase on a permit that we have held since 1965. But it is, at the same time, a necessary evil we are preparing to live with.

And I think it would make more sense to take an environmental analysis like that and spread it out across outfitters.

Mrs. LUMMIS. Is streamlining NEPA for permitting, or giving agencies the flexibility to do so when it makes sense, something Congress should be looking at?

Mr. BANNON. I think so, certainly, yes. I think Congress has an opportunity to help define when NEPA processes are appropriate.

Mrs. LUMMIS. You mentioned that the Forest Service's current permit process constitutes a bureaucratic morass. Would you care to elaborate in 10 seconds or less?

Mr. BISHOP. Or negative 11.

Mrs. LUMMIS. Oh, I am already over. Excuse me, Mr. Chairman, I yield back.

Mr. BISHOP. If you can do that in 10 seconds or less, go ahead and answer.

Mr. BANNON. What I see it happening on forests a lot is an effort to do capacity analyses, even to be able to begin to address whether permits can be offered. And they don't have the resources to do it, more often than not. So it is a real challenge, yes.

Mr. BISHOP. Thank you.

Mrs. LUMMIS. Thank you.

Mr. BISHOP. I appreciate it. Mr. DeFazio, do you have questions?

Mr. DEFAZIO. Yes, Mr. Chairman. Thank you, Mr. Chairman.

Mr. Brown, in part of your testimony you talked about a fee structure being standard across the Agency. I would like to examine that a bit and also ask about—among agencies, I had a problem last year where a nonprofit, Cycle Oregon, was charged—or BLM wanted to charge them—$25,000 to use 80 miles of old paved logging road. And their combined fees for the use of over 400 miles of Forest Service county and State roads was $1,000. So I find an extraordinary disparity between agencies.

I would like to know if any of you have experienced that, and whether you think we should standardize this process across agencies. And second, within agencies, what sort of problems you have seen, where you put that in your testimony, that they needed to be more uniform.

Mr. BROWN. Well, I think the first issue is the cost recovery requirement, which may have been part of the problem with authorizing that event. Very often for special events the cost recovery, the environmental analysis required, exceeds the entry fees. So it is very difficult for those events to——

Mr. DEFAZIO. Well, if I could, this was riding over an old BLM logging road that was paved.

Mr. BROWN. Right.

Mr. DEFAZIO. Chip-sealed, kind of bad surface. No BLM personnel were present anywhere along the route for interpretive or other purposes, and people just rode through. And yet they want to charge $25,000. I don't see how that could be cost recovery.

Mr. BROWN. Well, I agree with you. I mean 100 percent. I think that was exorbitant. And we see that happening. I mean that is the kind of thing that very often suppresses these kind of events.

Now, the fees are standard between the Forest Service and BLM for permit fees. The difference is amenity fees. And then different agencies have different cost structures. CUA, for example, recovers a cost for administering the CUA. But that can include overhead and other things other than, the way the law reads, "a minimum" to recover the cost. So, the fees vary significantly.

Now, concession contracts are different animals altogether——

Mr. DEFAZIO. Right.

Mr. BROWN [continuing]. And I don't think we are looking for standardization of that. But there are some issues with the Forest Service fee structure.

For example, they will charge fees for all forest activities, and then give a discount for the time spent off the forest. Well, if you have a 7-day trip, the fee is based on the price for the entire trip, even though you spend only a day on the forest. And so we do have, occasionally, that issue come up.

Mr. DEFAZIO. OK. Anybody else have thoughts on standardization within or among agencies? Yes, sir.

Mr. MERRILL. A couple things. We pay anywhere from 3 percent to 18 percent, depending on the resource and the agency. So there is a huge disparity that way. But most recently, we have been trying to get a little bit of money—and I mean just a little bit—to help improve a take-out ramp in Lake Mead National Recreation Area, because it is unusual, currently, for our Cataract River trips. At the same time—and the Park can't seem to come up with the money.

At the same time, they admitted to me they have a surplus of money in another fund from entrance fees that get paid that they can't use for that, because they are not allowed to. So they are inventing projects to do. So sometimes it might——

Mr. DEFAZIO. But they indicated that they would have put a higher priority on doing the ramp, but they just were administratively or legally prohibited from using entrance——

Mr. MERRILL. Yes, this is an example of where the local people would love to do it, and they would make it happen, but their hands are tied. So——

Mr. DEFAZIO. And, Mr. Brown, you raised the lack of accountability for the use of fees in some areas. Anybody else experienced that kind of problem, where you think that the fees did not go back into the resource?

