

STATEMENT OF C. BRUCE SHEAFFER, COMPTROLLER, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND ENVIRONMENTAL REGULATION OF THE HOUSE NATURAL RESOURCES COMMITTEE, CONCERNING H.R. 3286, TO DIRECT THE SECRETARY OF THE TREASURY TO REIMBURSE STATES THAT USE STATE FUNDS TO OPERATE NATIONAL PARKS DURING THE FEDERAL GOVERNMENT SHUTDOWN, AND FOR OTHER PURPOSES.

November 21, 2013

Mr. Chairman, thank you for the opportunity to appear before you today to provide the Department of the Interior's views on H.R. 3286, a bill to direct the Secretary of the Treasury to reimburse States that use State funds to operate National Parks during the Federal government shutdown, and for other purposes.

H.R. 3286 directs the Secretary of the Treasury to reimburse any State for funds expended for an activity conducted in FY 2014 during the government shutdown that was necessary to operate a national park located within the State. Reimbursement would be provided only for activities authorized under federal law and conducted in a manner and at approximately the same level in scope and cost as they would have been conducted by the Federal government.

From October 1 through October 16, 2013, the National Park Service, along with other bureaus and offices of the Department of the Interior, implemented a shutdown of our activities due to a lapse in appropriations. Under the closure determination and notice issued by the Director of the National Park Service, and consistent with applicable law, the National Park Service closed and secured all 401 national parks across the country, suspended all activities, and furloughed more than 20,000 National Park Service employees.

In response to the economic impacts that the park closures were having on many communities and local businesses, as the shutdown entered a second week, Secretary Jewell announced that the Department would consider agreements with Governors who indicated an interest and ability to fully fund National Park Service personnel to reopen specified national parks in their States. Six States – Arizona, Colorado, New York, South Dakota, Tennessee, and Utah – signed donation agreements with the Department to open a total of 13 park units that are all significant contributors to tourism in the States where they are located. State donations through these agreements totaled approximately \$3.6 million. Once these agreements were signed and the funds were transferred, the National Park Service reopened the national parks in accordance with the specific agreements.

Under the terms of the agreements, the States donated to the National Park Service lump sum payments in advance to cover the cost of operating the parks for a specific number of days. The employees who returned to work in these parks during the shutdown were paid for these days out of the funds donated by the States. When Congress passed a continuing resolution providing appropriations for the first three and a half months of FY 2014 on October 16, the National Park

Service was able to resume operations on October 17 and stop charging employee time against the funds that had been donated by the States.

Once the shutdown ended, the National Park Service immediately began the process of reimbursing the six States for the portion of donated funding that was not expended to operate the parks, which totaled approximately \$1.6 million. However, the National Park Service does not have the authority to reimburse States for the portion of funding that was expended; an act of Congress is needed for that. H.R. 3286 would provide that authority.

We estimate this legislation would cost the U.S. Treasury approximately \$2 million and would be subject to Pay-As-You-Go requirements.

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

STATEMENT OF C. BRUCE SHEAFFER, COMPTROLLER, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND ENVIRONMENTAL REGULATION OF THE HOUSE NATURAL RESOURCES COMMITTEE CONCERNING H.R. 3294, TO ESTABLISH A STREAMLINED PROCESS THROUGH WHICH A STATE MAY CLAIM AUTHORITY OVER AND RESPONSIBILITY FOR MANAGEMENT OF FEDERAL LANDS LOCATED IN THE STATE WITHOUT CLAIMING OWNERSHIP OF THE LAND, AND FOR OTHER PURPOSES.

November 21, 2013

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to provide the views of the Department on H.R. 3294, a bill to establish a streamlined process through which a State may claim authority over and responsibility for management of Federal lands located in the State without claiming ownership of the land, and for other purposes.

The Department strongly opposes H.R. 3294. This bill would seriously undermine the longstanding framework established by Congress for the management of Federal lands under the stewardship of the National Park Service, the Bureau of Land Management, the U.S. Fish and Wildlife Service, and the U.S. Forest Service. The lands managed by these bureaus belong to all Americans, not just the residents of the States in which they are located, and therefore should continue to be managed in accordance with laws established by the Federal government, not individual State governments.

