S. HRG. 109–321

FEDERAL LANDS RECREATION ENHANCEMENT ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

OF THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

TO

RECEIVE TESTIMONY ON THE IMPLEMENTATION OF THE FEDERAL LANDS RECREATION ENHANCEMENT ACT, P.L. 108-447, BY THE FOREST SERVICE AND THE DEPARTMENT OF THE INTERIOR

OCTOBER 26, 2005

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FEDERAL LANDS RECREATION ENHANCEMENT ACT

WEDNESDAY, OCTOBER 26, 2005

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:06 p.m. in room SD–366, Dirksen Senate Office Building, Hon. Larry E. Craig presiding.

OPENING STATEMENT OF HON. LARRY E. CRAIG, U.S. SENATOR FROM IDAHO

Senator CRAIG. Good afternoon, everyone. The Subcommittee on Public Lands and Forests will come to order. You are welcome to look, for the first time since its enactment, at the implementation of the new Federal Lands Recreation Enhancement Act and the fees.

I want to welcome Assistant Secretary of the Interior Lynn Scarlett—Lynn, thank you for being here—along with the Deputy Under Secretary of Agriculture, Mark Rey. Mark, thank you for being here. I also want to welcome our four public witnesses from Arizona, Colorado, the State of Washington, and Washington, D.C., to the hearing. I appreciate your willingness to travel here to testify on what many of us believe is a very important issue.

In March 2003, at a joint Forest Service and Department of the Interior briefing on lessons learned from recreational fee demonstration program, the agency said: "The Forest Service creatively tested a wide variety of the fees programs to best learn what worked and what did not work. We did not always get it right, but we have listened, learned, and adjusted. What did not work? Charging per-person access fees for undeveloped areas with no or few services."

When we last visited on the subject of recreational fees in April 2004, I said: "I want all to know that I will not support a basic entrance fee to national forests, BLM districts, U.S. Fish and Wildlife refuges, or Bureau of Reclamation lands, whether or not it is called an entrance fee or by any other name." I closed by saying: "I do want to work with you to see if we can find a way to develop a reasonable recreation fee program, but I hope you understand that we are not going to start managing national forests, BLM lands, or wildlife refuges like national parks."

Today I want the administration to tell me what steps you have taken to implement the law, and I want the public witnesses to tell

me what they are seeing in the implementation of the law. When I see you charging for an entrance to a 205,000-acre area like Mirror Lake Scenic Byway of Utah or 396,000 acres of land in 31 high-intensity recreation areas in the southern California forest or the 400,000-acre Cedar Mesa area in the BLM Monticello office of Utah, I have to suspect that implementation of the standard amenity recreation fee may have gotten off on the wrong foot.

I am concerned with agencies' interpretation of section 803(h), special recreation permit fees. I see a list that said, and I quote, "such as group activities, recreation events, motorized recreational vehicle use." But I hear the Forest Service thinks that this should include permits to enter wilderness areas and to use rivers. This causes me concern.

When it comes to recreation resource advisory committees, I need to understand why the agencies feel compelled to attempt to find ways to implement this through sub-groups of existing resource advisory committees or for multiple State areas. I am troubled by this approach.

Finally, I want the Bureau of Land Management to help us understand the legislative underpinnings of the BLM's drive to recover cost at its recreation fee sites and what the Forest Service position is on cost recovery at their sites.

I want to remind everyone to keep their statements to 5 minutes so that we can get to the questions. All of your testimonies will become a full part of the record.

So before I turn to our first panel, let me ask Senator Thomas if he has any opening comments.

Senator Thomas.

STATEMENT OF HON. CRAIG THOMAS, U.S. SENATOR FROM WYOMING

Senator THOMAS. Thank you, Mr. Chairman. Thank you for having this hearing. I have been anxious too to talk about what we are doing here. As you all know, when we went into the fee demonstration thing, as chairman of the Parks Subcommittee, my position was to do it for parks and not for the other public lands. That is not the way it turned out. So I am still hopeful that what we can do is come up with reasonable criteria for the kinds of areas in which fees can be charged. I assume they ought to be where there are resources for the guests and these kinds of things.

In any event, thank you for being here. I think it is a difficult issue. I think it is going to be important how we define and set the criteria for these funds.

Thank you.

[The prepared statement of Senator Thomas follows:]

PREPARED STATEMENT OF HON. CRAIG THOMAS, U.S. SENATOR FROM WYOMING

Mr. Chairman, I appreciate you holding this hearing. This is an important issue to me, and remains important to the people of my state and to everyone who utilizes our public lands.

The Federal Lands Recreation Enhancement Act of 2004 made permanent the Recreation Fee Demonstration Program, which allowed the U.S. Forest Service, Bureau of Land Management, Fish and Wildlife Service, and National Park Service to collect and expend funds for visitor services, maintenance, and repair facilities, as well as cultural natural-resource management. I supported making the authority

permanent for the National Park Service, but opposed it for other the Federal land management agencies.

Recreation fees are simply not appropriate for the vast majority of Bureau of Land Management and U.S. Forest Service lands. I continue to have concerns about the collection of fees on Bureau of Land Management and U.S. Forest Service land, and especially how these agencies are implementing their new authority. It appears that many of my earlier concerns with the recreation fee demonstration program were well founded.

It is important that fees not be charged for everything in sight. There are limits to what we can fairly demand and what our constituents are willing to pay. It is important that we provide adequate funding for the management of our public lands. However, we must ensure that the public is allowed reasonable access to public lands, and that the public is not charged unreasonable fees to access public lands.

With respect to recreation fees on federal lands, the following concerns must be taken into consideration: fees should be charged for legitimate, improved visitor services; market analysis should be done prior to implementation or increase of any fee; no fee or increase in fee should take place without advanced notice to the general public; accountability of fees collected and distributed along with advanced notice to the Congress of specific projects that will be in the pipeline; and expedite the obligation and expenditure of the funds.

I look forward to the proceedings today and listening to the testimony of the witnesses. Thank you.

Senator CRAIG. Craig, thank you.

Joining us is Senator Salazar from the State of Colorado. Ken, do you have any opening comment?

STATEMENT OF HON. KEN SALAZAR, U.S. SENATOR FROM COLORADO

Senator SALAZAR. Very briefly, Mr. Chairman. Thank you very much for holding this hearing. It is on a very important issue. I am always reminded that at the Roosevelt Arch at Yellowstone, the statement is made "For the benefit and enjoyment of the people." When you think about "For the benefit and enjoyment of the people," obviously also we have to look at the economic issue with respect to whether or not people can access these public lands that we are talking about today.

So I very much look forward to the testimony, and I also look forward to having Lynn Scarlett confirmed in her new position at some point in the not too distant future. We are working with her on that.

Finally, I want to say welcome to Kitty Benzar, who is with the Western Slope No-Fee Coalition from Durango, Colorado. Thank you for traveling all the way from Durango here.

Senator CRAIG. We are going to allow you to introduce Kitty officially before the committee in our next panel. I see she is a Durangoite.

Senator SALAZAR. A Durangoite.

Senator CRAIG. Okay. That is really not a new disease or an infectious kind of virus. It is in fact—I may have coined it just now. Are there Durangoites?

Senator SALAZAR. There are at least 10,000 Durangoites, and as far as I know they are all healthy.

Senator CRAIG. That is good to know.

Thank you again for being with us. Let us turn to our first panel, as I have already previously introduced them. Let me start with Mark Rey, the Deputy Under Secretary for Natural Resources and

the Environment, Department of Agriculture. Mark, welcome back to the committee.

STATEMENT OF MARK REY, UNDER SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT, DEPARTMENT OF AGRICULTURE

Mr. REY. Thank you, and thank you for the opportunity to appear before you to discuss the implementation of the Federal Lands Recreation Enhancement Act on National Forest System lands. With the enactment of that statute, Congress has provided us with a valuable tool to enhance recreation opportunities. Fees collected under the statute are one part of a comprehensive recreation business model which identifies revenue and other resources based on congressionally-appropriated funds, volunteer assistance, interagency cooperation, partnerships, and commercial operations.

With the passage of the statute, fee authorities that we previously operated under other authorities, such as the recreation fee demonstration program and the provisions of the Land and Water Conservation Fund, were repealed. The passage of the statute prompted a major reexamination and retooling of our existing recreation fee program to bring facilities and programs into compliance with the new act, and today I would like to bring you up to date on our efforts.

Five days after the passage of the statute, the Deputy Chief of the Forest Service directed all fee increases and designation of new fee areas to be frozen pending the development of further policy. Following the letter, teams of Forest Service managers from across the country met to develop policy, draft implementation guidelines and an implementation schedule to guide field units in applying the provisions of the new act on the ground.

At the Department level, 9 days after the act was signed into law the Inter-Agency Executive Fee Council, comprised of officials of both Departments, convened and approved a draft implementation work plan that outlined the organizational issues and the medium-term and long-term actions needed.

On April 25, 2005, field units were sent the interim implementation guidelines and directed to review all their recreation sites and services to determine if they met the criteria for charging fees described under the act. Units were given until June 3 to provide the Forest Service Washington office a list of all the sites and areas that comply with the new criteria.

This effort was a large undertaking within the Forest Service. Over 17,000 individual sites were evaluated in developing the first nationwide data base, which describes the amenities and attributes of those sites to help ensure that they meet the intent of the law. Of the 4,505 sites on National Forest System lands that were previously charging fees under the land and water conservation and fee demo authority, approximately 435 recreation sites, such as trailheads and picnic areas, were removed from the program because they did not meet the new criteria described under the act. For example, 19 trailheads on the Sawtooth National Recreation Area and 21 sites on the Olympic National Forest were removed from the recreation fee program.

Our direction to the field units specifically prohibited them from assessing fees solely for general access to national forests and grasslands in BLM areas, horseback riding, walking, riding, driving, or boating through areas where no recreation facilities or services are used, access to overlooks or scenic pullouts on designated parking areas where no recreational facilities are provided, and picnicking along roads and trails. In other words, those areas no longer charged fees.

The act specifically prohibits the Forest Service and the Bureau of Land Management and the Bureau of Reclamation from assessing entrance fees for Federal recreation lands and waters. The act authorizes agencies to charge a standard amenity fee for areas that provide a specific level of recreation development or services. The Forest Service and Department of the Interior agencies have identified areas that have a concentration of recreation sites that collectively meet the definition of a standard amenity fee as high-impact recreation areas.

High-impact recreation areas are areas that receive a high amount of recreation use and which require additional expenditures to manage the use in facilities contained within the area. These expenditures range from facility maintenance to costs that are often invisible to visitors, such as graffiti and litter removal. High-impact recreation areas are specifically delineated areas that usually contain a multitude of recreation sites and services that have a common thread connecting them, such as a road or a corridor. To avoid multiple fees and to provide more efficient fee collection, the fee is charged for the recreation use of the entire area rather than the individual amenities or activities.

In evaluating or identifying the high-impact recreation areas, we carefully evaluated each recreation area to determine locations where significant public use is occurring and where significant investment is needed to manage recreation impacts.

We have put forward for the committee's review some pictures of typical high-impact recreation areas.

Public participation, notification, and communication are also vital to successfully implementing the statute. Over the last 6 months, the Forest Service and the Department of the Interior have conducted 11 listening sessions across the Nation to gather public input on the formation and configuration of recreation RACs, which are designed to provide recommendations for the public and interest groups on the recreation fee program.

We plan to use—to make efficient use of existing committees where it makes sense, by establishing joint recreation resource advisory committees, using existing resource advisory committees. We will build on successful models already in use, such as the BLM Boise District RAC. This RAC makes recommendations on the Payette River recreation fee area, which is jointly managed by the BLM and the Forest Service. In the Boise RAC case, an inter-agency agreement was developed between the Forest Service and the BLM to establish the general objectives and respective responsibilities of each agency and to clarify their relationship in working with the RAC. We have attached a copy of the inter-agency agree-

ment and charter documents to our testimony*, and that is how we would propose to proceed using the existing recreation resource advisory committees by and large developed by BLM.

The act also authorizes the Secretary to issue a special recreation permit and charge a fee in connection with the issuance of a permit for specialized recreation uses of Federal lands. This authority is used to issue special recreation permits to individuals for such activities as whitewater raft trips, off-highway vehicle use, and in a limited number of cases wilderness use.

We currently require a wilderness permit and a permit fee for eight out of our 406 congressionally-designated wilderness areas. These eight areas had a permit prior to the enactment of the fee legislation that was authorized under the Land and Water Conservation Fund. Each of these areas has special circumstances, such as an allocated visitor use system, reserved and designated campsites, and in a few areas an aerial sewage removal program, that entail costs beyond those incurred in our normal wilderness management program.

We are developing criteria to guide our field managers in determining when and where such a fee is appropriate, but we do not anticipate a large number of such additional fee areas.

That covers some of the areas of concern that you mentioned, as well as our general program for implementing the statute to date. With that, I would be happy to respond to questions when appropriate.

[The prepared statement of Mr. Rey follows:]

PREPARED STATEMENT OF MARK REY, UNDER SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT, DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the subcommittee:

INTRODUCTION

Thank you for the opportunity to appear before you to discuss the implementation of the Federal Lands Recreation Enhancement Act (REA) on National Forest System Lands. The Department appreciates the subcommittee's interest in how the Departments of Agriculture and the Interior are implementing this important program to enhance recreation opportunities and experiences for visitors to their public lands.

Visitors to the National Forests seek a broad and diverse range of recreation experiences ranging from highly developed resorts to remote wilderness settings. Annually we receive over 205 million recreation visits to the National Forests. The National Forests' share of outdoor recreation's economic contribution to the nation's total economy is over $11.2 billion. Recreation is a major component of the overall contribution of all Forest Service programs to national GDP.

Congress has provided us with a valuable tool to enhance recreation opportunities in the form of the REA. Fees collected under REA are one part of a comprehensive recreation business model which identifies revenue and other resources based on congressionally appropriated funds, volunteer assistance, interagency cooperation, partnerships, commercial operations and funds leveraged from other sources.

The vast majority of National Forest System lands, and many recreation activities and sites on those lands, continue to be available without a fee. Over 60 percent of our developed recreation sites do not have a charge. Of the 5,654 developed trailheads on National Forest System lands, 85% of them do not have a fee. We understand that National Forests are the backyard to many of our communities, and access to the back country that is not associated with developed facilities or services is and will remain free and available for the public to use and enjoy.

While the idea of charging fees for recreational use on the National Forests has been controversial in some cases, taxpayers benefit when the cost of public services is at least partially borne by the direct users of these services. We are implementing

*The attachments have been retained in the subcommittee files.

the provisions of REA in a careful manner and in coordination with those who enjoy recreational activities to achieve the greatest degree of public satisfaction possible.

RECREATION ENHANCEMENT ACT OVERVIEW

The Federal Lands Recreation Enhancement Act (REA), a part of the 2005 Consolidated Appropriations Act (P.L. 108-447), permits Federal land management agencies to continue to reinvest in recreation facilities and services by charging modest fees at campgrounds, rental cabins, recreation sites, and high-impact recreation areas.

The new Act provides for a nationally consistent interagency program, additional on-the-ground funding to enhance visitor services and reduce facility maintenance backlog at recreation sites across the nation, a new national pass for use across interagency Federal recreation sites and services, and more public involvement in the program. I will defer to the Department of the Interior to describe our plans for the new America the Beautiful Pass.

Public concerns over where recreation fees can or should be charged on Federal land are addressed in the new authority, which limits fees to recreation sites that have a certain level of development and that meet specific criteria. Additional safeguards include provisions that require the use of Recreation Resource Advisory Committees to provide recommendations for fee areas and fee amounts and to offer another opportunity for the public to participate in the recreation fee program.

The Act also provides agencies with recreation fee authority for 10 years, which will allow the agencies to improve the efficiency of the program, provide better facilities and services to visitors, employ greater use of technology, and enter into more fee management agreements with counties and other entities to provide additional services to visitors.