Mr. DUNCAN. Oh, sure. Yes, absolutely. An unusual thing happened in our Forest Service district in 2004. We were in a four-wheel drive Jeep-style touring company in the high country above Telluride. And our Forest Service district claimed jurisdiction over the county road system that passes through some Forest Service lands and some of the old mining company lands above Telluride.

Now, whether they are right or wrong in doing that, we expected some good and some bad to come from that. We came under fee structure for those tours, it is a large guide service for us, so that was not an insignificant amount of money that we began paying and have continued to pay each year since, and we really expected to see some direct returns from that, in terms of the Forest Service investment up in those high basins up there.

And I will tell you honestly. I know technically they have done more than this, but the most concrete thing that has come from that whole process and from those funds has been the installation of an outhouse for 3 months a year in Savage Basin at 12,000 feet above Telluride. And from what I can tell, that is what we have gotten out of our $45,000.

Mr. BISHOP. OK.

Mr. DEFAZIO. Thank you, Mr. Chairman.

Mr. BISHOP. Thank you very much. Mr. Labrador, do you have questions?

Mr. LABRADOR. Thank you, Mr. Chairman. Mr. Simonds, we welcome you here, and thanks for being here. And, as all of you know, he is the Executive Director of the Idaho Outfitters and Guides Association, and we are grateful for the role that he has had since 1985. And he has seen a multitude of changes come over the Idaho recreation industry, from new management plans to new national monuments to the introduction of wolf packs.

The Idaho Outfitters and Guides Association has a diverse membership, mostly small, independently owned businesses offering guided hunting, fishing, hiking, river-running, and other outdoor adventures. And I just really want to thank you for being an ambassador for Idaho and for the recreation industry that is so vital and so important to us.

And just a little plug for Idaho, Idaho offers high-quality recreation trips in secluded Alpine mountain and high desert settings. We have 3,200 miles of white water rivers, which I love to do, and I enjoy. And the most in the Lower 48 States. And Idaho has some of the best blue ribbon trout fishing in the Nation, not to mention the chance to catch ocean-going steelhead and salmon.

But Mr. Simonds, I understand how important these issues are to you, and I just have a few questions for you. In your testimony you talk of a backlog of a trail maintenance. This is an obligation the Federal Government assumed when it created the Frank Church Wilderness Area in Idaho. Does the Federal Government meet its obligations to maintain trails in the Frank Church Wilderness?

Mr. SIMONDS. Well, Congressman, thank you for the kind words about the industry in Idaho. The Forest Service, as I mentioned, has been able to maintain about 20 percent of those 2,500 miles of trail. They do a good job with the resources they have. But what we have seen, especially with the large catastrophic fires since the late 1980s, and with the lack of resources, lack of trained personnel, they are not able to get to it, our folks are not able to get to it. What we are seeing is a loss of access to some portions of the wilderness area.

And this is not just a Frank Church problem; this problem extends to nearby forests and, in fact, is a Western United States

problem on public lands, where essentially we need more boots on the ground, to make a long story short, and we need incentives for getting more boots on the ground, some of which I mentioned in my testimony.

Mr. LABRADOR. OK. I understand, as you say, we need more boots on the ground. And we all understand that funds are extremely tight at the Federal level and in our government right now. And we are borrowing money at a frightening pace. So I understand that there may not be taxpayer dollars available to do everything we would wish to do. But do you have some other ideas about what we could do to actually maintain trails? If we can't afford it from the Federal perspective, what do you think we could be doing at the State level?

Mr. SIMONDS. Well, I think some things are being done, because we have cooperative projects whereby the agencies will apply for additional funds for trail maintenance from the Idaho Department of Parks and Recreation. And, in fact, our organization has cooperated with the Nez Perce Clearwater Forest to extend through Parks and Recreation funding, to add more trails to the maintenance backlog. There is going to be a 2-day session at the end of this month to explore more ways to collaborate.

I mentioned in my testimony outfitters need to be incentivized to provide some sort of credit against the fees they pay the Federal Government for work done on the ground. That would go a huge way to further incentivize our folks who have the tools, have the resources to be out there. They are out there, anyway.