H.R. 3294 would allow a State to submit a petition to enter into a cooperative agreement with the Secretary of the Interior or Secretary of Agriculture (Secretary) for purposes of managing certain qualifying Federal lands located in the State. The bill would require the Secretary to approve or deny such a petition not later than 90 days after the date on which the Secretary receives the petition if the Secretary determines that the petition meets certain criteria identified in the bill. The bill provides conditions for the submittal of a petition by the State, and for the denial of a petition by the Secretary.

The bill provides that State laws shall supersede Federal laws on the qualifying Federal lands administered by a State under a cooperative agreement to the extent that such laws are more restrictive than the corresponding Federal laws. The bill also provides that the United States shall retain all right, title, and interest in and to such lands, and provides for conditions under which a cooperative agreement authorized under this bill shall terminate.

The Department has a number of concerns with H.R. 3294. Our fundamental concern is that the bill would erode the idea of a Federal system of public lands, and the system of laws, regulations, and policies that govern the management of those lands. The management of Federal lands involves the exercise of inherently Federal functions and decision making by land managers to make decisions for the long-term benefit of all Americans. State governments have very different responsibilities for the management of State lands than the Federal government, and are accountable only to residents within their particular States. Accordingly, each State would be under strong pressure to manage according to local rather than the national interest.

H.R. 3294 would allow a State to take over the administration of lands that are currently managed by four separate bureaus with different missions. Each of these land management bureaus is governed by different laws, regulations, and policies, and they are responsible for managing resources for different purposes. It would be virtually impossible for a State to fully carry out each of the individual missions of these bureaus, and to provide for the long-term management of these Federal resources for the benefit of all Americans.

For example, many National Wildlife Refuges were established as stopover and wintering habitat for migrating birds. They are managed as a system so that the location and timing of food and cover are available to waterfowl and other migratory birds where and when they need it - during spring and fall migrations and breeding and wintering seasons. Ensuring the coordinated management of these migratory species across multiple states and even international borders is most effectively coordinated by the Federal government.

This bill would not only compromise the statutory protection that Congress has provided to these lands, but may also cause legal confusion for Federal agencies, partners, and stakeholders. State management of Federal lands would eliminate consistency and predictability for companies and partners that invest resources in long-term or large-scale projects on Federal lands, or that rely on Federal laws that authorize partnerships, business services and uses related to these lands, such as lease-holders, miners, ranchers, right-of-way holders, commercial guiding operations, concessions, cooperative associations, and non-profit educational institutions. It may also introduce a new risk of potential liability for the Federal government, States, and others conducting activities on Federal lands during the interim.

While the Department opposes being required to enter into agreements with States to manage Federal lands, we recognize that it is productive to have some discretionary authority to enter into agreements to share management responsibilities with States and localities, where it is appropriate. Land management agencies already have the necessary authority to enter into cooperative agreements with States to carry out legally authorized activities for a public purpose. In addition, other authorities exist that promote shared responsibilities.

The National Park Service, for example, has authority to enter into cooperative management agreements with States where the sharing of resources provides for more effective and efficient administration of the park lands. But the law that permits cooperative management agreements for park lands specifically prohibits the transfer of administration responsibilities for National Park System units to other entities. Similarly, the U.S. Fish and Wildlife Service has authority to enter into agreements with States under the Fish and Wildlife Coordination Act of 1956, but is not authorized under the National Wildlife Refuge System Administration Act to transfer administration of the Refuge System. And, the Bureau of Land Management also has broad authority, under the Federal Land Policy and Management Act, to enter into cooperative agreements related to the management, protection, and development of public lands. The Bureau of Land Management has a variety of agreements with State and local law enforcement agencies, including contracting with a State law enforcement agency to provide dispatch services and supplemental patrols on public lands during high-use periods.

In addition, there may be individual cases where it makes sense to have a cooperative management arrangement between a Federal land management agency and a State. For example, the City of Rocks National Reserve, which is Federally-owned, is cooperatively

managed by the National Park Service and the Idaho Department of Parks and Recreation. That management arrangement was authorized by Congress specifically for that site. The Department believes these types of management arrangements should continue to be considered on a case-by-case basis.

