

# Committee on Resources

## Subcommittee on National Parks & Public Lands

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### Witness Statement

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**STATEMENT OF DENIS P. GALVIN, DEPUTY DIRECTOR, NATIONAL PARK SERVICE,  
DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON NATIONAL PARKS  
AND PUBLIC LANDS, HOUSE COMMITTEE ON RESOURCES, CONCERNING GENERAL  
ISSUES INVOLVING ACCESS TO NATIONAL PARKS**

**JULY 20, 2000**

Mr. Chairman, thank you for the opportunity to discuss general issues involving access to national parks.

This subcommittee is well acquainted with the mission of the National Park Service and the laws under which we operate, but I want to briefly address the foundation of our responsibilities as stewards of the national parks in order to provide some context for consideration of issues concerning access.

Providing for the enjoyment of park resources and values by the people of the United States is a fundamental purpose of the Service's mission and of all units of the National Park System. From the time Yellowstone National Park was established in 1872, providing access to parks--the means to enjoy them--has been a matter of paramount concern for Congress and for park managers. The desire to provide access to park resources is the reason roads, accommodations, and recreational facilities have been built in national parks. It is also the reason that we continuously seek ways to improve the visitor experience and provide outreach to underserved groups of people, even as we struggle to meet the demands of the nearly 300 million annual visitors we already have.

However, while providing for visitor use is a fundamental purpose of the Service, units of the National Park System are not simply areas established for recreation. They are places Congress has determined are nationally significant and belong under Federal stewardship. They are areas where we are responsible for protecting wildlife, ecosystems, water quality, and natural quiet; preserving our nation's culture and history; educating visitors; and leaving a legacy of our nation's natural and cultural heritage for future generations.

The National Park Service occupies a significant but small niche in the spectrum of recreational lands available for public use. National parks were not intended by Congress to be all things to all people. The growing demand for the more physical forms of outdoor recreational activities on public lands is being met largely by other providers--state and local entities, as well as other federal agencies--as it should be. Our focus in terms of visitor use is to provide for recreational activities that enable visitors to experience the significant park resources and values for which the park was so designated; and to provide for experiences that are inspirational, educational, healthful, recreative, and satisfying.

The law that established our fundamental purpose--to conserve park resources and to provide for the enjoyment of them--is the Act of August 25, 1916, commonly referred to as the National Park Service Organic Act. In that law, Congress directed us to provide for the enjoyment of park resources "in such a

manner and by such means as will leave them unimpaired for the enjoyment of future generations." Our charge to protect resources was further reinforced by the National Park System General Authorities Act of 1970, which prohibited the Service from allowing "any activities that would cause derogation of the values and purposes for which the parks have been established." In addition to those two generic laws, numerous other laws govern how we treat particular parks or particular activities within parks. It is in the context of these congressionally mandated responsibilities that issues of access to national parks need to be evaluated.

I will briefly address the specific issues concerning access that are of interest to this subcommittee--snowmobiles, personal watercraft, air tours, and alternative transportation systems--as well as the emphasis on resource protection in the draft revision to the Service's 1988 Management Policies.

### Snowmobiles

In late April, the Department and the National Park Service announced that the Service would sharply curtail recreational snowmobile use in national parks. This announcement reflected the legal requirement to strictly enforce the longstanding, existing authorities regulating this activity that the Service had failed to apply consistently in recent decades.

In response to a petition for rulemaking, the Service has reviewed the snowmobile use that is allowed in 42 of the 379 units of the National Park System. That review, including a review by the Office of the Solicitor of the Department, has led us to conclude that much of the snowmobile use that is occurring is not consistent with the requirements of Executive Orders 11644 and 11989, issued by Presidents Nixon and Carter, and other legal requirements. Accordingly, in the April announcement we said that we would undertake a new rulemaking to modify the existing system-wide general rule (36 CFR 2.18), and additional park-specific special rules, to bring them into compliance with the applicable legal requirements. We did not announce that any decision had been made, but instead that we intend to initiate a rulemaking process. In that process, we will comply with all established requirements for rulemaking, including the requirements for seeking and considering public comments. It is our current intent to publish by mid-September a proposed rule, for public comment, to begin the formal process of making these changes.