So, that is a couple of ideas that I would like to see occur.

Mr. LABRADOR. OK. Thank you very much.

Mr. BISHOP. Thank you. I appreciate that. Let me ask a couple questions, if I could, myself. Starting with Mr. Merrill, your testimony talked about a term called "back country." Is wilderness the only conservation designation that should be considered as part of the Eastern Utah land plan process that we are going through?

Mr. MERRILL. No. In fact, I think "wilderness" should be used sparingly, because it comes with so many restrictions. And perhaps there is not a designation that truly allows for recreation the way that it should. And so, my thought was that maybe a new type of designation—and we could call it back country—that includes recreation as a primary value for which that area would be managed. And it defines recreation as an important purpose, because often in wilderness designations, recreation is left out altogether, or is incredibly limited. So——

Mr. BISHOP. What has been your personal role with the Governor's outdoor recreation vision and office?

Mr. MERRILL. I was not part of the development of that vision, but I have asked to be part of anything going forward, and ensure that the outfitters will have a seat at that table.

Mr. BISHOP. So what has it been like to partner with that office?

Mr. MERRILL. It is just getting going. But I think it is a sincere effort. Alan Matheson, who works for the Governor, I think, is really reaching out, in combination with your office. And they have asked for input from the Utah Tourism Industry Coalition and from Utah Guides and Outfitters. And I think it is going to be a good thing.

Mr. BISHOP. OK. I appreciate that. Mr. Bannon, as I understand from Representative Lummis' questions, you came up with the Leave No Trace principle?

Mr. BANNON. In conjunction with a lot of other partners, yes.

Mr. BISHOP. So, as I understand also, the Canyonlands National Park has banned you, specifically saying they worry that you are not going to adhere to that principle?

Mr. BANNON. Congressman, thanks for the question. This happened before my time. So as I understand it, looking back, when Canyonlands decided to reduce their group size numbers to seven, one of the things they cited was Leave No Trace, as the reason they were doing that. And, unfortunately for us, it was too low a limit.

Mr. BISHOP. I want to come back to those visitation sizes at some time. But, Mr. Brown, let me ask you first. Are there some administrative land designations which impact negatively outdoor recreation and things like parks?

Mr. BROWN. Within the Park Service, or——

Mr. BISHOP. Within the Park Service. Let's stick with them.

Mr. BROWN. Well, one of the issues is the general management policies require the Park Service to manage any lands that are suitable proposed study areas as wilderness. And that is having an impact, because it does, as Mr. Bannon has indicated, can reduce party sizes unnecessarily.

Mr. BISHOP. So back country activities have declined because of that?

Mr. BROWN. Back country camping, according to the Park Service public statistics website, has declined.

Mr. BISHOP. Let me go through two other things that you were hit up with from Mr. DeFazio, as well. The idea of these fees that are being paid, is there a need for transparency in how those fees are being collected and how they are being used?

Mr. BROWN. Absolutely. And I think more public involvement. I am not sure the RAC process has worked quite as it should have. It was established when FLREA was first passed. I think maybe something as simple as public meetings to explain how the fees were used, how they are going to be used in the future where those amenity fees are applied to the resource, would be helpful. But that is an adjustment that could be made in FLREA.

Mr. BISHOP. In your written testimony you use such phrases as, "within the forest, the process has become more complex over time, as a result of court rulings that"—where are we here? "Permits and new activities are rare in the national forests because agency staffs can't jump through the hoops and issue permits fast enough."

Is fear of litigation something that is really driving us to paralysis in dealing with a lot of these issues?

Mr. BROWN. That is correct. We saw that in the Pasayten Wilderness, where they went to the full EIS process, primarily because there were concerns about litigation. The needs assessment process, there was a lawsuit filed in Kings Canyon to prohibit the issuance of permits last year for the pack outfitters. And so, that is creating a process. The Park Service has even identified that in their own internal documents.

Mr. BISHOP. All right, thank you. I have a few more questions, but let me go to the rest of the panel first before I come back and ask any more.

Mr. McClintock, do you have other questions for this group?

Mr. MCCLINTOCK. Thank you, Mr. Chairman. Just a couple more. Mr. Brown, you had first mentioned legislative solutions. In fact, all of you have, in one capacity or another. But isn't this also an attitude that is simply now rampant throughout our land management agencies?