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

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November 21, 2013

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to provide the views of the Department on H.R. 3311, a bill to direct the Secretary of the Interior to enter into agreements with States to allow continued operation of facilities and programs that have been determined to have a direct economic impact on tourism, mining, timber, or general transportation in the State and which would otherwise cease operating, in whole or in part, during a Federal Government shutdown that is the result of a lapse in appropriations, and for other purposes.

The Department strongly opposes H.R. 3311. We have a great deal of sympathy for the businesses and communities that experienced a disruption of activity and loss of revenue during last month's government shutdown and that stand to lose more if there is another funding lapse in the future. However, rather than only protecting certain narrow sectors of the economy (and only the portions of those sectors associated with Department of the Interior activities) from the effects of a government shutdown in the future, Congress should protect all sectors of the economy by enacting appropriations on time, so as to avoid any future shutdowns. In addition, the proposed legislation would be a poor use of already strained Departmental resources to prepare what could be an enormous number of different types of agreements with State governments, just for the possibility that a funding lapse might occur in the future. Furthermore, this bill would seriously undermine the longstanding framework established by Congress for the management of Federal lands under the stewardship of the Department of the Interior by allowing States to carry out activities that are inherently Federal in nature.

H.R. 3311 would require the Secretary of the Interior to enter into agreements with States to provide for those States to conduct Federal Government activities that are necessary to operate facilities or programs that have a direct economic impact on tourism, mining, timber, or general transportation. The agreements would be for activities a State conducts during a time when the Federal government was not conducting the activity due to a partial shutdown resulting from a lapse in appropriations. The bill sets out a process for States to petition the Secretary to enter into an agreement and for an agreement to be approved whether a Federal government shutdown appears imminent or not. It also requires the Secretary to reimburse a State for activities conducted by the State within 90 days after the funds are made available to the Secretary.

The lapse in government funding that resulted in a partial shutdown of the Federal government from October 1 through October 16, 2013, was the first such shutdown to occur in 17 years. As the shutdown entered its second week, the National Park Service entered into donation agreements with six States to accept from those States the donation of funds necessary to allow the National Park Service to temporarily reopen 13 national park units. In these cases, the States were concerned enough about the loss of economic activity associated with certain national parks to use their own funds to alleviate the impact of park closures.

These agreements did help a select number of businesses and communities. However, even as we appreciated being able to help those few businesses and communities around the parks that were reopened, we recognized the unfairness of the situation across the country. These agreements did not begin to address the impacts of the closure of all 401 national park units, let alone all of the other activities managed by the Department or the Federal government. These agreements should not be held up as a model of how the Federal government should do business. They were designed to be temporary, emergency measures for some individual situations, and would not necessarily work for other Departmental activities associated with the four industries identified by H.R. 3311, nor could they come close to ameliorating the many negative impacts of a shutdown. Such agreements are not an appropriate solution for allowing appropriations to lapse and causing a shutdown.

Additionally, the types of temporary, emergency measures contemplated by H.R. 3311 would introduce further uncertainty for businesses that rely on Federal land activities, as the entity responsible for managing the lands could change depending on the status of appropriations. Furthermore, the variety of activities which occur on these Federal lands, including mining and timber harvest, would be particularly difficult to manage on an interim, individual basis. It may also introduce a new risk of potential liability for the Federal government, States, and others conducting activities on Federal lands during the interim.

Finally, H.R. 3311 would allow States to carry out activities, including the operation of facilities or programs, which would otherwise be conducted by the Federal government. The management of Federal lands involves the exercise of inherently Federal functions and decision making by land managers for the long-term benefit of all Americans. State governments have very different responsibilities for the management of state lands than the Federal government, and are accountable only to residents within their particular states. Accordingly, each State would be under strong pressure to manage according to local rather than the national interest.

The recent Federal government shutdown had terrible impacts for American citizens, businesses, communities, States and the economy as a whole. These impacts are summarized in the report released by the Office of Management and Budget this month entitled “Impacts and Costs of the October 2013 Federal Government Shutdown” (November 2013). The report makes clear that the economic effects of the shutdown were felt far beyond the tourism, mining, timber, and transportation sectors. Any change in law to try to address the impacts of a shutdown on these particular industries, or on any sectors of the economy, in advance of a future Federal government shutdown, is not a responsible alternative to simply making the political commitment to provide appropriations for all the vital functions the Federal government performs.

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