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Statement before the

Subcommittee on National Parks, Recreation and Public Lands

Committee on Resources

United States House of Representatives

Regarding Concessions Management in the National Park Service

By

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Oversight Hearing

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Mr. Chairman and members of the committee, thank you for the opportunity to address the subcommittee this afternoon regarding concessions management in the National Park Service (NPS).

The National Outdoor Leadership School (NOLS) is a non-profit education institution that teaches outdoor skills and leadership to more than 8,800 students each year. Founded in 1965 and headquartered in Lander, Wyoming, NOLS employs more than 800 instructors and staff at nine branches and two professional institutes worldwide. NOLS' mission is to be the leading source and teacher of wilderness skills and leadership that serve people and the environment.

I speak to you today as a wilderness educator, but also as an outfitter - NOLS, like its partner organization, Outward Bound, is a permitted, fee-paying, commercial operator on public lands. In comparison to others you have heard from today, we are a smaller, non-profit, backcountry educator. It is this perspective that I would like to share with you. I will offer our experience with concessions management, placing some emphasis on the aspect of the regulations that we deal with most closely as a smaller operator, commercial use authorizations.

For more than 35 years, NOLS has invested in a strong working relationship and effective partnership with the NPS, and we are pleased to have the opportunity to assist with improving and refining the concessions program. NOLS has considerable experience working with the agency and with its wide array of permit systems, policies and procedures. We hold three concession agreements and 18 Incidental Business Permits to operate in 20 parks.

Overall, we believe that there is much about the concessions program that is working well. Other aspects need improvement. On the positive side, we highlight the following:

The NPS has demonstrated a willingness to work in partnership with organizations like NOLS to bring high-quality education programs to park visitors.

The agency is making progress on establishing guidance for the authorization of small commercial operators, including non-profit organizations.

The agency has remained committed, through statute, policy and regulation, to protecting the natural resources they are charged with managing. We respect and support that commitment and encourage the agency to continue to place the highest priority on the health of the resource.

What needs to change? Having been involved with the evolution of the agency's concession program for

many years, NOLS has experienced directly the effects of a system that lacks procedural consistency and clarity and does not yet place a high enough priority on creating a positive business climate for its commercial partners. We know that the NPS seeks to address these concerns and hope that our comments provide constructive feedback and suggestions for improvement of the program.

Our specific comments are summarized in the following five points:

Procedural consistency and clarity

Stewardship and partnership incentives

Viable business climate

Commercial use authorizations

Fees

1. Consistency and clarity

In the 20 units in which we operate, NOLS' use is generally similar in type and scope. Even so, from park to park, a wide variety of permit mechanisms and procedures are applied to our use. Because of significant differences in individual park procedures, our field staff monitor and manage each park separately regarding permits, payment of fees, operating procedures and reporting. In some cases, this makes sense; for example, it is logical that specific operating procedures for mountaineering activity in Grand Teton National Park would differ from those related to water travel in Dinosaur National Monument. In other instances, it amounts to unnecessary expenditure of time for both NOLS and the agency.

Historically, concession agreements have been granted for larger-scale activities that occur within park boundaries, while Incidental Business Permits (IBP) were issued on a short-term basis to smaller operations that pass through a park. In NOLS' experience, however, and in the language of the Concessions Contracts final rule, the delineation remains unclear. The language in Section 51.17 of the rule, "necessary and appropriate", seems to be the only guidance provided for determining, within each park, whether a concession agreement or an IBP is the appropriate management tool. Both NOLS and Outward Bound have held concession agreements for many years and would like to continue to do so.

