

**Statement for the Record
Bureau of Land Management
U.S. Department of the Interior
House Natural Resources Committee
Subcommittee on Federal Lands
H.R. 5129, Guides and Outfitters Act
November 30, 2016**

Thank you for the opportunity to present testimony on H.R. 5129, the Guides and Outfitters Act. H.R. 5129 makes various changes to the administration of the Special Recreation Permit (SRP) programs authorized under the Federal Lands Recreation Enhancement Act (FLREA). SRPs are authorizations that allow for commercial, competitive, and group recreation uses of the public lands and related waters. They are issued as a means to manage visitor use, protect recreational and natural resources, and provide for the health and safety of visitors. The bill would limit the range of recreational activities that may be covered under SRPs; create new multiple jurisdiction permits; and require the Secretary to create a new categorical exclusion under the National Environmental Policy Act (NEPA) for SRP-related activities. It would also modify permit fee calculations and uses; establish temporary permits for new recreational uses; and change the way the Department of the Interior's (Department) bureaus can engage in cost recovery.

While the Department shares the sponsor's goal of enhancing outdoor recreation access, we have concerns with a number of provisions and cannot support the bill as currently written. The Department looks forward to working with the sponsor and the Subcommittee to address these issues as H.R. 5129 moves through the legislative process.

Background

The Department's bureaus manage a total of approximately 20% of the nation's land. Providing access to quality recreation on these lands is one of the Department's primary missions as outlined in its current Strategic Plan, which commits to improving outdoor recreation access and increasing opportunities for public enjoyment of Federal lands and waters.

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

Not only do these visitors take their positive experiences home and benefit from the physical activity that promotes health and quality of life, but recreation is a significant contributor to the national economy and the economies of the communities that surround the lands we manage. In its most recent report, published in 2012, the Outdoor Industry Association stated that recreation activities generate \$646 billion dollars in spending each year and support 6.1 million jobs. The approximately 417 million visits to Department-managed lands in 2012 contributed an estimated \$45 billion in economic output to the surrounding economies through trip-related spending.

The enactment of FLREA in 2004 enabled us to enhance these visits with greater recreation opportunities and services by leveraging recreation fees to implement thousands of projects that directly benefit visitors. In 2014, the Department's bureaus collected over \$230 million in recreation fees to support over 1,000 projects. These projects support public safety and accessibility, maintain recreation sites, provide eye-opening educational experiences, build informational exhibits, fund interpretive programs, and offer a wide range of recreational and cultural opportunities.

Bureau of Land Management

Visitors to public lands managed by the Bureau of Land Management (BLM) enjoy countless types of outdoor adventure such as camping, hunting, fishing, hiking, horseback riding, boating, whitewater rafting, hang-gliding, off-highway vehicle driving, mountain biking, climbing, and all types of winter sports. Visitors also engage in birding and wildlife viewing, photography, and visiting natural and cultural heritage sites.

FLREA has greatly improved the quality of recreational experiences for visitors to public lands and waters managed by the BLM, while boosting local economies and creating employment opportunities for young people, veterans, and many others. During FY 2016, more than 64.5 million recorded visits were made to lands and waters managed by the BLM. Recreation fees collected under FLREA averaged \$18 million a year from 2012 to 2016, enabling the BLM to enhance the visitor services and recreation opportunities available to the public at the sites where the fees are collected. The revenue generated under FLREA comes from certain developed recreation fee sites, recreation permits, and sales of America the Beautiful – Interagency passes.

Recreational experiences are especially important in the growing West, where more than half of BLM-managed public lands are within 25 miles of an urban area. Lands used for recreational activities contribute significantly to local economies. In 2015, the BLM's management of recreation and visitor services supported nearly 44,000 jobs and contributed \$5.9 billion in economic output throughout the country. Currently, the BLM administers over 4,500 SRPs for commercial, competitive, and organized group activities.

