

**American Alpine Club Northwest Region, American Whitewater,
Evergreen Mountain Bike Alliance, Mountains to Sound Greenway Trust
The Mountaineers, Washington Trails Association, Washington Wild**

April 3, 2014

The Honorable Rob Bishop, Chairman
House Subcommittee on Public Lands and Environmental Regulation
1324 Longworth House Office Building
Washington, DC 20515

The Honorable Raul Grijalva, Ranking Member
House Subcommittee on Public Lands and Environmental Regulation
1324 Longworth House Building
Washington, DC 20515

Dear Chairman Bishop, Ranking Member Grijalva, and Members of the Committee:

We are writing regarding the subcommittee hearing scheduled for April 4, 2014. We respectfully request that this letter be included in the hearing record.

The undersigned organizations **strongly support reauthorization of the Federal Lands Recreation Enhancement Act** ("FLREA"). We appreciate the work of the subcommittee to consider revisions to the current FLREA law (16 USC 6801 et seq., 118 Stat. 3377 (Dec. 8, 2004)).

Our organizations represent a broad range of human-powered outdoor recreation enthusiasts in Washington State and come together as a coalition on recreation and conservation issues. Collectively, we represent over 35,000 members in Washington and contribute more than 165,000 hours of volunteer work annually to public lands across the region. Our members purchase and benefit from the Northwest Forest Pass, and we have a very strong stake in the future of the program, which is authorized under FLREA.

User fees were authorized as a demonstration program through the appropriations process in 1997. FLREA created a federal framework for user fees in 2005, instituting the standard and expanded amenity fee approaches. In 2012 alone, FLREA revenues to Region 6 National Forests totaled \$8.8 million, which the Forest Service used to maintain sites across Oregon and Washington. By working with volunteer trail maintenance organizations, Region 6 is able to leverage those funds many times over.

FLREA provides an important source of funds for federal land managers due to continual declines in agency funding. Agencies are dependent on FLREA revenue to offset the costs of maintenance on federal lands because of steep reductions in agency funding over the past few decades. **We strongly urge Congress to increase agency funding to 2010 levels.** Although full funding levels are likely much higher, a return to the funding levels of FY2010 would be a reasonable intermediate step towards adequately funding the agencies. **Even if funding is returned to 2010 levels, FLREA will continue to be a critical funding mechanism for agency operations.**

The following are our comments on specific sections in the FLREA Discussion Draft. We hope our recommended improvements provide clarity to ensure that fees are used to enhance recreation opportunities on America's public lands.

Section 804. Day-Use Fees

As written in Section 804 (a)(2), user fees would only be applicable on recreation sites that feature "regularly serviced and well maintained toilet facilities and contains at least 3 of the following amenities: (a) trash collection, (b) permanent interpretive materials, (c) picnic tables and (d) routine presence of agency law enforcement."

We appreciate that Sec. 804 (a)(2) allows more flexibility to agencies in deciding which amenities are appropriate for recreational facilities. Under current law many recreational facilities that would benefit from user fees are inappropriate locations for some of the six required amenities. For example, much of United States Forest Service Region 6 is black bear country. Generally speaking, unattended garbage cans are nuisances at best, and dangerous incentives for problem bears at worst. Under the discussion draft, the agency has the flexibility to decide which of the three out of the four amenities makes the most sense based on the recreational facility use and location.

Section 807. Special Recreation Permit Fees

The inclusion of backcountry travel, river running, and bicycling in Section 807(a) inappropriately links these activities with those that are otherwise high-impact or consumptive when applying a fee. We recognize any use may rise to a level that becomes unsustainable on the landscape, and that, in those situations a fee may be necessary to recover the costs of managing the activity and mitigating the impacts. However, the determination must be made through the land management planning process and must be made based on the effect of the activity, not the activity itself.

Our recommendation:

We request that the Subcommittee remove Subsections (a)(7), (a)(8), and (a)(9) and create a new section addressing areas where high demand exceeds the carrying capacity of the land. This section should apply where an agency has determined, through the land management planning process, that impacts to an area necessitate permitting to manage use to sustainable levels. In such a situation, agencies should be able to recover only the costs of mitigating the impacts of high use in that area and administering the permitting process through user fees.

In addition, as proposed, we are concerned by the cost recovery language of Section 807(b). As it is currently worded, authorizing the agencies to recover costs "associated with the activities authorized under 807(a)" would shift virtually limitless costs to special recreation permit holders.

Our recommendation:

For low impact recreation users and the organizations facilitating these activities, fees in Section 807(b) should be limited to the costs of administering the program that can be reasonably attributed to the user impact.

Section 812. Expenditures

We appreciate that the discussion draft recognizes the enhancement of recreation opportunities, such as trail maintenance, as a valid fee revenue use (Sec. 812 (a)(1)). While it's obvious that amenities must

be maintained and repaired to comply with FLREA, it is equally important to recognize that the majority of people purchasing day-use fee (Sec. 804) passes are doing so to engage in the local recreational opportunity (ex. hiking, biking trails) afforded by the recreation facility. We believe that revenue generated by FLREA should be prioritized for the enhancement and maintenance of those recreational opportunities in addition to the maintenance and repair of the five amenities listed in Sec. 804.

Our recommendation:

Prioritize the enhancement of recreation opportunities (Sec. 812 (a)(1)) for the use of fee revenue.

Regarding overhead, the discussion draft limits overhead and administrative costs to five percent of total revenues. However, it then authorizes the use of up to twenty percent of total revenue for "direct fee collection costs." When combined, this means that 25% of total revenue can be used for the costs of administering the fee collection system. This is a significant increase over the 15% authorized under existing law. The law should be written to encourage agencies to keep administrative costs down and devote as much of the revenue as possible to maintenance and improvement of recreation facilities and trails.

Our recommendation:

We urge the committee to preserve the 15% limit.

Concessionaire Fee Authorization

We support FLREA in allowing the authorization of federal land managers to collect and retain fees to areas that have significant operational costs and provide significant services to users. We are concerned by the March 28th, 2014 US District Court decision¹ (District of Columbia) which found that concessionaires of land management agencies are not held to the same FLREA standards as land management agencies. The court's decision allows concessionaires to continue charging fees for more than the direct use of services and amenities that they provide. We are concerned that this decision will give private businesses the ability to charge for access to public lands in ways that land agencies cannot under FLREA, and therefore negatively impact public access.

Our recommendation:

Concessionaires should be subject to the same fee restrictions as land management agencies are mandated by FLREA.

Site-Specific Agency Passes

We support the inclusion through section 809(h) Site-Specific Agency Passes of the opportunity for 12 month passes rather than only day-use, but are concerned that as written this section is vague and could be interpreted to allow the development of passes for locations where they would not otherwise be required.

Our recommendation:

Clarify that the section can only be applied when the site meets the requirements of Section 804 Day-Use Fees or Section 805 Entrance Fees.

The recommended changes listed above will make FLREA more flexible and responsive to the needs of the public and land management agencies, will ensure that the program addresses the overwhelming

¹ BARK, et al. v. U.S. Forest Service, et al., 1:12-cv-01505-RC (D. D.C. March 28, 2014).

need for maintenance of trails and other recreation facilities on our public lands, and will provide opportunities for the public to engage on the management of the public lands they enjoy.

Thank you for the opportunity to provide our comments on the reauthorization of the Federal Lands Recreation Enhancement Act.

Sincerely,

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Washington Trails Association

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