

Testimony
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Overview on BLM, USFS and NPS Lands Subcommittee on Public Lands
and Environmental Regulation, Congressman Rob Bishop, Chairman
United States House of Representatives
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Mr. Chairman and members of the committee, thank you for the opportunity to share my views as a longtime outfitter in SW Colorado. Our company, Telluride Outside, was founded in 1984 and today operates six guide services on lands managed by the USFS, BLM and NPS. Our guided activities include fly fishing, 4-WD tours, whitewater rafting, mountain bike tours, photography and snowmobile tours. Approximately 90% of our guided trips are conducted on federal lands, so this is our primary playing field. I have worked on and off for Telluride Outside for 22 years and have been the fulltime managing owner since May, 2001.

It is from this perspective that I would like to offer the following observations and recommendations with regard to the financial impacts of federal policy on small outfitters that operate on NFS, BLM and NPS lands.

Observations

- 1) Small, specialized guide services are excellent partners for the federal government in providing safe, high quality guided experiences on public lands.
 - a. Small guide services provide a high quality, safe, authentic experience. For example, our company has guided more than 65,000 customers over the last 12 years without a single accident that led to a customer insurance claim. In our fishing guide service last year, an estimated 56% of trips were repeat customers, which clearly illustrates the quality of our service. I believe these statistics to be typical of specialized outfitters.
 - b. Specialized guide services generally operate on a low guest-to-guide ratio. Our company is typical. We average a 2:1 ratio for fishing, 4:1 for mountain biking, 5.5:1 for 4-WD tours. 5:1 for rafting and 4:1 for snowmobiling (these are statistical averages). A low ratio improves every aspect of the trip: safety, education, personal care of our guests, consistency, response to changing weather and the overall quality of the experience
 - c. One of the most valuable contributions to conservation is to take 7,000 or 8,000 people each year and give them a breathtaking, unforgettable outdoor experience that creates a real bond to Mother Nature and invariably instills conservation values that affect their future decision making.
 - d. In spite of low margins and long hours, dedicated guide services do what it takes to deliver a first-rate experience. This is who we are and what we do.
 - e. Specialty guide services are stewards of the resources. We pick up trash, police trespassing, illegal fishing, crowding and other frequent occurrences. We keep the peace and take care of the rivers, mountains and canyons in which we operate.

- f. Many guide services, like Telluride Outside, go way beyond regulations in terms of safety preparation and guide qualifications. Our company (like most) requires safety credentials and personal experience that far exceeds federal and state regulations. We also purchase and deploy all kinds of expensive operating and safety equipment that is required nowhere by law. Our company volunteers tens or hundreds of man hours every year for trash cleanups, wood removal from rivers, mountain bike trail clearing and resource protection fundraising. Much of this discretionary professional protocol will be pushed to the curb if we are required to pay tens of thousands of dollars in additional insurance premiums, or if the cost of doing business on public lands otherwise increases.
- 2) High quality guide services are generally owner-operated at very low margins out of a true passion for place and sport. Our company does approximately \$1.75 million in annual revenues, including about \$600K in retail. We are among the larger guide services in Southern Colorado, but our annual profit margin has averaged only 2.3% over the last 12 years. By comparison, our liability and vehicle insurance average 3% of gross sales and we pay the NFS and BLM fees of 3%.
- 3) Outfitters can easily be pushed out of business by federal policies and other factors that affect trip margins and the operating playing field. Examples:
 - a. In the last two years, 2 of the 5 active rafting outfitters in our area have literally walked away from their guide services for lack of profitability (San Miguel Anglers and Telluride Fly Fishers, who held permits for 5 and 23 years, respectively). In the same period, the BLM issued two new permits (without retracting the abandoned ones) and changed all permits to unlimited user days. This is absolutely crushing us. Longstanding local outfitters are hanging up their oars. The BLM appears to have succumbed to outfitters begging for permits rather than sound economic and resource carrying capacity analysis.
 - b. In 2005, NFS suddenly claimed jurisdiction over local County road systems for 4- WD tours in San Miguel and Ouray counties on the basis that tours surely impact nearby off-road NFS lands. In return, NFS funded a part-time high country ranger position to keep the general public on the road and off sensitive ecosystems. Our company has paid over \$45,515 in user fees since 2005, even though our tours rarely or never touch actual NFS lands. How is this fair?
 - c. According to our underwriters represented by Rick Lindsey and WOGA, the proposed 10-fold increase for insurance minimums may increase our premiums by 300% or more, affecting both liability and auto policies. In our case, that would result in cost increases of at least \$60,000 per year. We have operated for 29 years without a claim, but that would certainly put us out of business.
- 4) There seems to be disagreement between managing agencies as to whether financial feasibility should be taken into consideration when considering outfitter management methods, Special Use Permits and NPS CUAs. While testifying before the Subcommittee on National Parks, Forest and Public Lands of the House Committee on Natural Resources, on August 2, 2012, Deputy NPS Director Peggy O'Dell clearly alluded to an NPS policy requiring financial feasibility consideration. In 2012, the Bureau of Land Management rejected our company's appeal for such consideration in the course of local permit management (please see our "outfitter input" letter from

2009, exhibit A), stating that financial feasibility for the outfitter is never taken into consideration in the permitting process. Is there a written policy? Does it apply to NPS, BLM and NFS?