IMPLEMENTATION OF RECREATION ENHANCEMENT ACT

With the passage of REA, fee authorities that we previously operated under, such as Recreational Fee Demonstration Program statute (Fee Demo) and provisions of the Land and Water Conservation Fund Act (LWCFA), were repealed. The passage of the REA prompted a major reexamination and retooling of our existing recreation fee program to bring facilities and programs into compliance with the new Act, and today I would like to bring you up to date on those efforts.

Five days after passage of the REA, the Deputy Chief of the Forest Service directed all fee increases and designation of new fee areas to be frozen pending policy development. Following the letter, teams of Forest Service managers from across the country met to develop policy, draft implementation guidelines and an implementation schedule to guide field units in applying the provisions of the new REA on the ground.

At the Departmental level, nine days after the Act was signed into law, the Interagency Executive Fee Council, comprised of officials from both Departments, convened and approved a draft implementation work plan that outlined the organizational issues and immediate, medium-term, and long-term actions needed.

On April 25, 2005, field units were sent the interim implementation guidelines and directed to review all their recreation sites and services to determine if they meet the criteria for charging fees described under REA. Units were given until June 3, 2005, to provide to the Forest Service Washington Office a list of all the sites and areas that comply with the new criteria. This effort was a massive undertaking within the Forest Service: over 17,000 individual sites were evaluated in developing the first nationwide database, which describes the amenities and attributes of those sites to help us insure that they meet the intent of the law.

Of the 4,505 sites on National Forest System lands that were previously charging fees under the LWCFA and Fee Demo authority, approximately 435 recreation sites (such as trailheads and picnic areas) were removed from the program because they did not meet the new criteria described under REA. For example, 19 trailheads on the Sawtooth National Recreation Area in Idaho and 21 sites on the Olympic National Forest were removed from the recreation fee program.

Our direction to the field units specifically prohibits them from assessing fees solely for:

- General access to national forests and grasslands and Bureau of Land Management areas;
- Horseback riding, walking, driving, or boating through areas where no recreational facilities or services are used;
- Access to overlooks or scenic pullouts;
- Undesignated parking areas where no recreational facilities are provided; and
- Picnicking along roads or trails.

Our direction to the field units prohibits them from charging an entrance or standard amenity fee to individuals under 16 years of age.

We are developing final Rule for Changes to 36 CFR 251, 261, and 291 to reflect new REA authority. We are also writing an Interim Directive to the Forest Service Manual which will provide a template for the field to use when publishing notice of new recreation fee areas in the Federal Register 6 months in advance of fees being charged as required by REA.

HIGH IMPACT RECREATION AREAS

REA specifically prohibits the Forest Service, the Bureau of Land Management and the Bureau of Reclamation from assessing entrance fees for Federal recreational lands and waters. REA authorizes the agencies to charge a standard amenity fee for areas that provide a specific level of recreational development or services. We used the standard amenity recreation fee provisions in REA to provide direction in our implementation guidelines for designation of standard amenity recreation fees. The term standard amenity fee applies to both individual day-use facilities and areas that provide significant opportunities for outdoor recreation and that have substantial Federal investments. The Forest Service and the Department of the Interior agencies have identified areas that have a concentration of recreation sites that collectively meet the definition of a Standard Amenity Fee as "high impact recreation areas".

High impact recreation areas are areas that receive a high amount of recreation use and which require additional expenditures to manage the use and facilities contained within the area. These expenditures range from facility maintenance to costs that often is invisible to visitors such as graffiti and litter removal and hiring additional personnel to provide security and information to visitors. High impact recreation areas are specifically delineated areas that usually contain a multitude of recreation sites and services that have a common thread connecting them, such as a road corridor. A visitor will find within a high impact recreation area, all the required amenities within reasonable access in accordance with REA. To avoid multiple fees and to provide for more efficient fee collection, the fee charged is for the recreation use of the entire area, rather than for individual amenities or activities.

In identifying the high impact recreation areas, we carefully evaluated each recreation area to determine locations where significant public use is occurring and where significant investment is needed to manage recreation impacts. Each location is further evaluated to ensure that it offers the six amenities required by REA and that it has clearly defined boundaries and access points. Signing is critical to inform visitors where fees are required and where pass through travel or stopping at overlooks is allowed without a fee.

Implementing new recreation fee direction for over 17,000 sites is still a work in progress. While we gave our field managers until September 30, 2005, to implement the program, we continue to work on providing consistent signing for the public to enhance understanding of the fee program and on identifying areas that may not meet the criteria for charging fees. We will adjust size configuration and season of use of these areas, as needed, while we work with our local communities in addressing their concerns.

Differing local conditions and characteristics make it difficult to develop criteria for high impact recreation areas that fit all circumstances. We are planning on having our Recreation Resource Advisory Committees comment on the application of the criteria to each high impact recreation area we have identified. Building community and visitor support for these areas is an important component in developing the fee program for High Impact Recreation Areas.

RECREATION RESOURCE ADVISORY COMMITTEES

Public participation, notification, and communication are vital to successfully implementing REA. Over the last six months, the Forest Service and the Department of the Interior have conducted 11 listening sessions across the nation to gather public input on the formation and configuration of Recreation RACs which are designed to provide recommendations from the public and interest groups on the recreation fee program. Based on what the public told us at these sessions, we developed a basic framework for establishing recreation fee advisory committees as required under REA. The Interagency Executive Fee Council approved this proposal on September 22, 2005.

Our proposal focuses on creating opportunities for the public to become involved through Recreation RACs at several different levels. The BLM has successfully utilized RACs established under the Federal Land Policy and Management Act, to guide the agency achieving a broad range of resource objectives. Interagency coordi-

nation is extremely important to provide seamless service to the public across lands managed by multiple agencies.

We plan to enhance this coordination and make efficient use of existing committees where it makes sense by establishing joint Recreation RACs, using BLM RACs. BLM RACs are established in most western States. We intend to expand the purview of these committees to incorporate the recreation fee review duties for both the BLM and the Forest Service, as enumerated in REA. To allow for local representation, we will work with the committees to establish recreation-focused subgroups where necessary.

We will build on successful models already in use such as the BLM Boise District RAC. This RAC makes recommendations on the Payette River recreation fee area which is jointly managed by the BLM and the Forest Service. In the Boise RAC case, an interagency agreement was developed between the Forest Service and the BLM to establish the general objectives and respective responsibilities of each agency and to clarify their relationship in working with the RAC. The RAC developed a charter to establish an advisory subgroup to identify issues and needs along the Payette River and to work with the agencies involved to review and provide recommendations on fee issues. We have attached a copy of the interagency agreement and charter documents to our testimony.

In areas or states where the BLM does not have RACs, such as in the Eastern United States, or in the State of Wyoming, we will work with state and local officials and interested publics to determine the need and appropriate scope for interagency Recreation RACs, as needed, in accordance with REA.

Going beyond the requirements of REA, we have agreed that the existing RACs and new Recreation RACs should be encouraged to provide recommendations on aspects of the BLM's and Forest Service's recreation fee programs related to establishing new fee areas, abolishing fees, major adjustments in fee levels or rates, and expenditure of revenues. RACs could, for example, provide input on the method used to set fee levels and significant changes to fee levels. While the Interagency Executive Fee Council supports this general framework, several details still need to be resolved before publishing the BLM's and Forest Service's notice of intent to form Recreation RACs in the Federal Register. A Forest Service and BLM team is working to address these issues.

ADDITIONAL PUBLIC INVOLVEMENT

While Recreation RAC's will be used as a formal barometer of public opinion on establishing new recreation fee areas, we intend to use a variety of other public involvement processes in determining where recreation fees should be implemented. On September 28, 2005, the Departments issued a *Federal Register* notice, which established guidelines on public participation and public notice as required in the REA. The goals of the public involvement guidelines are to provide the public with opportunities to be actively engaged in establishment of any new recreation fee areas and to provide for effective ways to demonstrate annually how the public has been informed of how recreation fee revenues are spent. In addition, each local unit manager will continue to work with their local communities on issues and concerns related to the fee program.

SPECIAL RECREATION PERMITS

REA authorizes the Secretary to issue a special recreation permit and charge a fee in connection with the issuance of a permit for specialized recreation uses of Federal lands, such as group activities, recreation events, and motor vehicle use. The Forest Service issues special use permits under this authority for short-term commercial recreation uses, such as outfitting and guiding, and recreation events. The permit fee revenue collected and expended on the ground will be of great benefit to recreation visitors as well as to the permit holder. Facilities used by commercial outfitters such as trails and trailheads will be better maintained which will improve the ability of permit holders to provide high quality recreation services to the public.

This authority is also used to issue special recreation permits to individuals for activities such as, white water river trips, off-highway vehicle (OHV) use and, in a limited number of cases, wilderness use. These permits are issued when we provide additional services beyond normal operation and maintenance, including constructing and maintaining specialized trails for OHVs and providing wilderness experiences in areas that receive high use.

We currently require a wilderness permit and permit fee for 8 of our 406 Congressionally designated wilderness areas that are within the National Forest System. These 8 areas had a permit prior to the enactment of REA that was authorized

under the LWCFA. They include areas such as the Boundary Waters Canoe Area Wilderness on the Superior National Forest in Minnesota and the Desolation Wilderness Area on the Eldorado National Forest in California. Each of these areas has special circumstances such as an allocated visitor use system, reserved and designated campsites, and, in a few areas, an aerial sewage removal program that entail costs beyond those incurred in our normal wilderness management program.

We are developing criteria to guide to our field managers in determining when such a fee is appropriate. We do not anticipate a large number of additional fee areas. We have no intention to use the fee authority as a tool to reduce recreation visitor use. Any decision to implement a permit system to allocate use in wilderness areas to meet management objectives will be made through our land use management planning process and associated recreation capacity analysis.

REVENUE/EXPENDITURES

In Fiscal Year 2004 approximately $47 million was collected from recreation sites on National Forest System lands under the previous recreation fee authorities. Of this total, approximately $40 million (85%) was reinvested directly back into the recreation program for such things as visitor services, resource protection, deferred and ongoing maintenance, and capital improvement of recreational facilities. A little less than 15% of that revenue was used for costs associated with the collection of fees. These data show that we are making tangible and effective use of our fee receipts for recreation improvements and services on Federal lands.

As a result of implementing REA, we anticipate a slight reduction in total revenue. Increased revenue from the authority to retain recreation special use permit fees for activities such as outfitting and guiding will more than likely be offset by the reduced revenue from developed and dispersed recreation sites due to the reduction in the number of sites and areas that meet the requirements of REA. Based on FY 2004 expenditures, recreation use fees represent approximately 25% of our total recreation operation budget. Recreation use fees are an important component of our total program and enable us to maintain many sites at a standard that would otherwise not be possible. Development or large expansion of recreational facilities is not the focus of our recreation fee program. Annually only about 5% of the total revenue goes towards capital improvement projects. Recreation use fees collected on National Forest recreation sites and areas are primarily used to keep the site open, safe and clean.

CONCLUSION

REA is less than a year old. The Forest Service manages approximately 193 million acres, including 122,000 campsites, 11,000 picnic sites, and 133,000 miles of trails, as well as many cabin rentals, boat launches and other facilities. Time will be needed to fully implement REA in a consistent manner that allows our visitors and partners to be fully involved in the process, Recreation RACs to be established, and signing and publications to be updated.

We are committed to implementing REA in a way that continues to reflect broad support of the public and Congress for enhancement of recreation on public lands, and we will work with the public and Congress to address concerns that may arise. We appreciate your support in allowing us this time to apply and adjust our plans where necessary to implement REA.

Mr. Chairman, this concludes my statement. I would be happy to answer nay questions that you may have for me at this time.

Senator CRAIG. Mark, thank you very much.

Now let us turn to Assistant Secretary Lynn Scarlett, Policy, Management and Budget, Department of the Interior. Lynn, again, welcome.

STATEMENT OF P. LYNN SCARLETT, ASSISTANT SECRETARY FOR POLICY, MANAGEMENT AND BUDGET, DEPARTMENT OF THE INTERIOR

Ms. SCARLETT. Thank you, Mr. Chairman, and thank you, members of the committee, for this opportunity to discuss our implementation of the Federal Lands Recreation Enhancement Act.

As we are all aware, recreation fees are not a new concept. Indeed, all the participating agencies except the Bureau of Reclama-

tion have had broad recreation fee authority for some 40 years. The difference is that the new act allows fees to be reinvested at the collecting site and, second, the new act differs from the fee demo program in that it provides a narrower and more prescribed authority to ensure that we are expending the funds on appropriate purposes and that we are applying fees only in appropriate places.

We are well aware of ongoing concerns about how Federal agencies implement recreation fees. These concerns center on ensuring that fees are charged only in areas that have infrastructure, services, and other amenities that directly serve the recreating public, ensuring that fee revenues are spent only on recreation infrastructure and services and maintaining high public involvement in decisionmaking.

To address these concerns, we have, I believe, vigorously followed the provisions of the new act. Before I turn directly to those efforts, let me offer a summary of the current program. Public lands managed by the Department of the Interior hosted some 370 million recreation visits in 2005. Revenues for the Interior agencies from the recreation program reached over $166 million. The cost of collection for the agencies over the 2000 to 2004 period has remained relatively constant at about 20 percent of gross fee revenue, though there are some variations among our different bureaus.

In 2004, the Departments of the Interior and Agriculture obligated a total of $202 million for a variety of projects that enhance facilities and services for visitors. Just one example: In 2005 in New Mexico, BLM used recreation fees to complete a new restroom and shower complex and expand the visitor information center at the Valley of Fires Recreation Area. These are improvements that visitors themselves actually requested.

The Recreation Fee Leadership Council, whose members include officials of both Departments, has provided overall guidance on implementation of the program. Our first task, as Mark noted, was to inventory our fee sites to ensure that we maintain sites only at those that met the criteria of the act.

Under the fee demo program, the Bureau of Land Management maintains the vast majority of BLM recreation areas, over 95 percent, as fee-free to the visiting public. For this reason, most of BLM's fee demo sites already met the new criteria. Nonetheless, BLM has made some changes to comply with the act. For example, we did eliminate, upon looking at the inventory, fees for overlooks at Imperial Sand Dunes in California. We eliminated fees at undeveloped sites at Orilla Verde Recreation Area in New Mexico. We eliminated several youth fees, which are no longer applicable under the act, and several other changes.

Let me focus for a moment on special recreation permits and that program, about which some questions have surfaced. The Recreation Enhancement Act does authorize agencies to issue special recreation permits and charge associated fees. Using a land use planning process, BLM determines whether a permit system is necessary to help us minimize user conflicts and resource impacts, particularly for example on canyon trails, narrow canyon trails, or in narrow river corridors, where unlimited use could create safety and other problems.

Of the individual permits issued to date, most were issued in 22 recreation areas. At some of these sites, BLM uses these permits to provide timed entry into popular whitewater rafting areas and again, as I mentioned, for narrow canyon trails. The fees associated with these permits provide visitors with emergency response services, safety compliance and education, litter cleanup, basic road, parking, trail, and facility maintenance, interpretive brochures, other information and trip planning services.

Given the long history BLM has had in issuing these permits, we do not expect changes in the program under the new act.

The visiting public is key to our implementation of both of those permits and the program in general. As Mark said, to implement the RAC provisions of the act the Forest Service and BLM have held 11 listening sessions in locations across the country. Based on these sessions, the fee council that I mentioned has approved a basic framework to implement the provisions of the act.

Under the basic framework, BLM and the Forest Service will use existing resource advisory councils where possible. For areas that do not have existing resource advisory councils, such as the State of Wyoming and the Eastern United States, new recreation RACs would be established. We would also create focused sub-groups where necessary.

While we have established the basic framework to implement this provision of the Recreation Enhancement Act, we have many additional implementation steps that we are undertaking and will address over the next several months. We look forward to your continued input as we do so.