The confusion between the two permit mechanisms continues in the recently proposed rule regarding Commercial Use Authorizations (CUA), which is authorized by the 1998 National Parks Omnibus Management Act and will replace the existing IBP system. The proposed CUA rule, published in the Federal Register on November 27, 2002, states that, "Concession contracts may be issued to authorize the provision of services to visitors rather than a commercial use authorization even though the proposed services may be suitable to authorization under a commercial use authorization." NOLS assumes that this leaves the discretion to the park superintendent - the park defines which permit mechanism is appropriate given its mission. While we generally support this kind of local decision making, in this situation, it can lead to inconsistency in implementation across the agency and confusion for commercial operators trying to understand and comply with the system.

An issue that has plagued the concessions program for some time is the treatment of non-profit organizations. Neither the 1998 Act nor the final rule on concessions addressed this topic in adequate detail. We are pleased that the recently released proposed CUA rule begins to deal more specifically with this issue. There remain some gaps and concerns regarding non-profit management that we addressed in our comments on the proposed CUA rule. These comments are included with this testimony as Appendix A. We look forward to continuing to work with the agency on the question of non-profit management.

2. Performance incentives

We strongly encourage the NPS not to overlook the capability of wilderness educators and outfitters and guides to contribute to the protection of park resources and the fulfillment of the agency's mission. By establishing permit mechanisms that reward good performance and encourage partnership, the agency can provide operators with the incentive to offer programs that are compatible with park objectives.

NOLS has experienced significant positive outcomes for both our students and the agency in parks where we have been able to engage land managers in a partnership. For example, each year in Dinosaur National

Monument, Park Biologists meet with our students to talk about the issue of invasive species management - a significant issue along the Green River corridor. Students then participate in weed eradication projects - hands-on learning about stewardship that offers them valuable experience while providing a benefit to the resource and park management. These relationships encourage our continued investment in the park and offer great rewards both to our students and to other park visitors.

We recommend that the agency identify and promote commercial operators who demonstrate a commitment to:

Team with the agency to provide high-quality visitor services and protect the resource.

Team with the agency to provide educational and interpretive services.

Team with the agency to develop programs that meet park objectives regarding visitor diversity.

Provide a reasonable return to the agency.

The concessions program should create incentives for sound resource management and stewardship. Incorporation of resource protection and visitor education and diversity elements in performance standards will establish permittees as partners in ensuring the future health of the resource.

Permitted wilderness educators such as NOLS and Outward Bound provide a valuable service to the public. Our education programs are of the highest quality in the country. We set the industry standard for both Leave No Trace technique and visitor safety in the backcountry. We raise and spend hundreds of thousands of dollars each year to expand the cultural diversity of our student population. We work as partners with the NPS and are committed to resource protection. We encourage the agency to promote a culture that recognizes permittees as legitimate partners in achieving agency objectives and providing visitors with great opportunities to enjoy the outdoors.

3. Viable business climate

In order to promote and support healthy partnerships and good visitor service, the concessions program must recognize the commercial operator's need for a stable and viable business climate. Components of a program that will support healthy operators in the parks include:

Reasonable terms for permits that will ensure business stability and planning,

Performance-based renewal preferences for operators that consistently provide high-quality service and are responsive to the agency,

Adequate notification of permit award and changes in permit procedures, and

Reasonable fees.

The concessions regulations stipulate a standard term of ten years for concession contracts, with deviation from that term to be determined by the Director or an authorized representative. This term adequately acknowledges a concessionaire's need for time to make long-term investments in a park.

Not all agreements are managed this way, however. In many cases, this makes sense, since the vast majority of commercial operators do not make large capital investments in parks or have significant possessory interest. Nonetheless, an adequate term is critical. One of NOLS' concession permits is renewed every ten years - an optimal term in our opinion - while the others are currently reviewed on an annual basis. All of our Incidental Business Permits are awarded for a period of one or two years. I will address this issue, along with performance-based renewal, in the following section regarding Commercial Use Authorizations.

To maintain high-quality visitor programs, commercial operators need adequate notice regarding the issuance of prospectuses and the final decision to award an agreement. Ideally, a prospectus would be issued at least 16 months in advance of the expected start date and award would occur nine to 12 months in advance. In some cases, the permit award happens only weeks or days prior to the start of an operator's program. Adequate timing respects the need for operators to plan, advertise, enroll courses, develop curriculum, engage instructors and define logistics that will ensure a safe and high-quality program.