Other Interior Bureaus

Recreation fees collected by the U.S. Fish and Wildlife Service (FWS) under FLREA have averaged \$5 million annually for the last 10 years. The majority of revenue collected comes from entrance and expanded amenity fees. SRPs account for less than 5% of total fees collected. The majority of SRP fees collected occur in Alaska for commercial outfitters and guides under provisions of the Alaska National Interest Lands Conservation Act.

Recreation fees collected by the National Park Service (NPS) under FLREA have averaged \$180 million annually for the last 3 years. The majority of revenue collected comes from entrance and expanded amenity fees. SRPs account for less than 1% of total fees collected. The NPS authorizes outfitters and guides and other commercial visitor activities on national park system lands in accordance with the NPS Concessions Management Improvement Act (54 U.S.C. 101911 et seq.).

H.R. 5129

H.R. 5129 makes various changes to the administration of the Special Recreation Permit (SRP) programs authorized under FLREA. The bill limits the range of recreational activities that may be covered under SRPs; creates new multiple jurisdiction permits; and requires the Secretary to create a new categorical exclusion under NEPA for SRP-related activities. The bill also modifies permit fee calculations and uses, establishes temporary permits for new recreational uses, and changes the way the Department's bureaus, particularly BLM, can engage in cost recovery.

Covered Activities & Joint Permits

Section 2 of the bill appears to limit which activities may be covered by SRPs. The Department is concerned that this could restrict the BLM's ability to provide SRPs for certain vendors supporting recreational activities and local economies, and we would like to work with the sponsor and Subcommittee to further refine this language.

Section 3 of H.R. 5129 would create a joint permit for use of lands managed by the BLM and the U.S. Forest Service (USFS) and would establish a new method for designating a lead agency. In addition, Section 3 would allow an applicant to submit a single application for a joint permit or keep the option to apply for separate permits. Finally, this section would prohibit cost recovery for coordination between agencies.

The Department is concerned that enforcing permit terms and conditions across agencies would be challenging because of varying legal obligations arising from each agency's statutory authorities. In addition, the Department opposes limiting cost recovery options available for permits. The Department would like to work with the sponsor and Subcommittee on language ensuring that permit terms and conditions can be enforced across agencies and bureaus have the flexibility for designating lead agencies, and that appropriate cost recovery for agency coordination can occur.

Categorical Exclusions

Section 2 of the bill would require the Secretaries of the Interior and Agriculture to create one or more new categorical exclusions under NEPA for SRPs that have been considered under previous analysis, are similar to existing uses, or are not inconsistent with approved uses. While the use of categorical exclusions could be warranted in some circumstances, the Department has concerns with the broad scope of the authority granted by this section.

Calculation & Use of Fees

Section 4 of the bill creates deductions from the SRP fee charged by an agency. This section also sets fee conditions for SRPs, including capping fees to not more than 3 percent of the recreational service provider's annual gross revenue for activities authorized by the permit. The Department is concerned that this language would prevent its bureaus from charging a flat fee for events where an equivalent fee to 3 percent of the gross is very difficult to determine. The Department notes that many permittees appreciate this simple formula and reporting requirements in such circumstances.

Section 5 of H.R. 5129 directs that revenues received from SRPs be used to partially offset the Secretary's direct cost of administering the permits and to improve and streamline the existing

permitting process. The Department supports finding ways to continually improve the permitting process but opposes restricting fee revenue expenditures solely to offset costs of the permitting process. The fees collected are currently used for administration of the permit and for improving recreation opportunities for the public, which includes infrastructure and facility maintenance and improvements.

Temporary Permits

Section 7 of the bill would require the Secretaries of the Interior and Agriculture to establish a new program to authorize temporary permits for new recreational uses. The bill also requires that the temporary permits be converted automatically to long-term permits after two years of satisfactory performance. The Department supports the goal of encouraging greater recreational use of federal lands but would like to work with the sponsor on language ensuring that this new program would not result in duplication of existing agency efforts, be inconsistent with approved or pending land use plans, or limit agency discretion.