The new act also provides general authority to establish fee management agreements with governmental or nongovernmental entities. We see tremendous potential to develop mutually beneficial partnerships through the program. One example of such a partnership is at the Deschute River between BLM and the State of Oregon. BLM and the State have worked cooperatively to build the Deschute River Reservation website, which will now be operated by the State.

The act also does establish a new multi-agency pass to cover entrance fees for the Park Service and Fish and Wildlife Service and standard amenities for BLM, Forest Service, and BOR. The target rollout for the new pass is scheduled for January 2007. We have held four listening sessions to get input on the pass. To determine a price that is reasonable and fair, the agencies have entered into a cooperative agreement with the University of Wyoming to conduct pricing analysis.

In closing, we believe the new Recreation Enhancement Act offers an important opportunity to create sensible, visitor-friendly, efficient recreation fee programs. Mr. Chairman and members of the committee, I would be pleased to answer any questions you might have. Thank you.

[The prepared statement of Ms. Scarlett follows:]

PREPARED STATEMENT OF P. LYNN SCARLETT, ASSISTANT SECRETARY FOR POLICY, MANAGEMENT AND BUDGET, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to discuss the Department of the Interior's implementation of the Federal Lands Recreation Enhancement Act (Public Law 108-447) (REA). Implementation of a well-run and streamlined recreation fee

program that maximizes benefits to the visiting public is a top priority for the Department of the Interior, the U.S. Department of Agriculture, and the participating agencies—the National Park Service (NPS), the Bureau of Land Management (BLM), the U.S. Fish and Wildlife Service (FWS), the Bureau of Reclamation (BOR), and the Forest Service. Throughout the implementation process, the participating agencies are working cooperatively to ensure outstanding recreation opportunities for public lands visitors and are engaging the public to ensure the establishment of a transparent and effective recreation fee program. Today, we will discuss implementation issues that impact all the participating agencies, with a greater focus on BLM due to the Subcommittee's interest and jurisdiction.

Our federal lands provide Americans and visitors from around the world special places for recreation, education, reflection, and solace. Public lands managed by the Department of the Interior hosted over 370 million recreation visits in 2005. Ensuring that the federal lands continue to play this important role in American life and culture requires that we maintain visitor facilities and services and enhance visitor opportunities. Such efforts require a source of funding with which we can quickly respond to increases in visitor demand. Recreation fee revenues are a critical source of such supplemental funding that significantly enhance our efforts to address the deferred maintenance backlog at our National Parks and better manage other federal lands.

In FY 2004, total Recreation Fee Demonstration (Fee Demo) revenue was $192 million, compared to total revenue of $177 million in FY 2003. In 2005, revenues for the Interior agencies reached over $166 million (including NPS Passport sales revenue). The cost of collection for the agencies over the FY 2000 FY 2004 period has remained relatively constant at about 20 percent of gross fee revenue. In FY 2004, the Departments obligated a total of $202.2 million for a variety of projects to address maintenance needs, visitor services, and resource protection and preservation.

In FY 2004 and FY 2005, recreation fee revenues were used to enhance facilities and services for visitors to BLM, NPS, and FWS lands. For example, in FY 2005, in New Mexico, BLM used recreation fees to improve visitor services by completing a new rest-room and shower complex and expanding the Visitor Information Center at the Valley of Fires Recreation Area. These were improvements that visitors requested most frequently from feedback cards. In Washington, on the Yakima River and Canyon, BLM used recreation fee revenues to remove tree hazards at the campground and install Visitor Information Kiosks. In FY 2004, BLM used recreation fee revenues in Colorado to construct accessible restrooms, rehabilitate an access road, and install soil erosion prevention measures along the Upper Colorado River.

NPS also funded many high-priority projects in FY 2005, obligating $141.03 million in recreation fee revenues (including National Park Pass revenues). At Rocky Mountain National Park in Colorado, NPS continued work on the $425,000 project to rehabilitate Glacier Basin Campground, including the reconstruction of tent pads, replacement of fire rings, replacement of picnic tables, improvements to parking areas, erosion control work, and improvements to access trails. NPS allocated $209,000 in recreation fees to rehabilitate approximately 45 miles of Southeast Utah Group Trails at Arches National Park.

In FY 2004, at Mid-Columbia River National Wildlife Refuge Complex, FWS partnered with members of a local hunting and fishing club to build a waterfowl hunting blind with materials purchased with recreation fee funds. In FY 2005, at Chincoteague National Wildlife Refuge in Virginia, FWS used approximately $250,000 of recreation fee revenues for new interpretive signs along trails, and $72,000 to replace old fee collection booths—a backlog maintenance project.

While fee revenues are exceedingly important to the agencies' ability to provide quality visitor services and facilities, we recognize that choices on fee levels and at what sites and locations fees are appropriate also are elements of our relationship with the visiting public. For this reason, we invite the public and members of Congress to engage in a continual dialogue as we move forward on overall policy guidance and as we implement REA on the ground. We view the recreation fee program as dynamic and open to new ideas, changes, and suggestions. In this light, we have held periodic briefings for Congressional staff on key implementation issues and incorporated the ideas provided into our process, including suggestions to hold additional listening sessions and conduct marketing surveys on pricing. We are fully committed to meeting congressional expectations in managing the fee program to ensure that fees are applied only in appropriate locations, revenues are used for purposes intended by the Congress, and that decisions are open and transparent.

HISTORY OF RECREATION FEES AND IMPLEMENTATION OF REA

Recreation fees are not a new concept established under REA. All of the participating agencies have had broad recreation fee authority for forty years under the Land and Water Conservation Fund (LWCF) Act of 1965 as well as under the Fee Demo program launched in 1996, with the exception of BOR which was not an authorized participant of the Fee Demo program. REA differs from LWCF in that it allows fees to be reinvested at the collecting site to benefit the visitor through enhanced facilities and services. REA differs from the Fee Demo program in that it provides narrower and more prescribed authority, limiting fees to locations with specific kinds of infrastructure and services. For example, under REA, BLM, Forest Service, and BOR may only charge fees at sites and for activities that meet certain specified criteria. For these agencies, certain fees may not be charged for general access, dispersed areas with low or no investment, undesignated parking, or picnicking along roadsides or trails. REA also requires that the Departments create a Recreation Resource Advisory Committee (Recreation RACs) in every State or region or use similar existing entities so that the public, including local communities, can provide input into fees established by BLM and Forest Service.

The Recreation Fee Leadership Council (Fee Council), whose members include key officials of both Departments, and on which I serve as co-chair along with Mark Rey, USDA's Under Secretary for Natural Resources and Environment, has provided overall guidance on the implementation of the fee program, convening on a quarterly basis since REA was enacted. An interagency Steering Committee and several technical working groups, made up of agency experts, are leading day-to-day implementation efforts. We will provide implementation updates for the key technical working groups: the Fee Collection and Fee Expenditure Working Group, the Recreation RACs/Public Participation Working Group, and the Pass Working Group.

FEE COLLECTIONS AND EXPENDITURES

The Fee Collection and Fee Expenditure Committee (Collection and Expenditure Committee) began meeting in January 2005 and focused on organizational concerns, short-term and long-term implementation issues, and coordination among the various agencies as they relate to fee collections and expenditures. All participating agencies took immediate steps to assess which existing recreation fee sites established under the Fee Demo program complied with REA and which would drop out. The exception is BOR, which was not authorized to participate in the Fee Demo program and, thus, is focusing its efforts to determine at which sites recreation fees under REA may be appropriate.

While Congress had encouraged agencies to experiment with recreation fees under the Fee Demo program, BLM took a more conservative implementation approach, establishing a total of approximately 390 recreation fee sites and leaving a vast majority of BLM-managed recreation areas, over 85 percent, fee-free to the visiting public. For this reason, most of BLM's existing Fee Demo sites meet the new criteria. The sites where BLM made changes to comply with REA include: the elimination of fees for overlooks at the Imperial Sand Dunes in California; the elimination of fees at undeveloped sites at Orilla Verde Recreation Area in New Mexico; an increase of the number of sites that accept national passes from 12 to 28; the elimination of the youth fee at Piedras Blancas visitor center in California; and the elimination of the youth fee at Cape Blanco Lighthouse in Oregon. During the review of all its recreation sites, BLM also is taking the opportunity to align like fees into like categories. This may result in an increase in the total number of fees in certain categories, but these changes do not represent new fees and are not a result of REA. BLM does not expect substantial change in the overall amount of fee-free recreation opportunities provided to our visitors.

At the Exit Glacier site in Kenai Fjords National Park, NPS eliminated a day-use fee because it might be perceived to be an entrance fee, prohibited under the Alaska National Interest Lands Conservation Act, and thus, under REA. FWS eliminated entrance fees at Gavin's Point National Fish Hatchery. The Forest Service, which used a much more experimental approach under the Fee Demo program than BLM, had large-scale changes as a result of REA, removing fees from approximately 435 sites.

The Collection and Expenditure Committee worked on reaching consensus with all agencies to establish a policy concerning appropriate fee collections and expenditures. The Collection and Expenditure Committee also is developing an Inter-Department Handbook to provide for consistency in implementation of REA. Among other things, the Inter-Department Handbook defines terms of the Act relating to collections and expenditures of revenues and clarifies the definitions of "Standard" and "Expanded" amenity recreation fees. We view the Handbook as a dynamic docu-

ment that will require adjustments and clarification as new issues and questions arise. In addition to general policies, each agency also has developed more specific field guidance, where necessary. For example, BLM issued guidance on January 26, 2005 to set forth interim procedures to implement REA, and another guidance on June 14, 2005 to provide direction on new fee areas, new fees, and special recreation permits.

We would like provide some additional information to address recent inquiries concerning our Special Recreation Permits (SRPs) program. REA authorizes the agencies to issue SRPs and charge associated fees. However, this authority is not new. The language is very similar to the authority provided under LWCF (1965) and under the Federal Land Policy Management Act (FLPMA) (1976). To determine how BLM will implement this provision, we look to BLM's 35-year history of assessing, through a public process, the appropriateness of SRPs for a particular activity or at a particular site.

The authority for SRPs is not used merely in cases where the agency would like to charge a fee. It is used in situations where the agency has determined through a land use planning process that a permit system is necessary to ensure a quality recreation experience for all visitors. Historically, BLM has issued SRPs for commercial, vendor, competitive, and organized group events and activities, and for individual use of Special Areas (private or non-commercial use). SRPs are issued in an effort to satisfy recreational demand within allowable use levels in an equitable, safe and enjoyable manner, while minimizing adverse user conflicts and resource impacts.

In FY 2004, BLM issued nearly 4,000 commercial, competitive and organized group permits and 105,700 non-commercial individual SRPs. Of the individual SRPs, approximately 105,200 SRPs were issued in 21 recreation areas, located in 5 States (AZ, CA, NV, UT, NM), and approximately 500 SRPs were issued, without associated fees, for the lower Salmon River in Idaho. Of the 22 areas, ten areas are river segments, four are canyon trails, and eight are off highway vehicle (OHV) areas. At some of these sites, BLM uses SRPs to provide timed entry into popular whitewater rafting areas and for narrow canyon trails; this not only prevents overcrowding and creates an enjoyable visitor experience, but also enhances safety and minimizes the impact to the resources that the visitors come to enjoy. We should reiterate that BLM also has countless numbers of other recreational rivers, trails and OHV areas that make up the vast majority of BLM-managed lands and that are and will remain fee-free.

The fees associated with SRPs are used to administer the permit program, so that the direct beneficiaries of the permit bear the cost rather than the general taxpayers. Fees also are used to provide the benefited visitors with enhanced facilities and services, such as emergency response services, safety compliance and education, litter cleanup, basic road, parking, trail and facility maintenance, interpretative brochures, information centers, trip planning services, and maps.

Given the long history BLM has had in issuing SRPs, we do not expect substantial changes in the program under REA. Three years ago, BLM re-issued regulations (43 CFR 2930 and Manual/Handbook H-2930-1, October 1, 2002) that updated and provided clarification of the permitting system under LWCF and FLPMA. The regulations went through an extensive public process and received input from the recreation community. BLM will be issuing a revised edition of the Handbook that incorporates Inter-Departmental clarification and policy for implementing REA requirements.

RECREATION RESOURCE ADVISORY COMMITTEES, PUBLIC PARTICIPATION, AND COMMUNITY INVOLVEMENT

We view the visiting public as our partners and implementation of the recreation fee program as a continuing dialogue. The Recreation Resource Advisory Committees, the public participation provisions, and the fee management agreement provisions established under REA provide important opportunities to engage the public, interested stakeholders, and local communities in discussions on a wide variety of fee-related issues and to think creatively about the program.

In this spirit, the Fee Council recently clarified the Departments' view of the duties of the Recreation RACs. The Council agreed that the Recreation RACs should be encouraged to discuss, in an advisory capacity, all aspects of BLM and the Forest Service's recreation fee programs, including establishing new fee areas, abolishing fees, fee levels or rates, and expenditure of revenues.

For BLM and the Forest Service, REA requires the creation of Recreation RACs in every State or region and authorizes the use of similar existing entities in lieu of establishing new Recreation RACs. In an effort to thoughtfully implement this

provision, the Forest Service and BLM held ii listening sessions in locations across the country to gather public input on the formation and configuration of the Recreation RACs. Based on the input we received at these listening sessions, on September 22, 2005, the Fee Council approved a basic framework to implement the provision in REA.

Under the basic framework, BLM and the Forest Service would use existing Resource Advisory Councils established under FLPMA and, for areas that do not have existing Resource Advisory Councils, such as the state of Wyoming and the eastern United States, new Recreation RACs would be established under REA. BLM, for many years, has used Resource Advisory Councils to receive public input on a wide range of resource and land management issues, including recreation: These existing Resource Advisory Councils work effectively and efficiently and are well-received by the public. The basic framework would take advantage of these existing Resource Advisory Councils by expanding them to engage in more specific and additional recreation fee review duties for both BLM and Forest Service. To allow for local representation, more focused subgroups may be created where necessary.

We can build on successful models already in use such as BLM Boise District Resource Advisory Council in Idaho, which reviews and makes recommendations on recreation fees for the Payette River recreation area. Because the area is jointly managed by BLM and the Forest Service, an interagency agreement was developed to establish the general objectives and respective responsibilities of each agency. The Resource Advisory Council developed a charter to establish an advisory subgroup to review and provide recommendations on fee issues for both agencies.

While we have established the basic framework to implement this provision of REA, we have many additional implementation issues to address over the next several months. We will be looking more carefully at each local situation to determine what subgroups may be appropriate using the existing Resource Advisory Councils, based on need and interest, at the relationship of the subgroups, funding sources, and other issues that may arise. We also will work with state and local officials and the public to determine the need and area of scope for the establishment of the new Recreation RACs under REA.

In addition to the Recreation RACs, the agencies are establishing other processes to better communicate with the public. On September 28, 2005, the Departments jointly issued a federal register notice that established guidelines on public participation and public notice as required in REA. The agencies also are working on additional agency-specific guidelines. The goals of the guidelines are to provide the public with opportunities to participate in the recreation fee program and also better inform the public about how fee revenues are being spent to enhance the visitor experience.

REA also provides general authority to establish fee management agreements with governmental or non-governmental entities. We believe tremendous potential exists to develop mutually beneficial partnerships through the recreation fee program. One example of such a partnership is at the Deschutes River between BLM and the State of Oregon. BLM and the State have worked cooperatively to build the Deschutes River reservation website, which will now be operated by the State. Another example is at Sand Flats, a highly popular 7,000-acre recreational area made up of BLM and Utah state lands. To manage the increase in visitation in the 1990s, BLM and Grand County entered into a cooperative agreement under which the county would collect recreation fees and use them to manage and patrol the highly popular recreational area. The county and its citizens have benefited from a more vigorous tourist trade; BLM now has a signature recreation area; and visitors can safely enjoy the Sand Flats area. Every agency has developed a number of successful partnerships like these, and we look forward to working with governmental and non-governmental entities to explore other opportunities to expand such mutually beneficial agreements.