On the earlier panel, I cited complaints that I have received from my constituents. In Yosemite Valley, forbidding bicycle and raft rentals, equestrian activities. On the Forest Service lands, running out grazing operations that have been there for generations, running out folks who have leased cabins on the public lands for generations.

It seems to me that one common denominator for all of these policies across all of the public land management agencies is to coax the public off the public's lands. And when they are allowed on their own land, the public, they are told, "Look, but don't touch."

Again, in Yosemite, I have asked for their rationale for banning these amenities that have been in operation there, literally, for generations. Yosemite was set aside 150 years ago specifically for public use, resort, and recreation. And through all of these years, commercial activities have provided visitors there with the amenities that make their stay more pleasant. And now we are told, "Well, commercial activities are not compatible with the public lands."

Now, it seems to me that if somebody wants to rent you a bicycle or a horse to ride through the park, is that such a bad thing? The Park Service says, "Well, don't worry. Yes, we are banning the commercial rentals because we don't like commercial activities, but it is OK if you want to bring your own." Well, first of all, bringing your own horse to Yosemite from Wisconsin is a bit of a logistical problem to begin with. But setting all that aside, it seems to be that it is not so much the activity they object to, it is the commercial aspect of the activity.

And I would be interested in your observations and comments, because you folks are all engaged in commercial activities, providing amenities to folks who are using their own public lands. What are you picking up out there? And what should we be doing about it?

Mr. BROWN. Well, I do think there is some resentment of the private sector in some segments of the agencies. We do see that in the wilderness in particular. But in the Yosemite situation, obviously, you know there was a lawsuit filed. And the court ruled that they had to establish a carrying capacity consistent with the wild and scenic designation——

Mr. MCCLINTOCK. Well, actually, just to interrupt you on that, the court did not mandate any of these activities. They simply required a plan. And Democratic congressman Tony Coelho, author of the wild and scenic designation for the Merced River that moves through Yosemite, has just written a stinging letter saying this was never intended to be applied at Yosemite Park, and is completely inapplicable.

Mr. BROWN. Well, no, I agree with that. And what I am suggesting is that I think it is why, when there is a designation, to avoid this kind of outcome you really probably have to direct the agencies to provide these services to the extent possible. Because I am not sure of any other way to adjust the culture.

Mr. MCCLINTOCK. Mr. Simonds, is this an attitude that we are seeing rampant throughout these Federal land management agencies?

Mr. SIMONDS. Well, we see this at various times. Certainly there are land managers who understand that access to our public resources is necessary and encourage it. On the other hand——

Mr. MCCLINTOCK. If I can just interrupt and underscore that point, I did a tele-town hall meeting with all the folks from the gateway communities of Yosemite. Some 5,000 individuals joined that call, 89 percent, by the way, opposed to these activities. But one of the most interesting insights was a former Park employee who says, "You know, the Park employees are all against these changes. You know, we want to welcome the public to the public's lands. The problem is that management is now stopping us from doing so." So it is coming from the top, it appears to me.

Mr. Merrill, your observations in 15 seconds?

Mr. MERRILL. Sometimes you do see that. I think often they feel pressure from outside organizations, too, that have a bias against commercial operations. And so people within the Agency who are of a like mind I think tend to go in lock step with those groups. But that is what we see a lot of times, and I think it is outside pressure that they are feeling, and the threat of lawsuits from those groups that drives their decision-making.

Mr. BISHOP. Thank you. Mr. Grijalva?

Mr. GRIJALVA. No.

Mr. BISHOP. Mrs. Lummis, do you have more?

Mrs. LUMMIS. Yes, thank you, Mr. Chairman. Mr. Brown and Mr. Merrill, when the National Landscape Conservation System was created, could you have anticipated the real impacts it has had on access to recreation in congressionally designated areas?

Mr. BROWN. Well, actually, I raised the issue to some of my colleagues, that the designation did not include recreation as a value for which the NLCS was established. Really, but it includes all designated areas. So all the areas that were designated prior to the NLCS fall under the umbrella. And, therefore, they could be impacted if recreation is not specifically identified, again, as a purpose for the area. So I think it is going to have a significant impact.

Mrs. LUMMIS. And so you think there is a disconnect between the National Landscape Conservation System, the way it is being implemented, and the previous land designations?