Until a new rulemaking is completed, the existing rules on snowmobile use in the national parks will remain in effect.

We will seek public comment on a proposed rule generally following the format of the existing rule, which prohibits snowmobile use in national park units except in certain instances. The draft rule has not yet been completed but, when finalized, it would not affect snowmobile use opportunities in National Park System areas for the following purposes:

- For access to private, or other non-Federal property;
- For access across national parks to reach private or other public lands that are open to snowmobile use;
- Where the roads through national park units are not under Federal jurisdiction; and
- As authorized in specific national park enabling statutes (i.e., with respect to national parks in Alaska and Voyageurs National Park).

In addition, as a result of the settlement of litigation, the Service is in the final stages of preparing a Winter Use Management Plan and Environmental Impact Statement for Yellowstone and Grand Teton National Parks. The final decisions on winter use have not been made there, but those decisions will determine future winter use management in these two parks, including the use of snowmobiles.

A more detailed statement on the National Park Service's position on snowmobile use was provided to this subcommittee at the hearing on that subject on May 25 and in response to your written questions.

There are concerns that the new policy on snowmobiles will restrict access to some of the 30 national park units in the contiguous 48 states where snowmobiling has been allowed. But the "access" issue can be viewed another way: by reducing noise, pollution, and harm to wildlife, curbing snowmobile use will improve access to the natural sights and sounds that many park visitors seek. No park is proposed to be closed to the public, only to entry via snowmobile in certain cases.

### Personal watercraft

The National Park Service also took action this year to impose greater restrictions on the use of personal watercraft in national parks. On April 20, a new rule took effect that prohibits the use of personal watercraft in national park areas except for specific units where this type of water-based recreational activity is appropriate. The determination of appropriateness was based on park-specific legislation, other visitor uses of the area, and overall management objectives. Personal watercraft will continue to be allowed in all or part of ten national recreation areas, as water recreation was a primary purpose for these parks, and further determination based on these factors will be made for 11 more park units through rulemaking.

As with snowmobiles, the issue of access can be viewed both ways. While access to park resources has been reduced for those who have been using personal watercraft in national park areas that previously allowed such use, the new rule has increased access to park resources that many others seek--the ambient sounds of water and wildlife, and quieter, cleaner environments. There are places for personal watercraft use across a portion of the public lands, even in the listed parks, provided this type of activity is appropriate.

### Air Tours

A new policy with respect to aircraft in national parks went into effect on April 5 of this year, when Public Law 106-181 was signed into law. Title VIII of that law gives the Federal Aviation Administration, in cooperation with the National Park Service, the authority to regulate commercial air tour overflights of national parks.

The new law, which is based on the product of a Department of Transportation and Department of the Interior public advisory committee, directs both agencies to work together to prevent any significant adverse impacts of commercial air tours on park resources and to maintain the opportunity to view park areas using commercial sightseeing air tours. The law prohibits air tour operators from conducting commercial air tours over a national park without an approved air tour management plan, with minor exceptions. Existing air tour operations will be protected while an air tour management plan is being developed. Such plans may limit the frequency of air tours, in which case operators will need to bid for flights under a competitive process. Among the criteria the agencies shall consider is use of quiet aircraft technology.

The new law does not apply to Grand Canyon National Park or national parks in Alaska, as those parks were addressed in separate legislation several years ago.

The new law establishes a clear framework for the two agencies to develop rules and procedures to manage--not eliminate--this use. It should result in a reduction in the intrusive aircraft noise in national parks, which will improve access of the visiting public to the natural soundscapes of parks.

### Alternative Transportation Systems

Private automobiles have been the predominant form of transportation in the national parks, and will continue to be so for the foreseeable future. However, to alleviate heavy traffic congestion during the peak visitor season at some of the more popular parks, the National Park Service in conjunction with the Department of Transportation is developing alternative transportation systems for several parks. We anticipate spending \$5 to \$15 million out of the \$160 million provided annually to the National Park Service under the TEA-21 transportation authorization for alternative systems.