Cost Recovery Modification

Section 10 requires the Secretary of the Interior and the Secretary of Agriculture to amend the cost recovery process for issuing and renewing SRPs. This section would exempt the first 50 hours of work from cost recovery in issuing SRPs and would also apply to monitoring fees on an annual basis during the term of the permit. Under the bill, the exemption would be applied to multiple permit applications for similar services in the same area. The agencies would be required to determine the share of the aggregate amount to be allocated to each application on an equal or prorated basis. The Department opposes exempting the first 50 hours of work when the total number of hours exceeds 50 hours. Limiting full cost recovery on larger, more complex applications would prevent the effective administration of the recreation permits.

Additionally, Section 10 would prohibit the Secretary of the Interior and the Secretary of Agriculture from recovering costs incurred from consultation under the Endangered Species Act (ESA) on SRPs. This section would also prohibit cost recovery for biological monitoring conducted under SRPs. The Department opposes this provision, as limiting recovery of costs for ESA consultations would create a significant drain on the Department's ability to process permits. The Department also objects to the provision allowing for the waiver of cost recovery on a case-by-case basis without any criteria for such a waiver. Such a provision could create an incentive for applicants to try to avoid the payment of costs for the permitting process or the appearance of arbitrary or unfair treatment of various applicants. Either result could undermine the Department's ability to fairly and efficiently administer the program.

Conclusion

Thank you for this opportunity to present testimony on H.R. 5129. The Department thanks the sponsor and the Subcommittee for their dedication to this issue, and we look forward to continuing to work with the sponsor on this bill.

STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR FOR CULTURAL RESOURCES, PARTNERSHIPS, AND SCIENCE, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE HOUSE SUBCOMMITTEE ON FEDERAL LANDS, COMMITTEE ON NATURAL RESOURCES, CONCERNING H.R. 3683, A BILL TO AMEND TITLE 54 UNITED STATES CODE, TO ESTABLISH WITHIN THE NATIONAL PARK SERVICE THE AFRICAN AMERICAN CIVIL RIGHTS NETWORK, AND FOR OTHER PURPOSES.

November 30, 2016

Mr. Chairman and members of the subcommittee, thank you for the opportunity to present the views of the Department of the Interior on H.R. 3683, a bill to establish within the National Park Service the African American Civil Rights Network, and for other purposes.

The Department strongly supports H.R. 3683, with amendments.

The NPS would be proud to be part of this program to commemorate, preserve, and interpret this important and inspiring era in American history. Well over a decade ago, the National Park Service and the Organization of American Historians conducted a theme study that helped to identify and interpret sites associated with the modern Civil Rights movement. From this effort, NPS found that a number of sites related to the African American role in the Civil Rights movement had not been recognized, with many in immediate danger of being lost or destroyed. If enacted, H.R. 3683 would provide a structure to identify and commemorate the activities and sites of African Americans involved in the Civil Rights movement and create a framework that could promote public education regarding this crucial chapter of the American story. This bill would allow NPS to build critical partnerships with other public and private entities, to raise public awareness, and help preserve the remaining sites and stories of the Civil Rights movement.

The modern Civil Rights movement arose in the face of systematic oppression, discrimination, and violence. The figures of this movement fought against these forces and many deservedly have become national heroes. But this movement was also powered forward on the backs of ordinary men and women and their efforts and stories are equally important to preserve and share. These stories and sites can be found in almost every community in this nation, some of which are deeply interwoven into the narrative of the units of the National Park System. But most of these resources are cared for outside of the National Park System and often need further documentation, interpretation, identification, and protection.