Mr. BROWN. Well when I first brought up the NLCS as an administrative kind of construct, it was working landscapes. Overnight it changed into educational preserves, basically. So after the legislation was—the enabling legislation passed.

Mrs. LUMMIS. Anyone else want to comment on that?

Mr. MERRILL. I described it in my written testimony as a bias against recreation. And I don't know if it is so much a bias, as it is just an absence of mention of it. So it has created a conflict with the way things used to go. It doesn't mention the historic use that

was already in place, and it specifically talks about science and all these other things as the top priority, and so recreation naturally takes a back seat, because that is what the NLCS is telling them to do. So——

Mrs. LUMMIS. Do any of you know any use of public lands for which we have not tied ourselves in bureaucratic knots?

Mr. DUNCAN. I see it as the biggest single challenge. I see red tape as the single biggest challenge in trying to clean the system up and making it more functional for everyone. I really do.

Mrs. LUMMIS. Anyone else on that?

[No response.]

Mrs. LUMMIS. Thank you, Mr. Chairman. I yield back. Thank you all for your testimony, by the way. I deeply appreciate your comments. It is interesting at how frustrated everyone is. Everyone is, with public land administration.

Mr. BISHOP. Yes. I have appreciated both panels being here. You can time me. Yes. I have appreciated both panels who have been here, simply because we have illustrated in the old school it was the idea that you either drill or it is wilderness. It is an either/or situation. I think what you have clearly illustrated is there is another option that is out there, and that sometimes wilderness is not the best designation for outdoor recreation.

And indeed, if we are not using public lands for outdoor recreation, then we are going back to the era of the Normans when they came in and they took over the forest and they took over all the wildlife. Well, we are replicating some of that today.

So, I do appreciate the concepts of the indication of how we can use—that sometimes land designation impedes our ability to use it. I appreciate your references to the litigation, which I think drives some of the paralysis. I appreciate your talking about the transparency factor of the fees that we need.

I do want to just—well, let me—Mr. Brown, let's say, for example, they start taking the secondary trails off of the system. What does that actually do to the primary trails?

Mr. BROWN. Well, it concentrates use into those areas. And then you begin to have people complaining about crowding or potential carrying capacity issues, especially in wilderness.

Mr. BISHOP. So it becomes counterproductive to go in there.

Mr. BROWN. Correct.

Mr. BISHOP. Mr. Bannon, because I am truly mystified by this concept of limitation of size, of the downgrading of size, has to be there. And I don't know where I am going with this, but I would like you just to simply talk about that. Or maybe any of the others who wanted to.

I am under the assumption that size is not a static number that should be there. Wouldn't it be impacted by the groups and the kinds of groups and the purpose for which they are visiting?

And I am also wondering that isn't our visitation rates going down, as far as number, as well as time spent in these particular areas? And the goal should be to bring that up.

So, what kind of matrix is being used to come up with these formulas that says you have to be downsized in some way?

Mr. BANNON. Mr. Chairman, I think that is very perceptive, in that group size is a one-size-fits-all solution managed for outdoor

educators, managed for horse packers, everyone. Sometimes it is 20 heartbeats, and that is all the horses and people that you can take to a place. So there is no flat way that group size is implemented.

I think that the way that NOLS operates definitely doesn't fall well under the group size limitation, because you will never see a group size of 15 or 20 moving through a place. You will see five or six, just as Leave No Trace dictates. So it is not a good fit.

And, I am sorry, the other half of your question?

Mr. BISHOP. I do not remember what it was, either. So it is OK.

[Laughter.]

Mr. BISHOP. I just wonder that sometimes our concept of science isn't really science, it is more like value structure that is being viewed as some kind of science there.

Didn't one of you write in your testimony about the idea of a heartbeat rate instead of a person? Was that you, Mr. Brown?

Mr. BROWN. Yes, one of the ways they manage group size is by heartbeats. And that would be a combination of stock and people. So it is kind of an unusual construct, I think.

Mr. BISHOP. So if you are fat, like me, your heart goes faster, right? So does that count as more of a beat than somebody who is lean and——

Mr. BROWN. I think you have given them another consideration now that we probably would not want them to know about.

Mr. BISHOP. Probably talk too much. OK. Let me say to the—unless there are other questions that anyone has?