Under the Service's Alternative Transportation Program, which was launched in 1998, five parks have been designated as demonstration parks and are currently in the process of developing and implementing major transportation improvement strategies. At Zion National Park, a convenient shuttle bus is being used by visitors to the narrow, six-mile canyon of spectacular sandcliffs; private automobiles have been largely banned for the peak summer months there except for those used by overnight guests at the lodge. At Grand Canyon, the Service is developing a light-rail system on the South Rim that is slated to be completed in 2004. Major voluntary mass transit systems are in operation in Yosemite National Park, Acadia National Park, and Golden Gate National Recreation Area.

In addition to these five units, there are dozens of other parks which have alternative transportation projects under way. Some are currently being implemented, but most are still in the planning stages.

These alternative transportation systems provide a way to accommodate more visitors--thus providing access to a greater number of people--with less impact on the parks. In all cases except for Zion National Park, private automobile use continues to be allowed as a means of reaching park attractions; the shuttles are simply an option visitors may use instead. Based on the initial positive response we have received, we are quite optimistic that alternative systems will become a key tool in our efforts to fulfill both parts of our mission of protecting resources and providing for visitor use.

### Revisions to Management Policies

Finally, I want to discuss briefly the proposed revisions to the Service's 1988 Management Policies as they relate to access issues. A draft of the revised document was issued earlier this year and is currently being finalized.

The draft revision of Management Policies includes a draft detailed interpretation of the key related provisions of the Organic Act and the National Park Service's General Authorities Act, as amended by Congress in 1978 in legislation expanding Redwood National Park.

The need for a more detailed Service interpretation of these key statutory provisions was made clear in litigation over the backcountry management plan for Canyonlands National Park. Last summer, the U.S. District Court in Utah ruled that the Park Service violated the Organic Act by allowing the impairment of park resources when it decided to allow off-road vehicle use in the streambed of the one permanent stream in the park. The court ruled that the permanent impairment of such a unique park resource is prohibited by the Organic Act. An appeal of that decision is currently pending before the 10<sup>th</sup> Circuit Court of Appeals.

We now believe that the Park Service was wrong in allowing that off-road vehicle use, because we believe that it would in fact cause resource damage that Congress in the Organic Act prohibited us from allowing since it would not ensure the continued enjoyment of park resources for future generations. In the draft interpretation of the Organic Act and the General Authorities Act, as amended, that we included in our draft revision of our Management Policies, we have proposed an interpretation that we believe is consistent with the wording of the key statutory provisions and court interpretations of them over the years--decisions in which courts have variously described the Organic Act as making "resource protection the primary goal" or "resource protection the overarching concern" for the Service, or as establishing for the Service a "primary mission of resource conservation", a "conservation mandate", "an overriding preservation mandate", "an overarching goal of resource protection", or "but a single purpose, namely, conservation".

We are in the process of reviewing the many public and internal Service comments that we have received on this part of our draft revision of Management Policies, and will revise the proposed interpretation to reflect what we have learned from the consideration of those comments. We believe that, once finalized, this interpretation will help to ensure that the National Park Service in its management decisions better follows the guidance Congress provided for us in the Organic Act and related laws.

In conclusion, while the National Park Service places great importance on and takes great pride in making the national parks accessible to the public and providing for high-quality visitor experiences, it is simply impossible to accommodate all uses in parks that people seek and yet comply with our congressionally mandated responsibility to avoid impairment of the resources under our stewardship. In regulating uses of motorized vehicles that emit high levels of noise and pollution, we have applied our best collective professional judgment as to what is required by the letter and spirit of the laws, executive orders, regulations, and policies that govern the Service. The revised Management Policies we are finalizing will help ensure that future decisions regarding use of the parks will also comply with the mandates under which the Service operates.

Mr. Chairman, that concludes my statement. I will be pleased to respond to any questions you or other members of the subcommittee may have.

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