4. Commercial use authorizations

Historically, the concessions reform discussion has focused on the large concessions contracts that provide hospitality-based services in the parks. In reality, the vast majority of commercial operations are small, often family-owned businesses governed by the Incidental Business Permit system that issues short-term permits with no Congressional authority. In previous testimony, both NOLS and Outward Bound have expressed concern that the 1998 Act and ensuing concession regulations do not address adequately the agency's authorization of small commercial operators.

As a result, we are very glad to see that the agency is now making progress on this topic through the creation of guidance for issuing Commercial Use Authorizations (CUAs), which are designed to replace the IBP system. On November 27, 2002, the NPS released a proposed rule under Section 418 of the 1998 Act and requested public comment. Along with many others, NOLS evaluated the rule and submitted written feedback to the agency (please see Appendix A). We have since learned that the agency will soon form a working group of stakeholders to help shape the final regulation. We look forward to working with the NPS as part of this group.

While it is not appropriate to repeat the detail of our comments on the proposed CUA rule here, I will highlight two primary concerns that relate directly to this testimony.

Permit term and the random selection of small commercial operators

This issue relates to the question discussed earlier in this testimony of maintaining a viable business climate for commercial operators. The proposed CUA rule provides the Director with the authority to limit the number of CUAs issued for a particular type of service. As proposed, permit award will be accomplished by random selection and incumbent holders will have no right or preference for renewal. NOLS supports use allocation for the purpose of resource protection and we appreciate the difficulty the agency faces in developing a system for allocating commercial use that attains its goal of protecting the resource while being equitable and encouraging investment in high-quality programs. However, a system, such as the proposed rule, that combines random selection of CUA holders with a short, two-year term and no renewal preference will strongly discourage smaller commercial operators or non-profit educators like NOLS.

NOLS invests a substantial amount of time developing education and wilderness skills programs that are specific to the unique characteristics of a park unit or geographical area. Development of a program involves considerable research, site visits, and building relationships with local land managers who often help us design and implement volunteer service projects for our students inside the park. We are reticent to go to these lengths when we are uncertain that the program will continue for more than two years. The combination of the three factors for managing CUAs as proposed - random selection, no right of renewal, and a two-year term - gave us cause for great concern, which we expressed directly to the NPS concessions program staff. They heard our concerns and have offered us an opportunity to be involved in discussions to re-evaluate the rule.

Performance-based incentives

As an alternative to a system that offers no renewal preference for CUA holders, NOLS encouraged the agency to adopt a performance-based renewal system that rewards operators who meet and maintain high service and permit standards. We believe that such a system will encourage outfitters to continue to learn, to consider the impact of their operation on the resource, to be accountable, and to establish good working relationships with park managers. It rewards commercial operators for the right reasons. Though it would undoubtedly introduce some additional administrative burden, we believe that a performance-based permit renewal system, would best serve the public, the resource, the agencies and commercial operators.

As mentioned earlier, NOLS is pleased that the NPS has begun the process of defining guidance for the management of small commercial operators. This development fills a critical gap in the concession regulations. We look forward to assisting with the effort.

5. Fees

In the past, both NOLS and Outward Bound have provided testimony on the topic of fees for concessions. Our comments today remain consistent with past testimony and are summarized in the following four brief statements.

Fees should provide a fair return for the privilege of operating in the parks

NOLS does not object to paying reasonable fees for the opportunity to teach students in the national parks. We have paid fees for more than 35 years and support the agency's goal of earning a fair return from commercial operators. That said, we also support the stipulation in Section 51.17 of the concessions regulations that "consideration of revenue to the United States will be subordinate to the objectives of protecting, conserving and preserving resources of the park area and of providing necessary and appropriate visitor services to the public at reasonable rates."