[No response.]

Mr. BISHOP. I do appreciate your coming the distance out here to testify on this. This is one of those issues that I think we are going to be talking about. This is the overview, but we are going to be talking about it as time goes on, that obviously we have a different paradigm that needs to be here, and make sure that the lands values that we put into place clearly allow for outdoor recreation as one of the purposes that should be there, and it should not be just forgotten or secondhand or an after-thought in what we are doing.

I appreciate the witnesses who are here. There may be other questions Members have. We would ask you to respond in writing to any written questions submitted by them, and we have 10 days in which Members can do that.

Once again, I duly want to thank both panels for being here. And, actually, Congressman Heck, for bringing that situation to our attention. I think it has been an informative morning. And I appreciate the members on the panel who have been here, and I thank Mr. McClintock for filling in for me. You saved me with my German friends in the other room.

With that, if there is nothing else, no further business, without objection, this Subcommittee stands adjourned.

[Whereupon, at 12:23 p.m., the Subcommittee was adjourned.]

[Additional material submitted for the record follows:]

Statement of Rick J. Lindsey, President, Chairman and CEO, Prime Insurance Company

Dear Chairman Bishop, Ranking Member Grijalva and Members of the Subcommittee:

My name is Rick J. Lindsey, and I am the President, CEO and Chairman of Prime Insurance Company as well as several affiliated insurance services companies.

Prime is an Illinois domiciled Specialty Insurer providing hard to place insurance for our customers throughout the United States and its Territories.

I have worked in the insurance industry my entire adult life, starting in 1979, finding a niche during the insurance crisis of 1985 & 1986. I have specialized in providing insurance solutions as the named underwriter for Worldwide Outfitters & Guides Association, ("WOGA"), on behalf of outfitters and guides around the country!

I am proud to say that I have been able to provide a stable insurance market for this Class of insureds and continue to do so. In fact, I do not know of any other insurance company that has been able to support this Class on a consistent basis over time. Other carriers have tried, but have not understood the business and have ultimately dropped out after losing money on it.

The Insurance Crisis of the Early 1980s:

As you may be aware, in 1986, the insurance industry was in crisis and at that time, the Federal Government reacted by enacting the 1986 Federal Risk Retention Act to enable similarly situated members of an industry to form Associations for the purpose of procuring liability insurance. The Recreational Outfitters and Guides formed Associations and the process has worked very well all these years. Unfortunately, the well-publicized current insurance industry crisis together with the National Park Service's new mandate for $5,000,000 insurance limits will conspire to put an unprecedented strain on both the Insurance and the Outfitters & Guides industries, respectively.

New Draconian NPS Requirements:

Specifically, it has come to my attention that the National Park Service is, for some unknown reason, creating many new draconian, unwanted, and unwarranted burdens on the Outdoor Recreation & Guided Tour Industry. One of these new unnecessary burdens is the proposed ten-fold increase in the policy limits they must buy, from $500,000 to $5,000,000, which will financially burden them to the extent that many of the highly skilled, smaller Guides will literally be put out of business as a result!

This saddens me because, having grown up in a state that has the highest number of National Parks in the nation, and realizing that these unique places are best visited with a smaller, locally owned guide business, I believe that access will soon be curtailed for many Americans!

Many of the smaller local experts will be forced out of business because they will simply not be able to afford this extraordinary insurance limit requirement. This means that there will be far fewer local experts in the outdoor guided tour industry. It's disturbing to think that the remaining guides will inevitably be a few huge, over-crowded operations with young, largely inexperienced employees.

The Big Insurance Brokers & The Trial Lawyers:

However, these new burdensome insurance requirements will undoubtedly help two groups of Americans: Big insurance brokers like AON, and Trial Lawyers.

My experience has always been that whatever the Policy Limit is, the Trial Lawyers will make that their natural target! In insuring Outfitters and Guides for over two decades, my company, Prime, has certainly handled many serious injury and fatality claims, BUT we have never had even one claim that could not be satisfactorily resolved within the currently mandated $500,000 insurance limit. If the limits are increased by ten-fold, it will simply mean that the Plaintiff Lawyers will have a much larger target to pursue, at the expense of putting some of the very best Outfitters & Guides in this country out of business.