No single site reflects the full story of the role of African Americans in the Civil Rights narrative, and a network would help recognize and preserve these places. With the creation of the African American Civil Rights Network, the NPS will be directed to produce and share educational materials, become part of cooperative agreements to provide much-needed technical assistance, and create an official symbol to help with the identification of these sites and stories. This network will be made up of existing units and programs of the NPS; Federal, State, local and privately owned property, and other governmental and nongovernmental facilities that are directly related to the African American role in the Civil Rights movement.

The fundamental purpose of the African American Civil Rights Network Act is to honor the courage and sacrifice of those African American champions for justice; those who fought against discrimination and segregation to bring forth the vision laid out in the very foundations of our national doctrine that all men and women are created equal. We must honor their legacy and continue to carry forward their work of national reconciliation and social justice.

To that end, we recommend amending Section 3 to make the title of the network established in the law the “African American Civil Rights Network,” rather than the “U.S. Civil Rights Network.” These amendments would make the title consistent with the title of the network used in the rest of the bill. It would also make the title of the network consistent with the title used in the Senate companion bill, S. 2309, as favorably reported by the Senate Energy and Natural Resources Committee on September 8, 2016. Our proposed amendments to implement this change are attached.

Mr. Chairman, this concludes my testimony. I would be glad to answer any questions that you or other members of the subcommittee may have.

PROPOSED AMENDMENTS TO H.R. 3683

On Page 6, line 8, strike “U.S.” and insert “African American”.

On Page 6, line 12, strike “U.S.” and insert “African American”.

On Page 6, line 18, strike “U.S.” and insert “African American”.

On Page 6, line 20, strike “U.S.” and insert “African American”.

On Page 8, line 23, strike “U.S.” and insert “African American”.

STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR FOR CULTURAL RESOURCES, PARTNERSHIPS, AND SCIENCE, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE HOUSE SUBCOMMITTEE ON FEDERAL LANDS, COMMITTEE ON NATURAL RESOURCES, CONCERNING H.R. 799, TO REVISE THE AUTHORIZED ROUTE OF THE NORTH COUNTRY NATIONAL SCENIC TRAIL IN NORTHEASTERN MINNESOTA AND TO EXTEND THE TRAIL INTO VERMONT TO CONNECT WITH THE APPALACHIAN NATIONAL SCENIC TRAIL, AND FOR OTHER PURPOSES.

November 30, 2016

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you today to present the Department of the Interior's views on H.R. 799, to revise the authorized route of the North Country National Scenic Trail in northeastern Minnesota and to extend the trail into Vermont to connect with the Appalachian National Scenic Trail, and for other purposes.

The Department supports enactment of H.R. 799. This legislation would make two critically important improvements to the North Country National Scenic Trail: it would reroute a portion of the trail in Minnesota around dense swampland, and it would link this trail to the Appalachian Trail.

H.R. 799 would amend section 5(a)(8) of the National Trails System Act to revise the route of the trail in northeastern Minnesota and extend the trail beyond its current terminus in New York eastward into Vermont, increasing the total length of the trail from approximately 4,000 miles to approximately 4,600 miles. We note that although the legislated length of the trail is 3,200 miles, this figure was based upon estimates at the time of the passage of the bill that authorized the trail, and more accurate mapping has since shown the actual mileage to be closer to 4,000 miles.

The North Country National Scenic Trail was authorized by Congress in 1980 to provide superlative outdoor recreation opportunities and conservation of nationally significant scenic, historic, natural and cultural qualities along the trail corridor, to provide a premier trail experience, and to encourage and assist volunteer citizen involvement in the planning, development, maintenance and management of the trail. The trail, which is one of six designated National Scenic Trails administered by the National Park Service, spans much of the northern United States, stretching from North Dakota to New York.