We feel strongly that the agency should avoid resorting to a system based on competitive fee bidding. While such a system may benefit agency revenue, it is contrary to the regulation language above and, in the long term, would likely be harmful to the resource and to small commercial and non-profit educational operators.

Fees should be consistent

As mentioned earlier in this testimony, NOLS is accustomed to a wide variety of permit terms and procedures across the 20 parks in which we operate. Fee terms are no exception. In Dinosaur National Monument, for example, we pay three percent of our gross revenue earned within the park under our concession agreement each year. In Grand Teton, we pay ten percent of gross revenue for a concession agreement. Our IBP fees range from an annual fee of \$300 in Glen Canyon National Recreation Area to three percent of gross revenue in Olympic National Park, which, in 2002, amounted to \$6,600 for that park alone.

In addition to the variance in fee amounts, we experience a plethora of fee structures. In some parks, we pay an application fee and a base fee for access, while in others, our fee burden is multi-faceted and open-ended. In Mount Rainier National Park for example, we pay an application fee, a monitoring fee, a per-person special use fee and a park entrance fee.

Generally, the sum of fee layers within each park amounts to three to six percent of our park-based revenue. At one park in Colorado, however, Outward Bound pays 12 percent of its revenue after all the fee layers are consolidated. Depending upon what happens to fees over time, the cumulative impact of such layered fees could become substantial.

We encourage the agency to consider a standard approach to fees that will minimize layering, consider the cumulative fee burden for each permit, and make the system easier to understand, implement and comply with.

Fees should be clearly defined in advance

When finalized, the CUA rule will grant the NPS full legal authority to implement the CUA system, including greater flexibility, more control, and the ability to collect more in fees than the current IBP system allows.

NOLS supports the codification of the system. We also support the agency's objective to charge a "reasonable" fee for commercial use. We have asked, however, that the agency carefully consider the potential impact of a fee increase, and that ample notification be provided so that permittees know what kind of an increase to expect and when to expect it. Because NOLS holds permits in so many units of the park system, an increase in fees, depending upon its size, may have a significant impact on our operation and its financial picture. As a non-profit educational institution, we struggle to keep our tuition affordable to a diverse group of students - any cost increases that we incur must be passed on to them. We ask the agency to consider placing a cap on the amount of fees, whether it be a set dollar amount or percentage-based fee.

The proposed CUA rule states that the fee for a CUA "may also include the costs for the maintenance and repair of park area resources impacted by the holder's activities." Without further definition, this statement seems unreasonably open ended. NOLS recommends that CUA agreements clearly define expectations and performance standards and that any potential impacts and remediation requirements be identified at the start of the permit term. Ideally, the NPS and the operator will communicate with regularity to ensure that both sides are satisfied with the expectations and performance of the operator.

Fees should supplement rather than supplant adequate congressional appropriations for parks and should be retained in the field

The proposed CUA rule states that all fees paid for CUAs will be expended in the park where collected to pay for management and administrative costs associated with CUAs. Under the premise that the primary purpose of a fee is to generate funds for maintaining the quality of the natural resource, NOLS supports a fee system that keeps revenues in the units that generate them rather than returning income to the general treasury.

In closing, we reiterate that effective and efficient concessions management should work to strengthen relationships and partnerships by recognizing and sustaining the highest quality visitor services while preserving the resource for the future. We encourage the NPS to strive for high-quality visitor services through incentives and performance-based permit management.

The Concessions Management Act states that, "The National Park Service shall utilize and encourage concessions to play an essential role to protect park resources and provide for their enjoyment." This language clearly portrays the intent of Congress to include commercial operators in fulfilling the agency mission. As an educator, commercial operator, and agency partner, NOLS appreciates and supports this philosophy.

Thank you for this opportunity. NOLS appreciates deeply the partnership we have built and continue to build with the Park Service. We look forward to working with the agency to further define and enhance the concessions program.

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