Other Insurance Companies and What They Can Offer:

I was appalled to see a recent report generated by AON which, in my opinion, tried to gloss over the effects of the proposed new insurance requirement on Outfitters & Guides. It indicated, in essence, that the increased requirement for policy limits would not cost that much more and that there are plenty of insurers that can provide coverage to this highly unique class of risk. Having read the report, I personally telephoned people I know at the top of the organizations that were cited in the report and I was informed that they did not know where the report got its information, but that much of what was conveyed in it about what these carriers could do was wholly inaccurate!

Again, my experience has been that even where large carriers have attempted to insure this Class over time, they have been unsuccessful in doing so and have later abandoned their insureds and gotten out of the business altogether.

Insurance Requirements for Other Classes of Risk:

It also seems highly inconsistent to me that our "Big Government of the Day" wants to focus its draconian attention on Outfitters and Guides and require them to pay so much more for $5,000,000 in coverage when other, arguably more dangerous operations in our country are still required only to have a fraction of the insurance! Examples include Minimum Limits for Auto Liability coverage which in most states are around $15,000 Per Person and $30,000 Per Accident. I am also a pilot and therefore closely follow requirements in the Aviation industry. Surprisingly, aircraft are required to carry insurance in only 5 states, and in those states, the required limits are only $50,000 Per Person/$100,000 Per Accident. The vast majority of states have no requirements and there is no Federal insurance mandate by the FAA. Also, many small airports are not required to carry any insurance at all! Again, my experience in insuring Outfitters and Guides is that the current $500,000 limits are more than adequate!

What are the Real Reasons for Attacking Outfitters?:

It seems, therefore, that Outfitters & Guides have been singled out for "Special Treatment" by the U.S. Government and I don't believe that any of us really understands why. As an insurance professional, it is certainly my firm belief that insurance limits for this Class do not need to be increased. Therefore, I think we would all like to know the real reason for the government targeting Outfitters & Guides across the board.

In Summary:

In summary, therefore, increasing the insurance requirements by ten times on this stressed class of business fails to contemplate the ramifications of this enormous new bureaucratic burden. Such ramifications, as I have tried to illustrate here today, include vastly increased expenses for existing professional Outfitters and Guides, many of whom will simply be put out of business altogether, an insurance industry that cannot provide a long term market at the unrealistic prices contemplated by the AON Memo, and far fewer expert Guides in the future. This will result in greatly reduced access for the American public to recreational activities in America's parks, as well as compromised safety.

In conclusion, we must be careful not to find ourselves in a more dire position than we found ourselves in during the mid-1980s when the 1986 Risk Retention Act had to be passed to alleviate the problem at that time. Unfortunately, the insurance industry is no better off now than it was then and the litigation problems that caused the insurance crisis have not gone away. Nothing has changed and the little "Tort Reform" that has occurred has simply resulted in caps on certain types of litigation recoveries. The massive underlying litigation problem still persists and increasing the limits required of outfitters & guides by 10 times is only going to worsen this out-of-control litigation problem. In addition, the authentic experience of visiting the Nation's parks will be greatly diluted as a result of replacing local expert guides with a few very large corporate operations and their employees who are likely to be non-local and far less experienced.

Thank you for listening, and I trust you will be able to stop this proposed bad law from being enacted as its adverse ramifications do not seem to be fully appreciated by those who created it.

The documents listed below have been retained in the Committee's official files.

- American Adventure Tours Inc., Letter to Senator Harry Reid submitted for the record encouraging the Senator to attend the hearing
- American Mountain Guides Association, Letter submitted for the record
- American Packrafting Association, Letter submitted for the record

- Back Country Horsemen of America, Letter submitted for the record by Jim McGarvey, Chairman, wanting lands to remain open for recreational stock use
- International Mountain Bicycling Association, Letter submitted for the record
- Marrs, Wayne, St. Elias Alpine Guides, McCarthy, Alaska, Statement submitted for the record with his views on issues regarding guides and outfitters on public lands
- Outdoor Alliance, Letter submitted for the record
- Stoneman, Darwon R., Managing Partner, Glacier Raft Company and Glacier Anglers, Statement submitted for the record with an outfitter and guide overview
- Turiano, Thomas, Comments submitted for the record
- The Wilderness Society, Letter submitted for the record
- Wyatt, Rick, President, American Adventure Tours Inc., Statement submitted for the record

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