THE AMERICA THE BEAUTIFUL—NATIONAL PARKS AND FEDERAL RECREATIONAL LANDS PASS

REA establishes the new multi-agency America the Beautiful-National Parks and Federal Recreational Lands Pass (the new Pass) to cover entrance fees for NPS and FWS and standard amenity recreation fees for BLM, Forest Service, and BOR, generally for a period of 12 months. The target rollout of the new Pass is scheduled for January 2007, and the Pass Working Group has worked diligently to ensure we meet that goal through a transparent and thoughtful implementation process.

Our vision for the new Pass is one of a pass that is convenient for visitors to purchase and use, is marketed in a sophisticated manner, incorporates policies and technologies that can facilitate partnering, and can provide additional opportunities

to educate and inform the American public about recreation opportunities on federal lands.

To ensure that the production, marketing, and provisions of the new Pass meets the expectations of the American public and key partners, the Pass Working Group has hosted a total of four listening sessions. Three listening sessions have been conducted to allow interested parties to share their ideas about partnership opportunities, benefits, pricing, technology and other related topics and an additional listening session was conducted with disability advocacy groups on documentation requirements for the Access version of the new Pass.

We recognize public and Congressional interest in the pricing of the new Pass. To better determine a price that is reasonable and fair, the agencies have entered into a cooperative agreement with the University of Wyoming to conduct pricing analysis. To date, University researchers have conducted six focus groups in different geographic locations, initiated the collection of price benchmarking information with State Parks, and begun developing a survey of recreationists for next spring. Additional analysis of the relationship between the prices of annual passes, site specific passes and daily fees entry fees also will be conducted. It is expected that a decision on pricing of the pass will be made in summer of 2006.

Providing a new Pass to the American public requires that the agencies contract for some specific goods and service, such as design, production, distribution, and fulfillment. We have moved forward on the contracting process and have selected a contracting office and appointed a COTR, Project Manager. A Request for Information (RFI) was issued in August and a number of capability statements were received by a variety of organizations. An Acquisition Strategy has been drafted and is being finalized. A Performance Work Statement (PWS), which includes design, production, fulfillment, marketing, data base management, sales through the internet, and 1-800 number channels, is being developed and will be put out for competitive bid this winter. Review of bids and the award of the contract are planned for early 2006.

A draft interagency agreement has been developed that identifies all the roles and responsibilities of the various agencies, cost share agreements, start up funding agreements, and short and long term revenue share agreements. In addition, we have completed a draft of the Secretaries' Guidelines. We expect to finalize and publish these documents later this fall.

Due to long lead times in pass production, we have entered into an agreement with Kodak and the National Park Foundation to provide the image for the first Pass, utilizing the winner of the 2005 Kodak National Parks Pass Photo Contest. Alternatives for acquiring images for subsequent years are still being investigated.

Certain decisions concerning the parameters of the new Pass have been made including the intent to develop a pass design that can accommodate unstaffed areas. We also have decided to make the new Pass widely available to the public via sales outlets at all public land management sites that collect fees and through 3rd party partnership and vendor agreements. We anticipate that we will have many partners in the sale of the new Pass and look forward to establishing these relationships. In addition, we plan to ensure that the new Pass, where appropriate, continues to build on strong existing relationships with our public lands partners, such as the National Park Foundation.

We also appreciate the effort and dedication brought to our public lands by volunteers. Consistent with REA, we plan to issue passes to volunteers, but we still have some technical issues to resolve. We are hoping to personalize the passes issued to volunteers.

While the Departments plan to move as expeditiously as possible toward implementation, our primary goal is to create a high-quality, well-thought-out, visitor-friendly pass program that is enthusiastically embraced by partner organizations and the public. Creating a successful pass program will require us to address many complex issues. We plan to carefully consider our past experiences, the National Park Foundation's expertise in the development of the National Parks Pass, various studies conducted by the agencies on passes and the recreation fee program, and feedback from members of Congress, the recreation community, and the general public.

The recreation fee program is vital to our ability to meet visitor demands for enhanced facilities and services on our federal lands. The Departments view the passage of REA as the beginning of an important opportunity to create a sensible, visitor friendly, efficient recreation fee program. We view REA as a dynamic program that responds to lessons learned and builds on success stories. We welcome the opportunity to work with you toward this end.

Mr. Chairman, this concludes my statement. I would be pleased to answer any questions you or other members of the Subcommittee may have.

Senator CRAIG. Lynn, thank you very much. I will start with you first. We will do 5-minute rounds so that all of our colleagues can cover their questions, and we will go through a couple of rounds if necessary.

Lynn, I believe the Federal Lands Recreation Enhancement Act prohibited the BLM and the U.S. Forest Service from charging entrance fees or for charging people to walk, drive, or ride through lands. Can you tell me how your Department concluded that the Federal Lands Recreation Enhancement Act permitted the creation of high-intensity recreation areas and how it is they seem to be willing to ignore section 803(d)(1) that prohibits the Department from charging for certain things?

Ms. SCARLETT. Yes, thank you, Senator, for the opportunity to address that. We did inventory all of our sites and looked at them with respect to their compliance with the provisions of the act. We believe that the BLM sites do so. I think there is also perhaps some confusion and we hope to clarify that.

For example, there was mention of Cedar Mesa, a 400,000 acre area. In fact, 75 percent of that area is open with fee-free opportunities for hiking and so forth. There are, however, 20 entrances to specific very narrow canyons where there is the application of fee. So it is not the entire area. It is those specific areas where there is a fee to ensure that that access is safe and that people are not on top of each other.

Some of the fees that I think some people are referring to are these special recreation permits. These are permits that we have had for 35-some years. They are for, as I noted, primarily the purposes of kind of controlling the flow of people in narrow canyon corridors and/or for whitewater rafting and in a few off-highway vehicle locations.

However, if it is brought to your attention that we have some fees that appear to be out of sync with the purposes of the act, we would be very interested in hearing where those are and working with you to remedy that situation.

Mr. REY. I might add, in the case of the high-intensity recreation areas the resource advisory committees, once established, will review the fee structure of each of the high-intensity, high-impact recreation areas. But essentially those high-impact recreation areas are areas where we have groups of sites which together contain all of the amenity values that justify the charge of the basic amenity fee.

We thought charging one fee, as opposed to trying to break it out into several separate fees, was a much more prudent way to proceed. But these are, we understand, the areas of greatest ambiguity, which is why I would second Lynn's offer to work with you on any specific area that either you or other members of the committee have concerns with; and second, why we have decided that we will be submitting those areas to the resource advisory committees once the committees are formed.

Senator CRAIG. Lynn, when Congress authorized the Federal Lands Recreation Enhancement Act we included the category of special recreation permits to deal with a limited number of activities on off-highway vehicle parks and outfitter guides. Your guidelines seem to give authority to charge special recreation permit fees

for just about anything. In your mind, what are the limits on the special recreation permit? What is the limit or the limits on the special recreation permit's authority? Is it your intention to start charging people to enter into a wilderness area under the Federal Lands Recreation Enhancement Act? I guess that is a couple of questions there.

Ms. SCARLETT. Yes, thank you, Senator. As I noted earlier, we have had these special recreation permits and the authority for them for some time and we believe the language in the new act is very similar, if not identical, to the past. Our intention would be to continue to utilize those for virtually the same kinds of purposes they have been used for in the past.

As I noted, those permits are concentrated in about 22 areas, primarily for whitewater rafting, narrow canyon trails, and for some off-highway vehicle areas. As new kinds of unanticipated recreation activities may emerge, through the land use planning process and the RAC process it may become appropriate to consider such fees for concentrated types of use that we do not right now have.

But as Mark Rey noted, we would not envision introducing new permits of that sort without going through the land use planning process and in the case of under the new act the recreation advisory council process. We do not envision major changes, and we have not made any changes to date.

I will note one point of clarification, however. As we inventoried our existing fee sites for BLM, we did find that some of our fees were actually misclassified as recreation fees that, in fact, were more appropriately special recreation permits, and so we reclassified them into that category, making it perhaps look like the fees were expanding. In fact, it was just a shift in nomenclature.

Senator CRAIG. Let me turn to Senator Thomas.

Senator THOMAS. Thank you.

Secretary Rey, it sounded sort of in your testimony that you are still in the study process. Have you come up with your final determinations and descriptions of the area and so on?

Mr. REY. Yes, we have completed our review of the existing facilities to decide which of them qualified under the new legislation. As I indicated in my testimony, some 435 sites were suspended from the collection of fees. So we are collecting fees on 435 fewer sites today than we were prior to the enactment of the legislation.

That part of the process is now complete. The next step in the process is to charter the resource advisory committees, have them available then to look at some of the sites that we have reconfigured, the high impact recreation areas in particular, and then move forward with the resource advisory committees' assistance in deciding where, if in the future we make additional investments, any other fee sites might be appropriate.

So that is where we are at this stage in the process.

Senator THOMAS. So you feel like the definition of the chargeable areas has been well enough defined that there is not going to be all kinds of changes and these advisory committees will not be making great decisions over all kinds of different things?

Mr. REY. I do not want to prejudge what our advisers might tell us, because that diminishes the value of their advice. But I think we have gotten to the point now where we have defined the scope

of the existing program. What we want to do is charter these committees to look at a couple of areas, particularly the high-impact recreation areas, where we have done some reconfiguration, get their advice about that, and then their involvement going forward from there would be prospective in the context of where might additional investments in recreation justify the additional charging of fees.

Senator THOMAS. Well, I just—and I know it is not easy, but I think there ought to be a pretty clear definition of what these are, so that you are not going to be changing it, moving it, everyone is going to be testing to see if it's this area or that area.

Secretary Scarlett, do you use charges for limiting use? Is that your intention?

Ms. SCARLETT. We welcome visitors on public lands, whether they be parks, whether they be the Bureau of Land Management lands or the Fish and Wildlife Service.

Senator THOMAS. You have indicated like on the rivers and so on where you think there needs to be limited use; is the charge the way you do that?

Ms. SCARLETT. The purpose of the charges is not so much to limit use. What we do is require people to obtain a permit. There is usually a fee to buy that permit, which oftentimes provides sequenced access, so that, for example, if it is a whitewater rafting area, you do not have everybody entering all at once. We also use those special recreation permits that provide timed access to narrow canyon trails, where it simply would be impossible to have everybody there all at once.

So we require a permit and usually charge a fee. That helps us to create that timed access, monitor the flow, and then provide whatever other emergency services might be required, etcetera.

Mr. REY. Let me inject a clarification, because I do not want to leave a misimpression. The decision about whether to limit use in a wilderness area in particular is made independently of the decision as to whether to charge any fee for the subsequent administration of that wilderness area. So we are not setting up a system where we are saying you are only going to accommodate this many people and it will only be the ones who can pay a fee.

The decision to limit use in a wilderness area or on a river is a resource-based decision associated with impacts from visitor use or the impacts of the visitors on——

Senator THOMAS. That is not a new criteria under this bill.

Mr. REY. No, not at all. We have done that before in the past.

Senator THOMAS. But then why do you charge now, when you did not before?

Mr. REY. Because in many of those instances we are also providing additional services associated with that use, in cases where we are flying out sewage and doing other things.

Senator THOMAS. One of the differences clearly with the parks is that parks have gates where people enter and that is not so in public lands. So it seems like the collection process for charging is going to be very difficult. How do you collect the fee? Do you have to set up gates and entries and post guards; is that it?

Ms. SCARLETT. I cannot speak for the Forest Service, but certainly for the Interior agencies, and in particular this would apply

to the Bureau of Land Management, where we have these special recreation permits for concentrated use, they tend to be at specific access points. So, for example, launch places where you would put a raft into the water, or if it is an off-highway vehicle, it would be a concentrated area of use where, in fact, it is feasible to charge a fee.

Senator THOMAS. Thank you, sir.

Senator CRAIG. Senator Salazar, questions?

Senator SALAZAR. Thank you, Senator Craig.

Lynn and Mark, you are in the middle of the river crossing to the other side as you implement this new program that was mandated under this law. I would ask both of you from your perspectives as leaders in your Departments what the long-term plan is relative to the financing of essentially the Park System and our Federal land system and amenities in those Federal land systems with respect to these programs that you are bringing on line?

For example, I know you have not yet launched the America the Beautiful Pass or the other passes that you contemplate, but what is the vision, if you will, of both the Department of the Interior and USDA Forest Service with respect to the budget, relative to the amount of money that you are going to raise from these new fees that are being asserted and how those funds are going to be implemented in the future?

My sense of these new changes is that what has happened, as Chairman Craig was telling me a little bit earlier, is that there is not enough money going around in the Federal Government to do all of these things that we want to get done in our public lands, so this is a way of getting the bathrooms and other facilities built in many of the Federal lands areas.

What is essentially, though, the budgetary framework that you have envisioned as you complete the implementation of this act?

Ms. SCARLETT. I will take that first. I think our overall vision with respect to the appropriations dollars and the expenditures necessary to maintain our public lands is that it is the appropriations that provide the primary basis for supporting those lands. The Park Service, for example, has a budget of about $2.4 billion; the other two agencies, Fish and Wildlife Service and the Bureau of Land Management, about half of that.

The amount that we raise through these fees at Interior is about $166 million. So it is a very small but very important fraction.

What we use these fees for are those services that directly benefit the specific users. They also allow us to be resilient to rapid changes in use. I have been out to Moab, Utah, for example, where we have many thousands of people that come to that area for mountain biking, off-highway vehicle use, and sometimes with great unexpected numbers, and it requires a rapid response in terms of the expansion of the toilet facilities, and the cleanup of those facilities. The inability to wait for changes in appropriated dollars to meet that change in need——

Senator SALAZAR. If I could interrupt you for just a second, Lynn. In my State I once ran the Department of Natural Resources for 4 years and there was a point in time in our history with our State park system where we provided 30 percent of the funding from State general fund dollars and then 70 percent from fees. What you

just said is that we currently fund the programs through the Department of the Interior with the $2.4 billion appropriation and we collect only $166 million in fees.

Is it your sense that what we are doing here at the Federal level is trying to move in the same way that Colorado moved over a period of time, and that is to try to pick up the costs of essentially running and managing the Federal lands programs through fee collections as opposed to the appropriations process that historically has been used? Is that a policy goal of the Department of the Interior?

Ms. SCARLETT. That is not the policy goal of the Department of the Interior, Senator. We have viewed the fees as a very important supplement to the appropriations dollars that Congress provides us, but it is not our vision that those fees would somehow either overtake those appropriated dollars or would be at a level such as you describe for the State of Colorado.

There are many States—in fact, we have looked at fees, recreation fees for parks in States. 46 States do utilize recreation fees, some of them entirely and some of them in some significant percent. I think it at least to date seems to be the sentiment of both the Congress and the American public that these lands be supported through appropriations and then these special activities that individuals benefit from and the services that they utilize be supplemented with recreation fee money.

Senator SALAZAR. Mark, a question for you in terms of how the fees are actually set. Is it the resource advisory council working with the agency that would ultimately determine what level of fee would be charged for a particular site?

Mr. REY. The resource advisory councils will advise us both on the location of sites that are suitable and eligible for fee assessments, and I am sure they will give us their advice on what the fee level should be as well.

Senator SALAZAR. So it is conceivable we would have 1,000 different sets of fees for each Federal facility?

Mr. REY. No. One of the things we are going to have to do is maintain some consistency on that. So obviously we will take their advice, but it will have to be filtered up, because I do not think we can charge one fee for the same activity in one State versus another State. I do not think that will fly.

But I am anticipating that many of the RACs will give us their advice on that. But I think their primary benefit is going to be to review the areas that are suitable for fee assessments.

