

**U.S. House of Representatives**  
**Committee on Natural Resources**  
**Washington, DC 20515**

June 24, 2019

The Honorable David Bernhardt  
Secretary  
U.S. Department of the Interior  
1849 C Street, NW  
Washington, DC 20240

Dear Secretary Bernhardt:

I am writing to express my concern with the Department of the Interior's position on permissible uses of recreation fees authorized by the Federal Lands Recreation Enhancement Act (FLREA). Under your leadership and the leadership of your predecessor, the Department has inappropriately and unlawfully begun using such funds as if they were part of the National Park Service's budget for regular park operations. In addition to circumventing Congress, this policy takes funds meant primarily for critical work such as deferred maintenance and instead uses them to provide cover for this Administration's budget mismanagement and lack of commitment to our nation's great parks.

During President Trump's harmful and unnecessary government shutdown last winter, the Department directed park superintendents to pull from FLREA fee revenue to keep parks open and obfuscate the real costs of the shutdown. In doing so, the Department diverted much-needed funding away from important NPS priorities, and it erased the important distinction between FLREA and appropriated budget funds. This distinction safeguards the conventions and accountability of the budget process. The Department's actions instead sidestepped Congress and used these park funds for political purposes.

FLREA recreation fees are meant to be used for a limited range of park needs, including certain deferred maintenance, that are separate from daily park operations.<sup>1</sup> When parks are kept open during a government shutdown and these fees are raided for staffing entrances and cleaning restrooms, they are inappropriately diverted from important long-term priorities.

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<sup>1</sup> *A Bill to Improve Recreational Facilities and Visitor Opportunities on Federal Recreational Lands by Reinvesting Receipts from Fair and Consistent Recreational Fees and Passes: Hearing on H.R. 3283 Before the Subcomm. on Nat'l Parks, Recreation, and Pub. Lands of the H. Comm. on Resources, 108th Cong. 2 (2004)* ("Fees collected under [FLREA are] to supplement, not replace, annual appropriations.") (statement of Rep. George P. Radanovich, Chair, Subcomm. on Nat'l Parks, Recreation, and Pub. Lands).

Although lawmakers and stakeholders raised serious concerns about the Department's actions during the shutdown, you have made clear that you intend to expand these fund diversions dramatically by using FLREA funds to pay for permanent staff. The National Park Service's memorandum to you regarding this decision, dated May 14, 2019, arrives at a mistaken conclusion that in my view grossly and irresponsibly expands the scope of what expenditures are allowed using these funds.

The Department's actions during the government shutdown this winter and the NPS memorandum's analysis of FLREA make it clear that you are under the impression that there are nearly no limits on how FLREA revenues can be expended. This conclusion is misguided. These fees are not a slush fund. American taxpayers already pay for the general upkeep and administration of our public lands. Extra money imposed on visitors through recreation fees must serve the purposes of enhancing the visitor experience or addressing "growing backlog maintenance needs"<sup>2</sup> beyond what is achievable with appropriated funds.

Furthermore, I remind you of two statutory requirements: the Department must publish notice in the *Federal Register* before modifying the FLREA fee system, and it must post notices of recreation fee projects.<sup>3</sup>

FLREA mandates that each new recreation fee be noticed in the *Federal Register* six months before establishment.<sup>4</sup> The Department itself has applied this requirement to fee modifications as well.<sup>5</sup> It is my strong belief, as someone who was involved in the original congressional consideration of FLREA, that this requirement also applies to a dramatic modification of the uses of fees.

FLREA also requires posting notice of "recreation fee projects." Specifically, "the Secretary shall post clear notice of locations where work is performed using recreation fee or recreation pass revenues collected under this Act."<sup>6</sup> This obligation itself is a powerful indication that FLREA funds were not intended to be used for general day-to-day park operating expenses. Using FLREA to fund a full-time park employee is not a discrete "project," nor is it localized, site-based work easily amenable to posting a sign.

So long as you continue advancing a strained misreading of FLREA, I request a written response detailing the Department's actions thus far to comply with these two requirements or, if applicable, its plan for effectuating compliance.

The Department's policy on this matter is not a modest reinterpretation of the law, but rather shameless groundwork for helping the President save face next time he decides to shut down the federal government. The National Park Service must continue to get its primary, day-to-day funding, including money for personnel, from the annual appropriations process – not

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<sup>2</sup> H.R. REP. 108-790, pt. 1, at 12 (2004).

<sup>3</sup> 16 U.S.C. § 6803(b), (e)(2).

<sup>4</sup> *Id.* § 6803(b).

<sup>5</sup> Notice of Intent to Collect Fees and Modify Existing Fees on Public Lands in Natrona County, WY, 77 Fed. Reg. 41,200 (July 12, 2012).

<sup>6</sup> 16 U.S.C. § 6803(e)(2).

from FLREA recreation fees. The integrity of the lands and wildlife protected in our public spaces is not, and should never be, a political bargaining chip.

Sincerely

A handwritten signature in blue ink, reading "Raúl M. Grijalva". The signature is written in a cursive style with a prominent initial "R" and a stylized "G".

Raúl M. Grijalva  
Chair  
Committee on Natural Resources