

American Whitewater • The Mountaineers • Washington Trails Association

October 1<sup>st</sup>, 2015

The Honorable Lisa Murkowski, Chair  
Senate Energy and Natural Resources Committee  
304 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Maria Cantwell, Ranking Member  
Senate Energy and Natural Resources Committee  
304 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chair Murkowski, Ranking Member Cantwell, and Members of the Committee:

We are writing regarding the committee hearing held September 17th on the Federal Lands Recreation Enhancement Act ("FLREA"). The undersigned organizations strongly support reauthorization of FLREA (16 USC 6801 et seq., 118 Stat. 3377 (Dec. 8, 2004)), but believe that certain elements of the law should be considered for revision. We respectfully request that this letter be included in the hearing record.

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 on 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 2014 alone, FLREA revenues for the National Forests in Washington and Oregon totaled \$9.5 million. Approximately 80-95% of the funds collected under FLREA are reinvested in the facilities and services that visitors enjoy, use, and value.

These include:

- Public safety
- Recreation site maintenance and improvements
- Educational experiences
- Informational wayside exhibits
- Youth programs and partnerships
- Interpretive programs

By working with volunteer trail maintenance organizations, the Forest Service is able to leverage those funds many times over. As an example from Olympic National Forest, Washington Trails Association helped maintain 92 miles of trail on about 23 trails there. Recreation fee revenue contributed \$26,600 to an agreement with WTA that provided one crew leader and 11,000 volunteer hours. **This commitment is roughly equivalent to employing 6 full time employees for a monetary value of \$248,000 annually.** Volunteer projects need to be organized and managed—somebody needs to promote the events, bring the tools, and buy the coffee—but the small investment in recreation fees to do so resulted in a nearly ten-fold increase in on-the-ground results.

While FLREA provides an important source of funds for federal land managers due to continual declines in agency funding and the increasing percentage going to wildfire, it should not be considered a substitute for adequate funding for federal land management agencies. 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 FY 2010 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.

Outdoor recreation is a \$22 billion business in Washington State that directly supports 200,000 jobs. These jobs extend to every county of the state, which is a trend that we see across the nation, where the outdoor recreation represents a \$646 billion industry supporting \$6.5 million jobs nationwide. The jobs depend on protected lands and water, as well as sufficient investment in infrastructure—roads to trailheads, river access sites, hiking and biking trails, etc.—and user fees alone should not be considered a substitute for an appropriate federal investment in this sector of our national economy.

During the recent hearing concerns were expressed with continued increases in user fees. We share these concerns, but the resources to manage public lands and provide quality experiences need to come from somewhere. Congress needs to provide an adequate investment to keep recreation on public lands to provide an experience that is safe, fun, and affordable while providing critical economic benefits to local communities that serve as the gateway to our public lands.

The following are our comments on specific areas where FLREA should be improved with reauthorization.

Issue: Existing law is internally inconsistent about whether agencies can collect fees from a hiker using a trail within an area that has the standard amenities (parking, toilet, trashcan, interpretive signage, picnic tables, security) if the hiker does not specifically use those amenities. More broadly, the focus on collecting fees for use of an "area" with these amenities and not the underlying

infrastructure—e.g. the trail—creates ambiguity that should be resolved with reauthorization.

Our recommendation: FLREA should be reauthorized to provide land management agencies with more flexibility to decide 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. The agency should have more flexibility to decide which of the amenities makes the most sense based on the recreational facility use and location. That being said, we generally agree that human waste needs to be appropriately managed at any facility where fees are charged. Additionally, the underlying recreational infrastructure—e.g. the trail—should be considered as one of the amenities.

Issue: Some have proposed special recreation fees for specific activities that may include backcountry travel, river running and bicycling. We recognize any use may rise to a level that becomes unsustainable on the landscape, and that in those situations, use limits may be imposed and a fee may be necessary to recover the costs of managing the activity and mitigating the impacts (e.g. a limited entry permit system).

Our recommendation: We request that the committee focus any special recreation permit fee based on the effect of the activity and not the activity itself in areas where high demand exceeds the carrying capacity of the land. This approach 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. There should be a limit on costs to special recreation permit holders, and the fee should not be the primary means of controlling demand (i.e. by making the permit too expensive for those who would otherwise choose to participate in the activity). Fees should be limited to the costs of administering the program that can be reasonably attributed to the user impact.

Issue: With regard to expenditures, the enhancement of recreation opportunities, such as trail maintenance, needs to be clearly identified as a valid fee revenue use.

We believe the committee should explicitly recognize the enhancement of recreation opportunities, such as trail maintenance, as a valid use of fee revenues. Current law is ambiguous in this regard. 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 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 standard amenities.

Our recommendation: Prioritize the enhancement of recreation opportunities for the use of fee revenue.

Issue: 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 on overhead for the costs of administering the fee collection system.

#### 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 28, 2014 US District Court decision (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.

Thank you for the opportunity to provide this testimony.

Sincerely,

Thomas O'Keefe, Pacific Northwest Stewardship Director,  
American Whitewater

Elizabeth Lunney, Interim Executive Director,  
The Mountaineers

Andrea Imler, Advocacy Director,  
Washington Trails Association