In response to your previous question——

Senator SALAZAR. Let me follow up on that just a minute. I still do not understand exactly how the fees will be set, and does in your agency, with respect to the Forest Service—do you have a template with respect to the kinds of fees that you are going to be charging, for example, at national forest campsites? Or every campsite in America would essentially be charged a fee within a certain range? Or how is it that you intend to move forward in arriving at a fee that has some consistency, and what is the nexus between the fee and the kinds of improvements and use at each one of these facilities?

Mr. REY. The fees will ultimately be set by the Inter-Agency Fee Leadership Council, so that we have not only consistency within the Forest Service nationwide, but consistency within the Federal land managing agencies nationwide, so that a comparable fee is charged for a comparable site, whether it is a BLM site or a Forest Service site or a Fish and Wildlife Service site, to the extent that the statute allows all the agencies to charge fees for the same functions.

Then the question is what will the fees be used for. 85 to 90 percent of them will go back to either improving or maintaining the site where they are charged. That is the purpose of the program, is to reinvest the fees on the land.

Senator SALAZAR. So the reinvestment will go back into the specific site where the dollars are collected from?

Mr. REY. Correct.

Senator SALAZAR. I would just say one thing, Mr. Chairman, to you as the chairman of the committee and also to our witnesses. I think this is such an important program, especially for all of us who come from States in the West where we have such huge ownership in Federal lands, that it is going to be very useful for this committee to be kept abreast of what is going on as you move forward with this new chapter on fee imposition on access to Federal lands.

Senator CRAIG. Ken, thank you.

Mark, in the State of Washington and perhaps elsewhere law enforcement for Federal Lands Recreation Enhancement Act is being performed by State police. I understand that the offense for which people are being cited is a criminal misdemeanor charge and it is different than the charge that Federal law enforcement officers would use. I have two questions coming out of that statement.

What are the financial arrangements that your agency has with county sheriffs or State police for enforcement of the Federal Lands Recreation Enhancement Act? That would be one question.

The second would be, Congress limited the maximum penalty for first offenders to a $100 fine. Yet Washington State law provides for a fine of $5,000 and 6 months imprisonment for those charged under the criminal code being used. I would like to know how this heavy-handed approach was adopted and when you are going to put an end to it?

Mr. REY. Well, I think first of all some clarification is in order. Federal law rather than State law governs any offenses in this case. Second—that is, offenses related to violations of the fee system.

Second, we do have cooperative law enforcement agreements with local law enforcement entities throughout the country, and we have been encouraged to have those kinds of cooperative agreements by Congress on any number of occasions. What that means is local law enforcement will help enforce Federal statutes, and where they enforce a violation of this statute the maximum fine as provided in the statute will hold, will govern.

I think, however, you are referencing an example provided in the testimony that your staff was kind enough to share, that occurred in Snohomish County, Washington. In that case, as I understand the case file, the local law enforcement officer encountered an indi-

vidual who had several Northwest passes, Northwest forest passes, in his car, many of which had been modified—or counterfeited, in other words—to give him access on days that he did not have to pay anything for. In fact, I have a picture of a doctored pass here.

So in that case what the individual was charged with was a State law violation involving theft of property under State law. He was not charged with not having a pass on that particular day. He was charged with having a number of fraudulent passes in his possession all at one time. And I can give you a picture of one of the doctored passes.

Senator CRAIG. Yes, I would like to see it. I hope we have not set up the template for a rash of counterfeiting to go on out there in the ticket arena or the certification arena.

Could you provide the committee with the visitation use numbers for the Forest Service for each of the last 10 years by the end of November? Can you run those for us?

Mr. REY. Sure.

Senator CRAIG. And if you could break those numbers out into the following categories of use, that would be most helpful to us. And I do not know whether this is possible. Take a look at it and see whether you can: driving for pleasure, hunting, fishing, bird-watching, camping, hiking, picnicking, and other non-wilderness dispersed recreation, or wilderness use. Is that a doable?

Mr. REY. I believe so.*

Senator CRAIG. Good. Thank you.

The Federal Lands Recreation Enhancement Act stated that new sites could be added after going through a public comment process which, amongst other things, required the recommendation of new sites by recreation resource advisory committees and provided for a 6-month public comment period following publication of proposed site additions to the Federal Register.

Please explain how under those authorities the new sites that were recently added actually got added?

Mr. REY. The only new sites that have been added since enactment of the legislation were campgrounds that were already on line and under construction and for which fees would have been charged under the Land and Water Conservation Fund. We felt justified in keeping the fee program there because the agreements associated with the charging of those fees, the cooperative agreements with some of our partners, had already been executed. The only question was the final ribbon-cutting had not occurred on the opening of the campground prior to the enactment of the legislation.

Now, that having been said, I know there are many groups who would dispute the proposition that those are the only new areas where fees are being charged where fees were not charged prior to enactment of the legislation. The reason I know that is that again I read most of the testimony that was provided to the committee for the record.

You know, with——

Senator CRAIG. Mark, I am specifically interested in the example—and you may be getting to it—in California, where new inten-

*The information has been retained in subcommittee files.

sity use areas were permitted and charged that did not exist before.

Mr. REY. In those cases, what we have done is created a high-impact recreation area, combining a number of areas where fees were previously charged under either Land and Water Conservation Fund or under the RAC fee demo authority.

Senator CRAIG. So you are drawing the conclusion that they were once charged, therefore you have created a new entity and it did not need to see the public process?

Mr. REY. No. As I said in my testimony, we will be—because of the fact that these high-impact recreation areas require a certain amount of interpretive work, we will be submitting those to the resource advisory committees once they are chartered, to make sure that they concur that that is a reasonable application of the statute.

But in every instance, these are areas where in individual sites linked together in a logical fashion fees were charged prior to the enactment of the statute.

Senator CRAIG. Well, I think I understand your logic or the logic used. I guess I would argue, is that consistent with the law?

Mr. REY. I think the statute did provide us the authority to charge basic amenity fees in those kinds of instances. And if you look at the pictures—and they are worth a thousand words—that I provided for some of the high-impact recreation areas, I think those pictures give you a pretty dramatic illustration of what the fees are used for and why they are necessary.

Senator CRAIG. Is that why you used tape over certain lettering?

Mr. REY. No, that is a temporary——

Senator CRAIG. That is very temporary and very quick, yes.

Mr. REY. Yes. Those are temporary ways to modify——

Senator CRAIG. It sounds like a rush to revenue to me.

Mr. REY. Those are temporary ways to modify the existing signs to avoid public confusion until we replace them with permanent signs.

But if we are going to provide these sites to the recreation advisory committees, then it makes some sense not to sign them permanently until the advisory committees review them.

Senator CRAIG. Lynn, could you respond to the question that I have just asked?

Ms. SCARLETT. Yes, Senator. It is my understanding that we have not created any new fee sites. We are, for the Bureau of Land Management, we are awaiting the utilization of the resource advisory councils.

The one caveat that I mention is that when we did our inventory of BLM sites we had some that were characterized as recreation fees that we shifted to special recreation permits. That may have the appearance of being a new kind of fee. In fact, it was a renaming.

We did put a moratorium on any new fee sites until we had the completion of our resource advisory council process set up. I will add, though, that we have adjusted some fees and there have been some questions about that. As Mark said, there were some campgrounds where through a 2-year process in which public participation already had been occurring we were adjusting through natural

cost of living type increases certain campground fees. We have moved forward with those, where the planning process was well under way and we were, if you will, just about to implement those. But those are not new fee sites.

Mr. REY. Lynn makes a point that I think probably bears some elaboration. Both in the case of facilities that were coming on line as well as in areas that we have designated as high impact recreation areas where fees were previously charged, there was in almost every instance a considerable amount of local support for the creation of those fees to be able to invest in the areas that were subject to the intensity of recreation impact that you can see in those pictures.

Now, that does not obviate the opposition to groups who still oppose fees as a matter of principle. But I think what you are seeing today is a lot of those groups are looking at some of these areas and raising issue with whether fees should be charged at all, not whether fees were once charged, but going back to the philosophical question of why should we have to pay fees anywhere.

With all due respect, those groups are more interested in overturning enactment of the legislation than they are overseeing implementation of it.

Senator CRAIG. Lynn, the Forest Service found that the Park Service of the fee program at the Sawtooth National Recreation Area was noncompliant with the Federal Lands Recreation Enhancement Act and dropped it from the fee program in June. For that, those who involve themselves at the SNRA are forever thankful. Why was this parking pass program dropped and not other very similar parking pass programs in other parts of the Nation, such as the program in the White Mountain National Forest in New Hampshire or the parking pass program in the Northwest?

Mr. REY. When we made the transition from rec fee demo to this fee authority, in those instances as we did the review the local units had the option of coming into compliance if that made sense, by adding the amenities if there was adequate demand for them, or not if it did not make sense. So you had three sorts of situations. You had situations where the amenities were not there, the sites did not qualify under the statute, and the local managers said: There is not enough demand to justify adding the amenities, so what we ought to do in fairness to everyone is eliminate the fee.

You had other instances where there was enough demand and the amenities were added to make the sites compliant, so the fees were retained. And then of course, you had other sites where all the amenities were already there and the fees were continued, as the statutes would provide for.

So those were local manager options, guided by what they thought the local public needed and wanted.

Senator CRAIG. Thank you.

Senator Thomas, do you have any other questions to ask?

Senator THOMAS. Not really, sir. Just let me say that I think the Departments are working at putting this into effect. I hope that we all understand that it was defined to be pretty specific for specific areas, and I must say, Mark, that I see pictures of all these cars on the road. Why, there is nothing there being done for facilities. Now, maybe you plan to build some facility. I do not know. But I

think just because it is crowded does not necessarily indicate that you are doing anything for facilities.

Public lands are different than parks and I think we need to understand that. My gosh, you know, there are millions of acres of public lands in Wyoming that people are going to enter and go on and there are no facilities there. So I think we need to be very careful. I think we need to be very careful about it. I think you are working at that, but I hope that we come up with a pretty clear criteria of what kinds of facilities really are appropriate for fees and hold to that.

This is not a matter, as the Senator was talking about, of paying for public lands by fees. That is not what that is for. That is a totally different thing and we ought not to be confused about that, and I am sure you are not.

So thank you, Mr. Chairman. I am interested in listening to the others.

Senator CRAIG. Okay, thank you.

Mark, Lynn, thank you very much for coming today and preparing for this hearing. We will continue to watch and monitor very closely as you transition this new program.

Now let us invite our second panel forward. Our second panel is made up of Marvel Stalcup, Arizona No-Fee Coalition; Kitty Benzar, Western Slope No-Fee Coalition; Lance Young, director, World Outing Club of Seattle; and Aubrey King of King & Gorin, representing the Western States Tourism Policy Council, the Southeast Tourism Society, the National Alliance of Gateway Communities, and the National Association of RV Parks and Campgrounds.

We want to thank all of you for being here today and preparing for this hearing. Marv, we will start with you, the Arizona No-Fee Coalition. Please pull that microphone in front of you, either one of them, and make sure the little pad on the front shows red.

STATEMENT OF MARVEL C. STALCUP, ARIZONA NO-FEE COALITION, SEDONA, AZ

Mr. STALCUP. Thank you. Thank you, Mr. Chairman and distinguished members of your subcommittee. I certainly thank you for inviting us here today to talk about the Federal Lands Recreation Act. It is something that is very important to me, very close to home.

When I was preparing for this testimony, I was pacing up and down the living room trying to think just what I would tell you folks. I saw the September 2005 copy of *Arizona Highways*, and it sort of epitomizes to me the essence of the wilderness area. Here is this hiker sitting on a rock, communing with nature, doing what so many of the people in my part of the world do.

I am from Sedona, Arizona, and there are several places in the wilderness areas around Sedona where you could take a picture like that. You will notice that there are no amenities that you can see in that image. There is no bathrooms, there is no parking lots. It is just nature. I think that the framers, the Congress, back in the Eighty-Eighth Congress, when they made the Wilderness Act in 1964 were thinking about somebody just like that. They wanted

to provide a place so that in perpetuity people could come and commune with nature just like that hiker is.

It is interesting too that the lead article in that magazine was about the six Arizona national parks, and it was entitled "This Land Is Your Land." It went on to say that the six national parks are having their centennial this year and that—well, I guess that describes that image fairly well, I think.

The other image that I brought with me today is a map that I get from the Forest Service and it is my personal map. It is the one I use to go around and select which hikes we are going to go on next. As you can see, Sedona is surrounded by wilderness areas. Off in the east is the Sycamore Canyon Wilderness Area. To the north is the Secret Mountain Wilderness Area, and to the—to the east, rather. And to the east is the Munds Mountain Wilderness Area.

It is really beautiful land up there and I would hope that if you folks ever have a chance to come out to Sedona, I would love to show you what our area looks like and take you on some of the hikes that are there.

You will notice that there are some green dots and some red dots. The red dots are those sites, those trailheads, that are not in compliance with the FLREA. I have visited a good number of them and most of them have a dirt parking lot and that is it. There is nothing else available. The Forest Service, however, has designated the entire area around Sedona, including the three wilderness areas, as an HIRA, a high-impact recreation area.

If you wanted to use the bathroom or if you wanted to use some of the other amenities required by the REA, you could not find that in any of those red dot areas. You would have to go—so it does not seem reasonable to me to have the entire area named an HIRA.

We hike in a good number of those sites, as I said, and I notice that there was a press release by the Coconino National Forest designating this entire area as an HIRA and saying that because it was such an HIRA that it met all of the requirements under the present law and no changes have been made. I can testify that no changes have been made since the implementation of the FLREA. The same signs, the same fees that were in place under fee demo are in place today.

I thank you for listening to me.

[The prepared statement of Mr. Stalcup follows:]

PREPARED STATEMENT OF MARVEL C. STALCUP, ARIZONA NO-FEE COALITION, SEDONA, AZ

Mr. Chairman and distinguished members of the Subcommittee: Thank you for the privilege of testifying before you today concerning the Federal Lands Recreation Enhancement Act, P.L. 108-447. It is an act of great concern to me, and I feel obligated to come before you today and tell you why.

I have just read a press release from the United States Forest Service (USFS) in Sedona Arizona dated June 15, 2005. It states that "The Red Rock Pass program clearly meets the conditions described as a High-Impact Recreation Area (HIRA)" and thus "No changes are necessary in the Red Rock Pass program under the REA authorization." I can testify from personal observation that no changes have been made to the Red Rock Pass program in Sedona since the Federal Lands Recreation Enhancement Act (FLREA) was enacted. The same signage and fees that were in place during the Fee Demo period are still in place today.

It should be noted however that, in Section 803(d)(1) of the FLREA, language clearly and explicitly prohibits fees solely for parking or picnicking, for general ac-

cess, for dispersed areas with low investment, for driving or hiking through, for camping at undeveloped sites and for use of overlooks. The HIRA concept does not exist in the FLREA and the USFS is using it to circumvent the intent of Congress as described above. Signs along each of the highways leading to Sedona state "A Red Rock Pass is required to park on the National Forest." At all of the trail heads and scenic overlooks signs are prominently displayed which read "A Red Rock Pass Required to Park." The vast majority of these signs mark parking areas that do not have the amenities required by FLREA.

While thinking about my testimony today I glanced down at the coffee table and saw the September 2005 issue of Arizona Highways. On the cover is a photo of a hiker relaxing upon a rock outcrop, enjoying an endless vista of trees and mountains. This photograph symbolizes the essence of our Wilderness areas. The lead article is entitled "This land is your land—Arizona's six national forests celebrate a century of protection and recreation." I am sure that Howard Zahniser, the author of the Wilderness Act, and the 88th Congress had this hiker in mind when they passed the Act in 1964. To ask this person to buy a pass to sit on a rock and commune with Nature would be sacrilegious.