The current authorized route of the trail in northeastern Minnesota traverses approximately 93 miles of black spruce and tamarack swamp, extending westward from Jay Cooke State Park south of Duluth, to the Chippewa National Forest southwest of Grand Rapids. Because of the location and difficult environmental conditions within the swamp, no portion of this section of the trail has been constructed. Approximately seventy percent of the proposed revision — referred to as the Arrowhead Reroute — consists of three existing hiking trails: the Superior Hiking Trail, the Border Route Trail, and the Kekekabic Trail. These trails, which total approximately 400 miles, follow the north shore of Lake Superior and traverse the Boundary Waters Canoe Area Wilderness in the Superior National Forest. The remaining portion of the Arrowhead Reroute — approximately 173 miles — would be new trail located over a combination of public and private lands. The net total

increase in the Minnesota portion of the North Country National Scenic Trail would be approximately 480 miles.

Since 1987, Minnesota hiking groups have repeatedly asked the NPS to study the revised route. In response to these requests, the NPS conducted the *Northeastern Minnesota Route Assessment* between 1999 and 2004. In 2003 and 2004, the National Park Service held public meetings in Duluth, Ely, Grand Rapids, and Minneapolis, Minnesota. Public comments reflected broad overall support for the Arrowhead Reroute, and strong support among the affected public agencies and jurisdictions. The plan and environmental assessment were approved by the NPS on September 30, 2004.

The extension of the trail route into Vermont would add approximately 66 miles to the North Country National Scenic Trail, 40 of which are already existing trails. The addition would extend from the trail's current terminus near Crown Point, New York, east to a point to be determined along the Long Trail – a National Recreation Trail in Vermont. The Long Trail then connects to the Appalachian National Scenic Trail at Maine Junction just east of Rutland, Vermont.

In the fall of 2009, the National Park Service began a study of the potential extension of the North Country National Scenic Trail in Vermont. In February 2010, three public meetings were held to announce the study and present conceptual corridors. Additional meetings were held with key stakeholders in October 2011. A public meeting to review the draft report was held on May 21, 2012. Public comments, and written and electronic responses, reflected broad overall support. *The Feasibility Study Corridor Plan and Environmental Assessment for Addison County, Vermont*, was approved by the NPS on December 16, 2013.

The NPS anticipates the cost of constructing and maintaining the Arrowhead reroute and the Vermont extension of the North Country National Scenic Trail would be manageable because the work would be done primarily by volunteers using hand tools, and current NPS staff would provide route planning and support for the volunteers who would help develop and maintain the path.

As an example, the North Country Trail Association and partners have committed to developing the connecting trail segments that will be needed between the end of the Kekekabic Trail and the Chippewa National Forest in Minnesota. Funding would be needed to supply trail markers, signage, tools, equipment, and materials. Recent average expenditures for volunteer supplies have cost the North Country National Scenic Trail approximately \$60,000 per year. The net increase of approximately 546 miles to the current trail would increase operational costs by approximately \$7,000, split between NPS support and that independently generated by the trail chapters and affiliates. The NPS portions could be accommodated within the trail's current budget.

The portions of the North Country National Scenic Trail that have yet to be built have not been laid out in detail. Rather, the studies identified respective corridors several miles wide within which the trail would eventually be laid out. The flexibility provided by these corridors would allow the NPS and its partners to design routes that will minimize the amount of private land involved.

Public Law 111-11, the Omnibus Public Land Management Act of 2009, provides authority for Federal agencies to acquire lands or interests in lands from willing sellers for the North Country National Scenic Trail. As a National Scenic Trail based upon strong public-private partnerships and engaged volunteers, there is an opportunity to implement the proposed re-route and extension through a variety of actions and expenditures. Options for allowing access range from outright donation, to easements and access agreements facilitated by partner organizations, to fee simple acquisition from willing sellers. However, it is the intention of the NPS to pursue donations, easements, and agreements to ensure access whenever possible. Consequently, the NPS is unable to estimate land acquisition costs. However, efforts would be made to keep Federal expenditures to a minimum.

Mr. Chairman, this concludes my testimony. I would be glad to answer any questions that you or other members of the subcommittee may have.