

STATEMENT OF
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BEFORE THE COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES
ON
H.R. 2386 - THE OUTFITTER POLICY ACT
JULY 25, 2002

MR. CHAIRMAN: On behalf of America Outdoors, I appreciate the opportunity to appear before the Committee to register our strong support for H.R. 2386, the Outfitter Policy Act.

America Outdoors is a professional association of outfitters, guides, dude ranchers and others who provide a wide range of outdoor recreation services to the public. With over 600 member entities, it represents outfitters and guides as well as the public they serve to maintain access to recreation resources while pursuing a goal of responsible shared use of our precious natural heritage.

Substantial segments of the public need and rely on guides and outfitters to provide recreational access to public lands. These outfitters and guides provide opportunities for outdoor recreation for many families and groups who would otherwise find the backcountry inaccessible. To ensure accessibility to public lands by all segments of the population, quality recreation services must be available to the public. That is the primary purpose of the Outfitter Policy Act.

The outfitting business is highly competitive. Multiple operators provide the same or similar services at most resources. H.R. 2386 assures competition that drives quality services and will provide a level, consistent regulatory playing field for those outfitters. Present inconsistent rules and policies often hinder or prevent guides and outfitters from providing quality services, and inadequately provide for evaluation of guide/outfitter operations to encourage and assure quality services. Inconsistent administration of existing policies also creates often crippling uncertainties for quality operators.

Congress has previously established statutory standards for administering guide/outfitter permits on National Park Service (NPS) lands. Therefore, it is appropriate to set similar legislative standards for other public land systems including National Forests and public domain administered by the Bureau of Land Management.

Congress has previously determined that guides and outfitters need reasonable permit terms and conditions and has addressed in NPS concessions legislation permit length, performance evaluation, renewals, fair fees, and regulated transfer of permits. The Outfitter Policy Act provides the basic terms and conditions necessary to sustain the substantial investment often needed to provide the level of service demanded by the public. However, the bill provides the agencies ample flexibility to adjust use, conditions and permit terms, which must be consistent with agency management plans and policies for the resource. A stable, consistent regulatory climate which encourages qualified entrants to the guide/outfitting business and gives the agencies and operators clear directions are among the goals of the bill.

We need to state clearly and unequivocally the bill does not allocate use opportunities to guides and outfitters. Allocation issues remain at the discretion of the land managing agencies. There are no "use" ownership rights associated with permits since use allocations may be changed, subject to due process, during the term of the permit. Also, Section 5 of the bill specifically protects the rights of private citizens to use their public lands

without the services of a guide or outfitter.

America Outdoors has worked hard and long with federal agency officials on this measure. Over a two-year period more than 125 technical and substantive changes were incorporated into the draft legislation to accommodate agency interests. For example, references to "profit" were changed to "successful business venture" to reflect the agency concerns that the legislation should not infer any right for a outfitter/guide to realize a profit. Language setting a two-year probationary period for new authorized outfitters was added. The liability section was completely rewritten to balance the interests of the agencies and those of the outfitters. Most importantly, amendments were added to expressly authorize changes in permit terms and conditions, at agency discretion, to reflect changed environmental conditions or circumstances. Our review of H.R. 2386 indicates that the agencies concerns are fully reflected in its text.

The bill provides for performance-based renewal. Each outfitter is evaluated according to the services provided and rated "good," "marginal," or "unsatisfactory." An outfitter with more than one annual "unsatisfactory" rating does not earn the right of renewal. Consistent good performance enables an outfitter to obtain renewal of a permit without engaging in a new round of bidding. This renewal system encourages outfitters to provide quality services by providing them with incentive to maintain a high level of service. By allowing an outfitter to "earn" renewal through quality outfitting services, the agencies can ensure that outfitters maintain quality operations and invest the capital needed to provide these services.

There have been questions about the need for this legislation. Some have contended that the agencies have sufficient authority to achieve these goals and no statutory guidance is necessary. Unfortunately, outfitters and guides continue to encounter grossly inconsistent directions from land managers and an utter lack of stability in too many areas. Last week we learned of a case that is symptomatic of the problems this bill would correct. Two years ago an outfitter was directed by the Forest Service to upgrade the facilities at one of its camps. As a result, the outfitter invested thousands of dollars in new tents, tent frames, and a small boardwalk system which were all approved by the responsible federal official. The agency also directed the outfitter to work with a state agency on water quality issues. The state agency insisted that traditional pit toilets were inadequate and ordered that a small septic system be installed. At substantial cost, the outfitter complied.

Then a new federal District Ranger assumed office. The outfitter was informed that the upgraded facilities were insufficiently "temporary" and would have to be either substantially scaled down or removed. Additionally, the new official objected to the septic system, questioned the jurisdiction of the state agency in the matter, and has told the outfitter that the septic system will likely have to be removed - at the outfitter's cost. To make matters worse, this outfitter is presently operating on annual permits and the Ranger has specified that compliance will be an "ongoing process" and that "annual modifications (to his permit) are highly likely." The outfitter faces bankruptcy if compliance with the new edicts - a complete reversal of the prior directions - is enforced. These kinds of horror stories come up often and demonstrate the need for statutory standards. At present, the agencies have almost unfettered discretion which can be too readily abused.

In addition, as noted earlier, Congress has twice addressed these issues with respect to outfitter and guide operations on National Park Service lands. Statutory standards were first established in 1965 in the original concessions act and that system was amended with 1998 legislation. It is clearly appropriate to set similar statutory standards for other public land systems.

America Outdoors greatly appreciates the leadership of Chairman Hansen and other Members of the Committee for introducing H.R. 2386. The case for this legislation is clear and we stand ready to work with Committee in any way that we can to secure enactment of this important bill.

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