- 5) In SW Colorado there is little consistency between NFS and BLM in their determinations of carrying capacity on similar resources. The San Miguel and Dolores are similar rivers. The San Miguel is managed primarily by the BLM and the Dolores by the Forest Service. Both are free-flowing, wade fishing trout streams that our company has guided for more than 25 years. When tributary streams are taken into consideration, both watersheds offer more than 20 miles of public access on which we guide under our Special Use Permits. Our BLM permit grants 850 user days, all of which we use, while the NFS permit allows only 250 user days with zero room for growth in our 10-year priority permit.

Local administrators are best suited to manage the permits. In fact, we have very good people on the ground for both NFS and BLM locally. We have built strong relationships with these agencies based on transparency; trust and performance over 29 years, but there need to be some guiding principles and standardized methods for assessing carrying capacity and managing permits.

- 6) NFS and BLM need to create a set of standard criteria for determining how many Special Use Permits are issued for each resource and the number of user days for each permit. Market size absolutely must be taken into consideration in order to assure financial feasibility for the outfitters and a high quality customer experience. Healthy competition is desirable, but outfitter free-for-all is not. 10-year permits must contain clauses for growth (presently, ours do not) Study periods need to be specific and limited. Unused permits should be cancelled.
- 7) Industry rate-of-return benchmarks are inappropriate. In Deputy Director O'Dell's testimony from August 2, 2012, she states that "The projected cost of the insurance is considered as an operating expense of the concession contract as part of an overall financial analysis. A prospectus is released only if a reasonable opportunity for profit exists considering industry internal rate-of-return benchmarks."

This is really dangerous territory with clear un-American implications. The federal government should consider the impact of its policies on partner outfitters, but an industry standard for rate-of-return would be undeterminable, unmanageable and probably illegal. If such a standard exists for our industry, I would be very surprised. Unlike restaurants or banks, outfitters operate on business models that are often completely unique from one another.

Recommendation: create a written set of policy-making criteria and objectives for future Department of the Interior rule-making. Include the following:

- 1) Prioritize the guest experience by protecting specialty guide services.
- 2) Incentivize outfitters to operate safely and contribute to the preservation of the natural resources on which they operate. Rather than raising insurance limits 10-fold, federal agencies should focus on a number of things to actually improve safety and the overall customer experience, including:
 - a. Consistent, detailed reviews of each guide service's operating plan and performance.
 - b. Spot checking in the field for compliance.

- c. Policing of pirate guides, very common in SW Colorado. Pirate guides are unaccountable for trip quality and customer safety.
 - d. Committing more of their budgets to safety-oriented field work, including improvement of 4-WD access roads, wood clearing and trail maintenance on the resources where the revenues are generated.
- 3) Carrying capacity should be determined and managed by local agency officers within the parameters of reasonable governing criteria, including:
- a) Market size and healthy competition must be taken into consideration in determining the total number of permits issued. If financial health is not considered, the federal agencies will create a situation in which high quality outfitters cannot make a living by guiding the public. This is a losing situation for all concerned.
 - b) 10-year permits should contain growth clauses of 5-10%/year.
 - c) Previous permit holders should be favored for renewal unless their operating record is deemed unacceptable. Experienced outfitters offer a more consistent, high-quality service for the general public and have the opportunity to form a meaningful working relationship with local managing agencies. Unused permits, on the other hand, should be revoked or put into a forced sale.
 - d) Every permit should have user day limits. Without them, the managing agency forfeits a critical tool for regulating carrying capacity. New permits should never be issued when unused permits are potentially available for purchase.
- 4) Insurance limits should be based upon compelling demand rather than unfounded hypothetical concepts and irrelevant references to other industries. There is currently no hard evidence that limits should be increased from \$500K per incident. Increasing our minimums 10-fold might literally wipe out the guiding industry.
- 5) Special Use Permit and CUA fees should be earmarked for recovery of the direct costs of managing outfitter use of public lands and enhancing safety on public land resources. Bureaucratic costs that do not directly benefit the general public, nor the outfitters, should be reduced or eliminated. Outfitter use fees should be earmarked for local resource management
- 6) Public lands jurisdiction issues should be clear cut. Does NFS have jurisdiction over county roads? Does BLM have jurisdiction over waterways that pass through BLM lands if outfitters launch and take out on private property? These questions need to be answered clearly and managed consistently.

With respect to outfitting, these rules should be applied consistently by both the NFS and BLM. To the end user there is no important distinction between the two from the standpoint of hiring a guide for a specific activity on public land. The land is either public, or it's not

Mr. Chairman, I would like to sincerely thank the committee for this opportunity to express my views on behalf of our company, Telluride Outside, and hundreds of other specialized guide services that work hard to deliver a superior experience for our customers on public lands.