We have three Wilderness areas around Sedona encompassing some 121,000 acres. Congress designated Sycamore Canyon a wilderness area in 1972 and the Redrock Secret Mountain and Munds Mountain areas in 1984. Of the 72 trails listed on USFS website at *www.redrockcountry.org/recreation/trails.shtml* 35 are listed as being "in wilderness." However, the Coconino National Forest has declared the entire area surrounding Sedona an HIRA and is charging fees to access all of our local Wilderness areas.

HIRAs are also limiting public access in other parts of Arizona. Just northeast of Tucson is the Pusch Ridge Wilderness area with almost 57,000 acres that Congress designated in 1978. The Mount Lemmon Highway is the major access to this area and its 26 trailheads and 10 picnic areas. The USFS is using the HIRA to charge $5 per auto to those people using the road, except those stopping at any of the six vistas or those going to campgrounds or private property. The sign at the tollbooth says, "FEE REQUIRED FOR picnicking, all camping, roadside parking, trailheads and restrooms." The fee is required to park anywhere along the highway, except at designated vistas and there are lots of places where people just pull off and park: climbers, hikers, and folks who just walk into the woods. The Sabino Canyon Visitor center provides the only access to the southern margin of the Pusch Ridge Wilderness Area and thus controls and charges for access to some 50 miles of hiking trails. It seems that the USFS has overruled Congress's intention to create untrammeled wilderness areas when they began charging for their use.

I attended the University of Idaho under the GI bill and was graduated with a B.S. in Geology in 1960. I started at the Woods Hole Oceanographic Institution on Cape Cod Massachusetts in January 1961 and worked in the Physical Oceanographic Department for 31 years during which I spent considerable time at sea.

They tell the story about an old salt who, when it comes time to retire, puts an oar on his shoulder and walks inland until someone asks him what that thing on his shoulder is. I got as far as Arizona before anyone asked me.

I live among the Red Rocks of Sedona, which is a small enclave of private land surrounded by the Coconino National Forest. The privately owned land was originally homesteads that have been subdivided into house lots and is just about built out. The area has remarkable buttes, ridges, mountains and canyons accented by 300 million year old Redwall Limestone and sandstones, like those of the Grand Canyon.

But, unlike the Grand Canyon, Sedona's Red Rocks are on a much smaller, more human and less awe-inspiring scale. The scenic beauty of Sedona prompted Congress to designate three Wilderness areas nearby to forever preserve its heritage. I hope that each one of you will visit Sedona sometime soon and permit me to show you our natural wonders. You Senators hold the key to maintaining unfettered access to our forest lands while, at the same time, preserving them for future generations.

Sedona has a population of about 18,000, many of whom are retired from across the nation and throughout the world. Our natural beauty attracts several million visitors each year, who come to view the marvelous colors and extraordinary shapes of our rocks. Some merely stop by the side of the road to take photographs but many others hike and bike our trails.

By one count we have 77 trails in Sedona, almost half of which are within the Wilderness areas. There are about 180 miles of trails and almost everyone in Sedona either hikes, bikes or rides them. We have two clubs dedicated to the preservation and maintenance of our trails. Friends of the Forest (FOF) has a membership of 325 who both staff the visitors' center and work on the trails. The Trails Resource

Access Coalition (TRACS) has a membership of 30 and works with the Forest Service to provide trail maintenance twice a month.

In 2004, FOF donated 906 hours of volunteer trail work which saved the USFS $11,968 in labor costs. They also provided funds for high-grade native plant seed to spread on the soil to enhance the visual effect and reduce erosion. Their restoration work also includes transplanting prickly pear cactus to discourage those who try to go off the regular trail. Last year TRACS donated almost 600 hours of trail work to the Forest Service. In addition to these organized efforts, most people I know pick up litter during their hikes. The USFS estimates that local volunteers provide the equivalent of $450,000 per year to the Red Rock District

As you can see our local residents value their forest lands and trails because they are our backyards and we use them on a regular basis. On October 22, 2002 the Sedona City Council voted 5-2 to pass a resolution asking Congress to restore proper funding for public lands in order to eliminate the Recreational Fee Demonstration program. One of the dissenting votes came from a council member calling for an even stronger resolution. The majority of our residents and visitors are opposed to paying fees to access our public lands, especially in our Wilderness areas.

The trailheads at most of the trails we hike consist of a dirt parking lot with space for four to twenty cars and no amenities of any kind. These trailheads have no toilets, no trash bins, no picnic tables and no security services. At some of the parking lots, the USFS has erected a billboard with a map and signage telling hikers to stay on the trails. Just a few parking areas have a machine selling the Red Rock Pass. But in each and every one of these parking areas the USFS has installed a sign informing visitors that "Parked Vehicles must display a Red Rock Pass." Along the highways leading to Sedona the USFS has placed signs advising visitors that a Red Rock Pass is required to park on the National Forest. Most of the parking areas along the highways and at the trailheads near Sedona do not contain the amenities mandated for day-use areas by FLREA. All of them control access to dispersed, undeveloped backcountry, for which the FLREA prohibits charging fees.

Information on the internet indicates that the Department of the Interior and the USDA hosted a Regional Listening Session in Phoenix on July 14, 2005 to both distribute information and collect input relating to the establishment of the Recreation Advisory Committee. I have requested a progress report from the Department of Interior, the Department of Agriculture, the Bureau of Land Management and the U.S. Forest Service and am anxiously awaiting a reply. I sincerely hope that the USFS will establish such a committee in Arizona to address the problems associated with the public's recreational use of public lands.

Howard Zahniser, author of the 1964 Wilderness Act, used the word "untrammeled" to define Wilderness and he defined "untrammeled" as "not being subject to human controls and manipulations that hamper the free play of natural forces."

It seems to me that the authors of this legislation intended to protect Wilderness areas for posterity, which implies that they wanted us and our offspring to be able to visit them in perpetuity. I am certain that they never expected that the public would be made to pay access fees for the privilege. The untrammeled nature of our wilderness areas has been severely compromised when the USFS uses their HIRA concept to force us to buy a pass to enjoy them.

I have included excerpts from the 1964 Wilderness Act at the end of this testimony for review.

Mr. Chairman I request that both my written and oral testimony be made part of this hearing.*

Senator CRAIG. Marv, thank you for that testimony. I have not trekked those wilderness areas that you talked about, but I have been to your beautiful area of Arizona and I can understand why you live there.

Now let us turn to Lance Young, director, One World Outing Club. Lance, welcome before the committee.

STATEMENT OF LANCE YOUNG, DIRECTOR, ONE WORLD OUTING CLUB, SEATTLE, WA

Mr. YOUNG. Thank you, Mr. Chairman.

*Retained in subcommittee files.

A brief introduction: I am director of an outing club. It is mostly a hiking and cross-country ski club, recreational activities. Also, I believe I speak for several thousand hikers and recreationalists from the Pacific Northwest area in what I say today.

I wanted to speak just briefly to what I feel is the importance of this issue. I know everybody's attendance here speaks to their concern over these matters, but I wanted to emphasize that I believe this heritage is an important part of the identity of our country. We were started as a country of adventurers, people that came to a new world with no lodging, no home base, nothing but wilderness, and continued that tradition in pushing across the West, like Lewis and Clark and their adventures and exploration.

I believe the forests and the parks provide for that part of our personality that is still there. I think probably everybody here today has fond memories of childhood camping trips or hiking trips or fishing or whatever, all of which I think are important to the identity of who we are and the strengths of our country.

Our national parks are a gem on a planet of natural wonders. Yellowstone National Park, with its geysers; Grand Canyon, with its incredible geologic history; down in Australia, the Great Barrier Reef—all wonderful natural environments. But I believe the forests are unique, at least amongst developed countries, because they provide a wilderness area without development and with access to multiple days of camping and hiking and exploring without seeing any other signs of development or perhaps even other people.

In Europe you cannot hike for more than a day without running into another town, another city, another road, whatever. You will climb to the top of a mountain and find that there is a gondola that has gone up on the other side of the mountain and there is a restaurant there. Great for lunch, but not the wilderness experience that our forests and BLM lands provide for our citizens. I think we are seeing more and more use by our foreign visitors and tourism visitation and that sort of thing.

Then the access that we have in the Northwest, this is maybe somewhat different—and I would like to speak mostly about the Northwest because that is my background. A lot of the access points, the trailheads, are access into the wilderness and the back country. We have large tracts of land that have been preserved and set aside for the public's use and there are sometimes 20, 30, or 40 trailhead access points to this back country, all of which charge fees.

My understanding of the new law is that this cannot be done, that you cannot be required to pay for parking or whatever if all you are doing is trying to access something that does not have facilities. I will not go into naming them. Some of that is in my written testimony and I can provide more if the committee would like it.

These resources need to be maintained as free and open access. The benefits to the Government, to the economy, to the citizens of the country are indisputable. The recreation benefits I just spoke to. Everybody has fond memories of things that have formed their personality and their adult life. Mental relaxation; where else can you go and have to worry about nothing other than the wind and the water, when the sun comes up, when it goes down, and get

away from all the other stresses of modern life these days? Who has not heard their doctor say diet and exercise will improve your condition, diet and exercise and something else? It is important to have these opportunities, not to discourage people from participating in them by having fees in the majority of locations where you can go and hike.

The health benefits—I was just thinking about all of that and the financial benefit of a small incremental improvement in the health of the Nation just through getting a few more people out there, a few more people active, and making it convenient for them would be phenomenal, the reduction in health care costs and insurance and things that business is fighting throughout the country today.

Also, people are being affected—I am running out of time here. I find that not only the lower-income people cannot afford the passes anymore and are not going up there, but also the affluent that have the means to pay for passes. The pass system is a confusing, complex system of authorizations and passes for various areas. I believe Senator Thomas spoke to this. National parks have an entry fee and they have amenities and it is fairly evident that you are getting something for your money. I believe users of the natural environment expect to pay fees for something that they see a return on. They can understand that. But the large majority of them cannot even differentiate between a park and a national forest. It is all government land. When they go to a trailhead and they see nothing there, they do not expect to have to pay or have a permit in their possession. And if they do not have a permit in their possession, the penalties are draconian under the new law.

However, I think it can be worked with to make the system function so that it makes sense for the users and it is easy and convenient for them to use and can provide income for the development and services that are provided by the agencies.

I will close up here to try and stay not too far over my time limit. I think the rural communities that depend on this recreation for their income and their business—this would include rafting companies that support local communities and environments, Metta Valley in Washington State. There is a variety of communities that depend financially on this. The benefits to citizens are indisputable, I think. I went over there.

I would ask that the committee please make sure that this access is maintained as convenient, understandable to the local citizen, and usable by everyone in our country, which I think is our heritage.

Thank you very much for letting me speak, Mr. Chairman, and I hope my conversation has been included in the permanent record.

[The prepared statement of Mr. Young follows:]

PREPARED STATEMENT OF LANCE YOUNG, DIRECTOR, ONE WORLD OUTING CLUB, SEATTLE, WA

Mr. Chairman and Distinguished Members of the Subcommittee:

I. INTRODUCTION

Thank you for the opportunity to speak to the Senate Energy and Natural Resources Committee regarding this important issue. I am both honored and humbled by those present in this hearing today. I have watched Senate debates in the past

and am always inspired by the detail and thought that go into the speeches, and the articulate nature in which they are delivered on the Senate floor.

II. MY BACKGROUND

I have been involved in the outdoor recreation industry since I was a child, both commercially through guiding, instructing, gear testing, and the travel industry, and recreationally.

As Outing Club director (a not for profit outdoor recreation club), I have had the opportunity to cater not only to the general recreation population but provide outdoor opportunities for the mildly disabled that love to hike (but may not be able to get a drivers license because of eye sight, or elder skiers that can no longer drive safely in winter snow), and devout environmentalists that have made a decision not to own a personal vehicle in keeping with personal environmental beliefs. I have organized transportation for Senior Centers for outdoor recreation, I have worked with ski for all (a national disabled skiers program), have helped organize skyfest and numerous other outdoor competitions and events.

Working through Outing Services (a commercial guide service) I have lead trips for North Face, run the REI winter Ski Bus, have outfitted trips for Microsoft and other local businesses, as well as trips and seminars for local Parks and Recreation programs. This includes: Seattle Parks, Bellevue Parks, Kent and Federal way school districts.

I have been a Ski instructor, and ski school supervisor, life guard, avalanche rescue, search and rescue, Boy Scout leader, and Eagle Scout, a product tester for Outdoor Research and other local recreation clothing and equipment manufacturers. I have done equipment seminars and educational events for North Face, REI, White Water Sports, and Marmot Mountain Works.

My activities (both commercial and private) have been primarily included: hiking, backpacking, bicycling, mountain biking, sea kayaking, canoeing, white water rafting, white water kayaking, swimming instruction, snow and rock climbing, cross country skiing, snow shoeing, downhill skiing, snow boarding, backcountry telemark skiing, skin diving, windsurfing, water skiing, foreign travel and tourism, and others.

III. COMMERCIAL AND NON PROFIT GROUP ACCESS ISSUES

My esteemed colleges with the Western Slope No-Fee Coalition have spoken eloquently regarding private recreation concerns and the misinterpretations and abuses of the new law as they apply to private usage. I have worked in the outdoor industry for several decades and would like to address the affects on commercial usage, and non profit group use of public lands as well so I will touch on this subject during my testimony.

IV. THE IMPORTANCE OF THIS ISSUE

My bias and goal in life is to promote the active outdoor lifestyle, and to encourage and facilitate others to appreciate the beauty and benefits of this lifestyle. Whiteness the first thing most doctors mention to patients with almost any chronic ailment is “Diet and Exercise”. The gym and lifting weights is good but boring, and primarily used as a training ground for rehabilitate or conditioning for other activities.

During world war II the Norwegian built public swimming pools all over their country to keep their people fit for military service, if they should be needed for defense of their sovereign boarders. Our own citizenry need encouragement not obstacles to participate in an active lifestyle. Think of the savings in health care costs that a small incremental increase in cardiovascular health would provide to the citizens of our country.

Beyond the physical there are the mental benefits which include a recentering, and ability to put things into perspective and forget about a lot of the artificial demands and stresses a modern life imposes on people. In the woods all that matters is when the sun comes up when it goes down, shelter from the elements and when the next meal is. Sort of where we all started, millennia ago.

I have traveled enough to know also of the uniqueness of the mountains and wilderness we have here in North America. Nowhere in Europe are there large enough tracts of public land to allow backpacking or camping. The concept of spending three days hiking across the continental divide is foreign to Europeans. With a Cafe at the head of every wooded valley, and a gondola to the top of every mountain peak. This wilderness experience does not exist. The black forest in Germany is a tree farm with trees artificially planted in corn rows. The value of these natural resources are inestimable.

As the tourism industry continues to grow our National Parks and Forest lands provide a magnet for the adventurer traveler from overseas. Already some of the better known areas have more German or Japanese tourists than U.S. citizens. Many small local communities thrive on the business that this provides for them. The Methow Valley in Eastern Washington survives on the large number of people that the cross country ski industry brings in every year to ski their vast network of trails spread out over Bureau of Land Management (BLM) Forest Service and private land in the valley. Sun Valley has been a magnet since the 50's and Mt. Saint Helens has become Washington States largest natural attraction. Mt. Bachelor in Oregon has thrived by catering to Skiers during the winter and Golfers during the summer. Moab Utah has canyonlands, slick rock, and Fisher Towers, which is a mecca for mountain bikers, hikers, and rock climbers.

When Microsoft brings their overseas sales staff to their Redmond Washington Headquarters they don't treat them to dinner at the space needle, they take them hiking, or rafting, or hot air ballooning, to leave a lasting impression.

V. WHO WILL BE AFFECTED

The use fees will affect people from all walks of life. The poor and low income who can not afford to visit the National Parks or stay in fancy hotels need access to public lands for camping fishing and recreation. Some of my favorite childhood memories were from our camping trips to the mountains and Pacific coast. We could not have spent near as much time together on family vacations if they were not economical. Low income people will just have to stay home, because the "De Listed" no fee areas are all remote and hard to reach not, as the law demands, all undeveloped public lands both convenient and remote.

