

**Association of Outdoor Recreation and Education • The Mazamas
The Mountaineers • Washington Trails Association
The Wilderness Society**

July 29, 2014

The Honorable Doc Hastings, Chairman
House Committee on Natural Resources
1324 Longworth House Office Building
Washington, DC 20515

The Honorable Peter DeFazio, Ranking Member
House Committee on Natural Resources
1324 Longworth House Building
Washington, DC 20515

Dear Chairman Hastings, Ranking Member DeFazio, and Members of the Committee:

The undersigned organizations respectfully submit this supplemental statement for the record on H.R. 5204, entitled Federal Lands Recreation Enhancement Modernization Act of 2014 (FLREMA). This bill would reauthorize with amendments the Federal Lands Recreation Enhancement Act, 16 USC § 6801 *et seq.*, 118 Stat. 3377 (Dec. 8, 2004) ("FLREA"). The Subcommittee on Public Lands and Environmental Regulation held a hearing on an earlier discussion draft of a FLREA reauthorization bill on April 4, 2014. Our organizations submitted a statement for the record prior to the hearing. In addition, The Wilderness Society submitted a supplemental statement after the hearing. We write today to provide comments on H.R. 5204, which is scheduled for markup on July 30, 2014.

We believe that FLREA should be reauthorized, and applaud the committee for working to develop a reauthorization bill. We support the following aspects of H.R. 5204:

- H.R. 5204 eliminates the expanded cost recovery authority that would have been conferred by section 807(b) of the April 4 Subcommittee discussion draft. This will reduce the likelihood that outfitters and guides will be charged excessive fees to obtain outfitter-guide permits.
- Section 4(g) of H.R. 5204 preserves the stewardship credit pilot program that will allow special recreation permit holders to perform stewardship work on Forest Service and BLM lands in exchange for credits against their special recreation permit fees [to be inserted in 16 U.S.C. 6802(h)(7)]. This should help the agencies address their significant maintenance backlogs.
- Section 8(c) would revise 16 U.S.C. 6807(c) to specifically direct the agencies to use revenue from special recreation permit fees to partially offset the direct costs of permit administration. This may help the agencies address the significant backlog in permit requests, which could in turn help get more people out on public lands.

- The public participation provisions in section 5 are an improvement over existing law.

While these changes are a positive development, other provisions in H.R. 5204 raise significant concerns for our members and partner organizations. We urge the Committee to eliminate these provisions during the markup.

Statutory Definition of "Recreation Service Provider"

Section 3(d) of the revised bill would insert a definition of "Recreation Service Provider" in 16 U.S.C. 6801. Under this definition, a recreation service provider is "any entity that provides any recreation service on federal recreational lands and waters where the provider charges a fee for the service." When read in conjunction with revised section 6802(h), this definition would authorize agencies to require organizations that provide recreation services for a fee to have special recreation permits in order to use public lands. Fees of any amount would trigger the permit requirement.

Under existing agency policy, land managers generally require organizations that charge fees to obtain special recreation permits. Consequently, including this provision in FLREMA is unnecessary.

Furthermore, codifying this definition will limit agency discretion, and have the effect of making these permits mandatory whenever fees are charged. The broad application of a permit requirement to any organization that charges a fee, regardless of amount, fails to take into account fundamental differences in the nature of organizations that take people out onto public lands. Small nonprofit organizations that charge nominal fees to provide first time experiences to young people on public lands should not be subject to the same complicated permit requirement as business operations that service many thousands of people each year. The codification of a broad permitting requirement will subject these organizations to a burdensome permitting process, and make it more difficult for them to provide young people with valuable outdoor experiences.

Rather than making these permits a *de facto* statutory requirement, we urge the Committee to eliminate the definition of recreation service provider from the revised bill and leave the decision of when to impose a permit requirement to the discretion of the agency.

Fee Exemption for Schools and Academic Institutions

Existing section 6802(d)(3)(B) of Title 16, U.S. Code, provides an exemption from entrance and standard amenity recreation fees for "[o]utings conducted for noncommercial educational purposes by schools or bona fide academic institutions." Section 4(c)(2) of the bill would narrow this exemption significantly, so that it would only exempt "[o]utings conducted for noncommercial, non-recreational educational purposes by schools or bona fide academic institutions where the students are pursuing academic credit and the Secretary has provided prior approval for a fee waiver."

As a result of this change, schools and academic institutions providing outdoor experiences to students on public lands will be required to pay entrance and day use fees in more

circumstances. The additional fees will discourage school groups from visiting federal lands, which will result in fewer opportunities for students to experience these special places.

At a time when young people are increasingly disconnected from the natural world, this is the wrong approach. We urge the Committee to reject the revisions to section 6802(d)(3)(B) in the revised draft and leave this section as it appears in current law.

Special Recreation Permits

Section 4(g) of H.R. 5204 makes changes to existing policy regarding the issuance of special recreation permits for outfitting and guiding. We applaud the Committee for recognizing that the outfitter-guide permit system is broken in certain respects and needs to be updated. In many areas of the country, organizations (both for-profit and nonprofit) that would like to take people out on public lands are completely unable to obtain the required outfitter-guide permits.

Unfortunately, H.R. 5204 takes a somewhat piecemeal approach to addressing this problem. We would prefer a more comprehensive solution that takes into account the needs of all of the different types of organizations that would like to provide recreational and educational opportunities on public lands. We are particularly interested in solutions that make it possible for organizations to provide these opportunities to underserved urban communities that generally do not use the services of traditional outfitter-guides. A comprehensive approach that expands opportunities for all types of service providers would be preferable to the limited changes set forth in the bill. While it may be too late to undertake broader reform as part the FLREA reauthorization bill, we urge the Committee to take up a broader reform proposal at its earliest opportunity.

Congressional Approval of New and Increased Fees

Section 4(h) of the bill would insert subsection (l) into 16 U.S.C. 6802. New section 6802(l) would require an Act of Congress to increase entrance, day use, or amenity fees or impose new fees. Under this subsection, an agency that installs the required amenities at a trailhead would be required to wait for Congressional approval to impose a fee at that location. This is not practical or workable. The agencies should have the discretion to impose fees when the statutory requirements are met and the public has been given notice and an opportunity to comment. We urge the Committee to delete this provision from the bill during markup.

Sunsetting

Section 10 of the bill would sunset FLREMA on December 31, 2020, which is just over six years from now. We believe six years is too short for reauthorization, and recommend that FLREMA, if amended in accordance with these comments, be reauthorized for ten years.

Conclusion

We thank the Committee for the opportunity to share our views on H.R. 5204.

Sincerely,

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