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*Written Testimony on Oversight Hearing on  
"Impediments to Public Recreation on Public Lands"*

May 7, 2013

Before the

**United States House of Representatives Natural Resources  
Committee Subcommittee on Public Lands and Environmental Regulation**

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

As you will recall, I testified before this Subcommittee on August 2<sup>nd</sup> 2012, and I respectfully request that my written and oral testimony of that date be herein **incorporated by reference** such that it will continue to form my ongoing position in this matter.

Further to my August 2<sup>nd</sup> 2012 testimony, I would like to bring to your attention some additional information that has come to my attention in the time period since that time, as follows:

- **The NPS has failed to adequately address the issues brought to this Subcommittee's attention at the August 2, 2012 Hearing.** When the NPS representative testified before this Subcommittee last year, there was an inadequate response to the request for the NPS to provide actual case specific examples of the current insurance requirements being inadequate to cover a claim for injury. In fact, no such examples have been provided by the NPS to this day.
- **I have personally been contacted by distressed Concessioners from around the country telling me of their "NPS/NFS/BLM Horror Stories".** These individual examples range from examples of insurance requirements for \$7.0MM of liability limits in the U.S. Virgin Islands and \$11.0MM in Virginia, to broader, non-insurance issues that have either put small concessions out of business, or soon will. Many of these Concessioners have expressed their emotional and heart-felt fear that they will be even **further victimized** by the Federal Government if they disclose their identity.

- **Small businesses are particularly harmed by the NPS, BLM and NFS actions:** As you will hear from the other witnesses today, I have been personally informed by many Concessioners and Federal Permit Holders around the country that their small businesses have been directly targeted and significantly harmed by these federal agencies. It is clear to me that these agencies are trying to put small operators out of business which runs contrary to Ms. Peggy O'Dell's testimony on August 2<sup>nd</sup>, 2012 that the NPS adheres to its guidelines NOT to unduly burden small businesses. This means, sadly, that the smaller operators who are usually safer, more experienced, and provide a better experience for the public will be a thing of the past, to be replaced by a few large conglomerates. This reminds me of the 2008 mortgage crisis where the largest banks had been considered "Too big to Fail!"
- **Public Access to Public Lands will be Curtailed:** With the obvious putting out of business of all the smaller permit holders, outfitters, guides, and concessioners, this can only have the effect of chilling public access, which for some unknown political reason, appears to be what these Federal Agencies are hoping to achieve. The proposed further increases in insurance requirements are unnecessary and only serve to add to the issues that will continue to put small businesses and operators out of business.
- **Release Forms Disallowed:** Outdoor operators and their insurance companies indemnify or hold harmless the federal agencies that have immunity but some federal agencies attempt to sever these protections by taking away the assumption of risk and release of liability. Some Federal Agencies will not allow assumption of risk and release of liability forms this means that no matter the facts of the injury to the outdoor participant, they never assume the risk. This places an undue burden of possible liability on the permit holders, the Federal Agencies and the insurance carriers. However, companies that do not hold permits with these Federal Agencies are protected by the release of claims, without interference of the Federal Agencies, from patrons renting equipment rented outside of public lands but used to enjoy outdoor recreation activities on public lands.

Thank you for your ongoing interest in these important matters of **Not allowing Small Operators to be put out of business** and **Ensuring that Public Access is Not Restricted as a result.**

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