Middle and upper income citizens will stay home because of confusion and the threat of a criminal record. The U.S. Forest Service web sight lists eight different types of pass: National Forest Recreation Day Pass, Oregon Pacific Coast Pass, Annual Northwest Forest Pass. Golden Eagle Pass, Golden Age Pass, Golden Access and this does not include the Bureau of Land Management authorizations, river conservation permits, hunting licenses etc. Rather than risk a $100 fine or, if the arresting officer is in a bad mood being charged with a Class A or B misdemeanor upper income people will just stay away, rather than risk the criminal record and fines. Thousands of current conscientious objectors, who currently refuse to buy the passes, may be caught off guard by these changes. Even the best informed mountaineers I have surveyed are generally unaware of the severe penalties they are now subject to.

VI. THE PENALTIES ARE WAY OUT OF PROPORTION

The Penalties are draconian in nature. The $100 fine for an initial offense is a guideline not a mandate, and I have found in my experience with the Mt. Baker-Snoqualmie National Forest the forest officials not to be fair and just in their dealings with forest users. More on this later. If charged with the maximum offense a forest user might be facing up to six months in jail and $5,000 in fines, and for a second offense up to $100,000 and a year in prison. To cite a citizen with this kind of penalty for hiking is well beyond reasonable.

Already a former Washington State citizen now residing in Florida has been cited for a violation even though he thought he had the correct pass properly displayed in his car. Paul Gunthorp was cited August 13th, and decided he wanted to fight the charges rather than accept the record. His trial is still being continued, currently scheduled for November 9th.

VII. MY UNDERSTANDING OF THE NEW LAW

We are not here today to analyze the law but to review its implementation however it is appropriate to mention a few of the critical problems that may be leading to current problems with its implementation. The new Federal Lands Recreation Enhancement Act and to cut through the overly flowery and disingenuous title, the Recreation Access Act/Tax. If this new fee based tax on recreation is successful it will eventually replace the that received from the Federal Government. This on the surface does not seem to be a bad thing but on deeper analysis there are several structural problems with it. By sending funds directly to the agency it removes the essential accountability loop from the equestrian. This new taxing system will lead to unnecessary government duplication and additional costs. The BLM and U.S. Forest Service will have to develop their own tax collection system and methods for printing and distribution of the passes (tender) they provide. They will have to develop a police force to enforce the permit system. This would be expensive wasteful and require forest rangers to do work they were not trained to do.

After reading thought the new laws it appears evident that Congress was trying to establish a more fair and equitable system of permit fee collection for the agencies. It is also clear from the text and statements of the Legislators that it was intended to scale back the current implementation of the Demonstration Fee program in several ways with the outcome of preventing blanket implementation of entry fees like the National Parks do, and should charge at their entrance gates. It also was clear that fees should only be charged where the public, that is using the resource, can see evident signs of the value they are receiving for the fee. This is why the stipulations were included for requiring certain things at all sights:

> "Permanent Toilets, Trailhead monuments or informative signs interpreting the natural wonders of the area, developed parking, picnic tables, security services, and permanent garbage receptacles."

The new law was supposed to open up much of the areas that are now requiring access fees to provide free public access for the primitive or undeveloped areas while providing an income source for the agencies to cover developed areas.

VIII. TRAIL REPORT FOR OUR LOCAL FOREST SERVICE

I will focus on the Mt. Baker-Snoqualmie National Forest (Mt. Baker NF) since this is what I am most familiar with but I believe the statistics are also representative of adjacent National Forests as well. The Mt. Baker NF lists about 125 trails within their boundaries as active hiking trails available for a variety of users from horses and mountain bikers to backpackers, hikers and snow-shoers. After the new law was passed Mt. Baker NF released a list of 18 trails that were being opened up for public use. This list was later revised down to 12 sights. Of these 12 about a third are not viable decommissioned trail fee sights.

1. Two of the trails listed are (at least historically) just different access points to the same trail, Three Fingers #641 and Boulder River #734.
2. One is less than a mile long and gains more than a thousand feet per mile and requires a three hour drive for this one hour hike. This trail is hard to find at the end of road FS 74 and has never required fees in the past. Clearwest Peak #1178.
3. Another one that was initially on the list to be "de-listed" Dutch Miller Gap #1040 was at the end of the longest roughest road in the forest system, and this road frequently washes out preventing any access.
4. Huckleberry Creek #1182 Has never been signed as requiring a forest pass, and it goes only 0.9 miles before becoming a National Park system trail (where it continues for miles)
5. Martin Gap #1178 is still listed on the Mt. Baker NF trail description as requiring a forest pass despite its listing on the official list of trails that no longer require a fee. I have not had time to check this out personally yet.
6. Sunday Lake #1000 was dropped from the initial list probably because this trail is on private Wearhouser land and was only accessible after spring run off because of the washed out bridge on the first part of the trail.

If these questionable trails are removed that leaves only eight to ten fee free trails, out of 125 total trails listed in the district. Further those de listed, are generally either difficult to get to or impractical for the general public. The new law also appears to prevent charging for use of unimproved or primitive areas however the Mt. Baker NF seems to have gotten around this by inventing a High Impact Recreational Area HIRA which claims vast tracts of land into one "Area" with only a few of the required amenities available in the entire zone.

A good example of what the law seems to suggest as an appropriate fee area is Mt. Saint Helens where significant investment has been made in developing information centers, informative talks, museums and educational centers. Another great example is the Ice Caves trail or Big Four where permanent toilets are installed, the parking lot is paved, there are the remnants of a historical Inn to view and a nice trail up to the base of Big Four mountain, with well maintained bridges and boardwalks.

The vast majority of the trails listed as requiring trail passes in the Mt. Baker NF have at best one or two of the required amenities. A good of the abuse of the too loosely defined "Area" designation in the new law is Bare Mountain which was initially on the list to be free use. The trail head has room for only six cars to pull off to the side of the road, and brush free only because of somewhat regular use not due to maintenance. The trail has a hiker registration box but non of the other requirements. The nearest toilet is in North Bend perhaps an hours drive back down the dirt access road, this is also probably the closest garbage can. and there is no security, you leave your car at your own risk.

IX. MISINTERPRETATION OF THE LAW

Local agencies are either significantly misinterpreting the new Federal Lands Recreation Enhancement Act or are ignoring the letter and intent of the law to maintain control and income from the federal lands they administer. The intent of the law seems clear both from the statements of the Congressmen that worked on it and from the text of the law itself.

> "H.R. 3283 would limit the recreation fee authorization on the land management agencies." and "No fees may be charged for areas with low or no investments"
>
> —Representative Ralph Regula, Sponsor, H.R. 3283, 2004 press release

> "The secretary shall not charge (C) For dispersed areas with low or no investment"
>
> —Federal Lands Enhancement Act, section (3)(d)(1)(C)

> "The secretary may charge a standard amenity recreation fee for (4) An Area (D) that contains all of the following amenities (i) Designated developed parking. (ii) A permanent toilet facility. (iii) A permanent trash receptacle. (iv) Interpretive sign, exhibit, or kiosk. (v) Picnic tables. (vi) Security services."
>
> —Federal Lands Enhancement Act, section (3)(f)(4)(D)

The text of the law seems quite clear, and that is to limiting the ability to charge use fees to those areas where significant enhancement and financial investment has been made. This would be consistent with the fees charged at most National Parks and Monuments where entry fees are charged at the gate and many visible amenities are provided for the public paying the entry fees including education centers, information centers, bathrooms, ranger walks, et cetera. The majority of the road systems and trails in our area have only a few (on none) of the listed required amenities. Thus there should be no permit required. Yet the vast majority are still listed as requiring a permit for their use.

This is not the first time the U.S. Forest Service has "misinterpreted" the law to their financial gain. When the Demonstration Fee program was passed to allow the agency to experiment with fee collection at a few sights. The law allowed the demonstration to be run at no more than 100 sights. This limit was ignored and Demonstration Fee or Northwest Forest Passes were required at the majority of trails in the forest. When the Sierra Club legal council took them to court on the mater and won. The forest service then redefined how they labeled the trails and instead of designating individual sights they designated entire road systems and regions as one demonstration fee sight.

X. COMMERCIAL PROBLEMS WITH OVER BROAD INTERPRETATION OF REGULATIONS

Our Washington State hiking and cross country skiing group has had similar difficulties with the Mt. Baker FS with the issuance of commercial permitting and fees. In the process of dealing with the forest supervisor John Phipps and Winter recreation specialist Larry Donavan to try and obtain a commercial use permit to allow us to teach classes we witnessed a fluid and ever changing set of permit requirements several of which were clearly against their own regulations and guidelines. This included requiring permits for day use cross country skiing on forest roads where CFR 251.50 (d) specifically excluded road use as requiring a permit for commercial or non commercial users. Their own guidelines encouraged issuance of commercial authorizations

> "Many are capable of total self-sufficiency, but those selecting an outfitter want and need help. They can't do it on their own, or want an introduction to such experiences to help them get started." "But the public lands belong to them just as much as they belong to the residents living at the mouths of canyons."
>
> —Forest Service Outfitter Guide Handbook, February 1997, page I-2

In navigating the gauntlet of requirements that were required of us over a four year period we submitted over 8 separate permit applications trying to satisfy the escalating demands. The last of which was 98 pages in length several times the length required for other similar groups (typically 12pages). We were promised permits on three separate occasions only to submit the required information and have more requirements added. We were never issued any of the promised permits and finally were cited for commercial operations on federal land without a permit. We won the case because the law specifically and wisely does not require a permit for road use. Preventing the agency from having to issue a permit where there is minimal impact to the land, and no encampments or structure involved. Senator Patty

Murray stepped in to help with our cause and was intentionally mislead by the Forest Service who were struggling to justify their case.

Following the loss of this case rather than appeal to the superior court where precedent might be set John Phipps was called back to the DC office and shortly after this the laws were revised for the entire country requiring permits for commercial road use. This revision was ostensibly based on a re-engineering study they commissioned in April of 1997. Surprisingly according to the Federal Register this study contradicts the argument for requiring permits for road use.

> "In April 1997, the Forest Service completed a reengineering study of its special uses program that recommended managing special uses in a more business-like and customer service oriented manner. The study found that many special use authorizations are issued for (1) minor uses of National Forest System lands that have nominal effects."
>
> —*Federal Register*, Vol. 68, No. 14, Proposed Rules section

Instead of requiring fewer permits for these "nominal" impact uses the Forest Service misinterpreted the study to support their desire to require more permits.

The Forest Service through the Code of Federal Regulations has set up a system where a large part of the discretionary authority rests with the "Authorizing Officer". This agent would typically be the local ranger or perhaps as senior as a district ranger. The whole system seems to be a bottom up management method rather than a top down structure. In other words the senior members of the USFS appear to support the junior staff "Authorizing Officers" even in situations where it is clearly against policy even regulations to do so.

X. NOT FOR PROFIT GROUPS ARE BEING AFFECTED

The old laws did not require any permitting for non commercial activities for less than 75 people with the logical rational that these smaller groups would not have significant impact on the resource. Providing the freedom to organize a small rally or religious service, or family or club event. The new Forest Service interpretation does away with this limitation. For instance the new Federal Lands Recreation Enhancement Act specifically excludes charging for things like foot races on federal lands. The Forest Service recently issued guidelines include such activities under special use permits. This would force for instance the Cascade Bicycle Club to request a permit to bike ride over the old Blewett Pass road (paved), or else face bicycling with the cars on the adjacent Highway.

> "The secretary shall not charge (D) for persons who are driving through, walking through, boating through, horseback riding through, or hiking through Federal recreation lands and waters without using the facilities and services."
>
> —Federal Lands Enhancement Act (d)(1)(F)

XI. RAMIFICATIONS OF THE NEW FEE STRUCTURE

Uniformly across the state of Washington City parks and recreation departments have frequently been denied access to public lands, under USFS control, for outdoor opportunities that they would like to make available to their residents. The commercial Outfitters and Guides in private conversation invariable have stories of difficulties with agencies.

Enforcement has caused a change in the relationship between backcountry rangers and the recreational public. In only one decade the Demonstration Fee program has turned forest and park rangers into people to be avoided, not a friendly encounter in the woods and someone to approached regarding weather or other natural concerns. This adversarial relationship requires the agency to do all their own policing rather than depend on users to cooperate and share information on incidents with wildlife, washouts, or other matters. Over the past several years I have even witnessed a change among hikers themselves.

Commercial use is more and more difficult to sustain. Many small communities in rural Washington depend on income from the recreational travel trade, including horse packers, fishing guides, river rafting companies, Nordic skiing trail networks, even outdoor equipment retailers like REI. These communities are loosing their source of livelihood not because of environmental impact but because of red tape. A lot of our ski groups travel is now into Canada just across the boarder because they are much more receptive to commercial recreation needs.

The benefits to proper access to public land are enormous and critical to the citizens of the United States. Access to recreation for physical and mental health improve the longevity and health of the general population. Convenient and welcome accommodation of commercial and group use of the natural resources provides a

source of commerce and income for rural communities, and a reason for the higher income Urban residents to travel into and support the surrounding communities.

XII. CLOSING

Thank you for the opportunity to speak. Please include both my written and oral testimony as part of this hearings official record.

Senator CRAIG. We will not fine you for overage. Lance, thank you very much.

Now let us turn to Kitty Benzar, Western Slope No-Fee Coalition, from Durango, as discussed earlier, a Durangoite. Welcome, Kitty.

STATEMENT OF KITTY BENZAR, WESTERN SLOPE NO-FEE COALITION, NORWOOD, CO

Ms. BENZAR. Thank you, Mr. Chairman, Senator Thomas, and I will thank Senator Salazar in absentia.

Senator CRAIG. He sends his apologies. He had to step out for another hearing. Thank you.

Ms. BENZAR. Thank you.

I am Kitty Benzar. I am a co-founder of the Western Slope No-Fee Coalition. Thank you for inviting me here today.

Early this year, shortly after enactment of the FLREA, our coalition launched a grassroots survey nationwide asking people to go around and look at the public lands near them and tell us what they saw in terms of how this law was being implemented. We now have some pretty good results from that and we have published at least a preliminary report and analysis, which we have provided copies to the subcommittee.

Senator CRAIG. We have copies of that, thank you.

Ms. BENZAR. In that survey we identified three primary areas of noncompliance with this new law by the BLM and by the Forest Service. The first, which has already been identified here, is the High-Impact Recreation Area, or HIRA. Those words do not appear anywhere in the FLREA. The door to them was opened by a sentence that says a standard amenity fee can be charged for an area that contains certain minimal amenities. The size of that area was not defined or prescribed in any way, and that is the hole through which these high-impact recreation areas are coming to us.

Through the guise of HIRA's, fees are being charged, defense facto entrance fees essentially, for huge tracts of land, for driving scenic byways, State highways, county roads, dispersed back country, multiple sites with low or no Federal investment, all because they are in a HIRA. In my home State Colorado, the Arapaho-Roosevelt National Forest has described two HIRA's. One is Mount Evans, which is a State highway, 14 miles of State highway that drives to the top of a high mountain peak. There are virtually no amenities along the way. There is a Forest Service toll booth at the bottom of it, which is pictured in our report. That road is essentially a toll road today and there is an entrance fee, call it what you will, being charged to go into that area.

The other HIRA in Colorado is the 36,000-acre Arapaho National Recreation Area, which is also on the Arapaho National Forest. Entrance fees must be paid to access six trailheads, five picnic areas, and five boat launches, and I have provided photographs of the signage in that area, where it used to say an entrance fee was re-

quired, and tape has been used to just cross off the word "entrance" and either black it out or call it a use fee instead. But nothing about the implementation has changed in that area between fee demo and the FLREA.

The second area of noncompliance we identified is the special recreation permit. Under this new law, special recreation permits are being used for activities as unspecialized as just going on a hike, going for a walk in the woods, a family trip, a mountain bike trip, an OHV ride on an open OHV trail. These are very non-special kinds of activities. These are routine, everyday activities on our public lands.

Unlike standard amenity and expanded amenity fees, which are authorized for the use of sites, special recreation permit fees are being charged for particular uses, types of use. So everyone who does a type of use is being charged and required to have an SRP. Everyone who would rock climb or river raft or hike in a certain area is required to have and to purchase an SRP.

Not far from my home is the Cedar Mesa area in Utah, which is managed by the BLM out of the Monticello field office. In that area there is 400,000 acres with seven remote canyons, eleven trailheads, managed for primitive recreational values by management policy, receiving less than 10,000 visitors a year. But everyone who hikes below the rims of those canyons is required to buy and to have a special recreation permit. There are many other examples.

The third category of noncompliant sites that we identified is trailhead fees. This is where thousands of trailheads around the country are requiring people to have a pass on their car to park at that trailhead and go for a hike Whether there is any amenities there or not is really beside the point. The law says that we may not be charged for the use of dispersed, undeveloped back country. If you hike on a trail into an area that has nothing, then you are entering dispersed, undeveloped back country, and where you left your car is not the issue. What surrounds it, whether there is a toilet and a picnic table there, they are not what you came for. You came for the back country.

There are examples of that as well in our report. The basic conclusion on fee trailheads is that whether they are developed or not, whether they have those six amenities or not, they still constitute a charge for accessing dispersed undeveloped back country, which we see as noncompliant with the FLREA.

Two more concerns that we have besides those areas of noncompliance are a Forest Service policy called the Recreation Site Facilities Master Planning, RSFMP, or the complementary policy in the BLM which is called cost recovery. At a public meeting in Heeney, Colorado, last month, a Forest Service official was quoted in the paper as saying: "In our development sites, we have been told they need to pay for themselves or we need to get rid of them." That pretty much sums up RSFMP and cost recovery.

These are policies, completely unvetted by Congress, within the agencies whereby they have determined that recreation sites will either pay their own way or they will be closed. They go on to say that it is the FLREA that is making them do that. However, I do

not find that language in the FLREA. I find that language only in agency policy documents and memos.

The implication of those two policies is that most, if not all, recreational sites and uses must be profitable or they will be closed, and they leave the agencies' very ability to comply with this law in question.

Finally—and thank you for giving me a little extra time, Mr. Chairman—our concern regarding the recreation resource advisory committees that are called for in the RAC. These are groups that membership is specified in the law and that membership represents almost exclusively groups and individuals that have a need for access to the public lands in order to conduct their particular activity. Their ability to honestly advise the agencies I question. They have too much at stake and, between the fact that they have vested interests in access to these lands and the fact that these policies of RSFMP and cost recovery are being implemented as we speak, I think vastly limits their recommendations. It pretty much boils their recommendation down to two things, either allow a fee area to be implemented or the area will be closed. That is the choice they are being confronted with through agency policy.

Further narrowing their ability to make honest recommendations is the movement to establish either one nationwide recreation RAC or maybe one for a huge region, one for the East part of the United States and one for the West part of the United States, instead of the law's requirement of one per State or to use existing RACs in place of the ones that are specified in the law. We feel that either of those options would limit the input of users and local people.

Like fee demo before it, we feel that the FLREA is creating incentives within the agencies to push the boundaries not only of what is allowed in the law, but also of what is in the public interest. We urge you to take decisive action to remedy these excesses that we have documented and that we see happening.

I would ask that you put both my written and my oral statement into the record, Mr. Chairman. Thank you very much.

[The prepared statement of Ms. Benzar follows:]

PREPARED STATEMENT OF KITTY BENZAR, CO-FOUNDER, WESTERN SLOPE NO-FEE COALITION

Mr. Chairman and distinguished members of the Subcommittee: Thank you for the privilege of testifying before you today concerning implementation of the Federal Lands Recreation Enhancement Act by the USDA Forest Service and the Bureau of Land Management.

I am Kitty Benzar, co-founder of the Western Slope No-Fee Coalition, a coalition that has come to represent hundreds of organizations and millions of Americans nationwide in advocating for the continued tradition of public ownership and access to public lands.

Resolutions of opposition to fee-based access under the previous Fee Demo program were sent to Congress by the state legislatures of Colorado, Oregon, California, and New Hampshire. Thirteen counties in western Colorado alone, and dozens of counties, cities and towns across the nation as well as hundreds of organized groups had passed similar resolutions. State and local governments continue to oppose fee-based access to public lands under the FLREA. Since the FLREA became law on December 8, 2004, resolutions opposing it have been passed in the legislatures of Colorado, Oregon, Montana, and the Alaska House, by numerous counties, and are pending in several other states.

The WSNFC opposed passage of the FLREA and testified against it in the U.S. House Resources Committee because we believe that fee-based access constitutes a new tax, harms communities located near or surrounded by federal lands, unfairly

limits public access, and subjects citizens to extreme criminal penalties. Prior to passage of the FLREA, we were actively working with committee staff in the House to find common ground on the issues surrounding public lands fees. The final language of the FLREA contains many loopholes and ambiguities that we believe open the door to implementation of fees outside of developed areas and place undue constraints on public access to public lands.

In a press release issued at the time the FLREA was passed, its sponsor, U.S. Representative Ralph Regula, expressed his intent:

> "As passed by Congress, H.R. 3283 would limit the recreation fee authorization on the land management agencies. No fees may be charged for the following: solely for parking, picnicking, horseback riding through, general access, dispersed areas with low or no investments, for persons passing through an area, camping at undeveloped sites, overlooks, public roads or highways, private roads, hunting or fishing, and official business. Additionally, *no entrance fees will be charged for any recreational activities on BLM, USFS, or BOR lands.* This is a significant change from the original language. The language included by the Resources Committee is much more restrictive and specific on where fees can and cannot be charged." *[emphasis in original]*

At the time of its passage we predicted that the Forest Service and BLM.would use the weaknesses in the law to perpetuate and expand the broad fee programs that they had implemented under the Fee Demo authority. The agencies are pushing the limitations written into the law because of the perverse incentives the FLREA creates to maximize revenues at the public expense regardless of the limitations on fee implementation written into it.

The FLREA contains a number of provisions designed to protect free access. There are prohibitions on charging Standard Amenity or Expanded Amenity fees "(A) Solely for parking, undesignated parking, or picnicking along roads or trailsides. (B) For general access . . . (C) For dispersed areas with low or no investment . . . (D) For persons who are driving through, walking through, boating through, horseback riding through, or hiking through Federal recreational lands and waters without using the facilities and services. (E) For camping at undeveloped sites that do not provide a minimum number of facilities and services . . . (F) For use of overlooks or scenic pullouts. (G) For travel by private, noncommercial vehicle over any national parkway or any road or highway established as a part of the Federal-aid system . . ." [Section 803(d)(1)]. It also states in Section 803(e)(2) "The Secretary shall not charge an entrance fee for Federal recreational lands and waters managed by the Bureau of Land Management, the Bureau of Reclamation, or the Forest Service. Section 803(f)(4) says that fee day-use "areas" must contain six minimum amenities: Designated developed parking, a permanent toilet facility, a permanent trash receptacle, interpretive sign or kiosk, picnic tables, and security services.

Early this year we launched a nationwide grassroots survey of Forest Service and BLM fee sites. We asked our members and supporters to visit fee areas near their homes, observe whether they comply with the provisions in the new law, and report to us those that are not in compliance. We then undertook to compile this information into a list of fee sites that are not in compliance with the FLREA. That list is now over 300 sites, and more survey reports continue to come in as part of this ongoing effort. We have provided a copy of our survey report for each Member of this Subcommittee.

The survey results to date reveal a pattern of excesses in implementation of the law by the Bureau of Land Management and the Forest Service. The agencies have created a category of fees that was not authorized by Congress called "High Impact Recreation Areas." They are charging fees at thousands of trailheads that provide access to dispersed undeveloped backcountry, and they are stretching the Special Recreation Permit authority to cover virtually any type of recreational activity. De facto entrance fees are controlling access to huge tracts of public land.

Our survey has found that non-compliant fee programs fall into three broad categories:

1) "High Impact Recreation Areas" (HIRAs)

The Forest Service and BLM are using a category called a HIRA that does not appear anywhere in the law. A H1RA is a group of individual sites with little or no federal investment that are collected together for the purpose of charging fees to access any of them. Under the guise of HIRAs, Standard Amenity fees are being charged for driving scenic byways, state highways, and county roads, for entrance to huge tracts of land, for access to dispersed backcountry, and for multiple sites with low or no federal investment. The language in the FLREA stating that a fee can be charged for an "area" with certain amenities but failing to define how large the "area" can be opened the door to HIRAs.

In Southern California, 31 HIRAs comprising almost 400,000 acres have been established on four National Forests.

At Mt. Lemmon, on the Coronado National Forest in Arizona, virtually the entire 256,000-acre Santa Catalina Ranger District has been declared a HIRA and fees are being charged for picnicking, dispersed undeveloped camping, roadside parking, trailheads, and restrooms.

In my home state of Colorado, the Arapaho-Roosevelt National Forest has declared two HIRAs. The first is at Mt. Evans, where Colorado State Highway 5 has become a toll road and entrance fees must be paid to the Forest Service in order to enjoy a scenic overlook, hike into a Wilderness Area, or simply drive on a state highway. The other is the 36,000-acre Arapaho National Recreation Area where entrance fees are Charged for access to six trailheads, five picnic areas, and five boat launches.

Other examples of HIRAs are shown in our survey report. These "High Impact Recreation Areas" are not defined or authorized anywhere in the new law.

2) Special Recreation Permits

The FLREA authorized fees for Special Recreation Permits for "specialized recreation uses of Federal recreational lands and waters, such as group activities, recreation events, motorized recreational vehicle use." Under previous law, Special Use Permits were limited to large organized events, commercial activities on public lands, and guides/outfitters. Now, the Forest Service and BLM are stretching the term "specialized" to require Special Recreation Permits for a wide array of private, non-commercial activities. These SRPs are being issued for activities as unspecialized as a simple family hiking trip, an individual ride on an OHV or mountain bike trail, or access to wilderness areas by foot or horseback.

Unlike Standard Amenity and Expanded Amenity fees, which are authorized for use of *sites*, SRP fees are applied to particular uses, i.e. hiking, OHVs, climbing, or river rafting. The protections in the FLREA restricting the application of Standard and Expanded Amenity fees do not apply to SRPs.

Examples of excesses under the SRP authority include the Wayne National Forest in Ohio, where fees apply to more than 280 miles of OHV, mountain bike, and horse trails.

At Cedar Mesa in Utah, just a few miles west of my home, the BLM requires a fee for all hiking in 400,000 acres that includes 7 remote canyons and 11 trailheads. This is a completely undeveloped area that receives less than 10,000 visitors a year and has no maintenance backlog.

Both the Forest Service and BLM are requiring SRPs and charging fees for entry to designated Wilderness Areas that are completely primitive by definition. Examples include Boundary Waters Wilderness, MN (USFS), Aravaipa Canyon, AZ (BLM), Hoover Wilderness, CA (USFS), Paria Canyon Wilderness, UT/AZ (BLM), Alpine Lakes Wilderness, WA (USFS), and Mt. Shasta Wilderness, CA (USFS).

SRPs are being used to bypass the provisions in the FLREA against charging for access to backcountry and dispersed undeveloped camping, for use of roads and trails, and for passing through without use of facilities.

3) Trailhead Fees

At thousands of sites nationwide, citizens are being charged a fee to park their vehicle at a trailhead or simple staging area and go for a hike, horseback ride, or to use an OHV trail. The law prohibits charging a fee solely for parking, or for passing through a fee area without using the facilities, and many trail users simply park their vehicle and hit the trail without using whatever amenities may be present.

Examples of trailhead-fee areas include the White Mountain National Forest in New Hampshire, where a "Parking Pass" is required at 44 trailheads and river access sites. These fees control access to most of the Forest's backcountry.

In the Pacific Northwest, a pass is required at over 500 day-use sites, mostly trailheads, on twelve National Forests. On the Mt. Baker-Snoqualmie National Forest alone, there are more than 100 fee trailheads.

In Colorado, winter recreationists at Vail Pass must purchase a pass before accessing 55,000 acres of backcountry by snowmobile, snowshoe, or cross-country ski, even though the parking area and toilet facilities are provided by the Colorado Department of Transportation as a rest area for travelers on Interstate 70.

Fee trailheads, whether developed or not, are being used to prevent free access to dispersed backcountry and undeveloped camping, and to charge for general access, all in violation of the FLREA.

The Forest Service and BLM are out of compliance in other ways as well. They have instigated new fees and permits at many sites and areas without establishing the mandatory Regional Recreation Advisory Committees called for in the FLREA. The agencies are also spending over the 15% limit on costs of collection through agreements with non-agency enforcement services. In some cases up to 30% of fee revenue goes for enforcement alone. GAO reports on the previous Fee Demo program revealed that the Forest Service was using millions in appropriated funding to administer fee programs, resulting in overhead costs exceeding 50% of fee revenue. In the BLM, administrative overhead comes from state and Washington office appropriated funding, minimizing any net gain from fees. High overhead costs continue under the FLREA, in spite of the 15% limit mandated in the law.

These documented excesses under their fee authority by the Forest Service and BLM cause special concern when viewed in the context of the severe criminal penalties for failure to pay FLREA fees. The law allows the agencies to charge either a Class A or Class B misdemeanor and specifies prima facie guilt for the driver, owner, and all occupants of a vehicle failing to display a required pass. Although first offenses are capped at a $100 fine, they still create a criminal record, and subsequent offenses are subject to penalties up to $100,000 and/or 1 year in jail. Despite the fact that many fees do not meet the requirements of the FLREA, a citizen who fails to pay a $5 fee to hike into a Wilderness Area or ride on an OHV trail, or who does pay but fails to display the pass correctly, or who loans their vehicle to a friend or family member who fails to pay, risks a permanent criminal record and potential jail time.

The sponsor of the FLREA said that it would provide stronger protections for public access to public land than the Fee Demo program did, and compliance with the provisions of the FLREA was mandatory as of December 8, 2004. By now, the Forest Service and BLM should have dropped fees at thousands of Fee Demo sites. Instead, they continue to charge non-compliant fees nationwide. The BLM has not dropped a single one of their 97 fee programs, and in fact recently announced plans to add 38 new fee sites in six states, without following the requirements for public participation specified in the FLREA.

In a June 2005 press release the Forest Service said, "All Forest Service units that charged recreation fees under the old fee demo program reviewed their current fee sites and determined whether or not their sites meet requirements as outlined under [the new law]. As a result approximately 500 day-use sites will be removed this year . . ." At that time we obtained the list of 480 sites referred to, and compared it to the list of over 4,500 Fee Demo sites the Forest Service had reported as in effect on December 8, 2004. Their claim that 480 sites were being dropped because of the new law turned out to be unsupportable because more than half of those sites either were never listed as Fee Demo sites, were already closed, are within HIRAs that continue to charge fees to enter the larger area, will have fees reinstated as soon as planned improvements are completed, or for some other reason.

For example, the Rio Grande National Forest in Colorado listed eleven sites where fees were being dropped, but all are campgrounds that had been charging under Land and Water Conservation Fund Act authority, not Fee Demo. Six sites along the Paint Creek Corridor on the Cherokee National Forest in Tennessee had already been closed due to flood damage. Four sites on the Humboldt-Toiyabe National Forest in Nevada dropped their shoulder-season fees but retained fees during prime season when concessionaires operate them. The Squire Creek trailhead on the Mt. Baker-Snoqualmie Forest in Washington had already been closed because its access road is washed out. For the Justrite Campground on Idaho's Payette National Forest, the Forest Service comments state, "Fees were authorized for this site under RFD, with the intention of charging fees when improvements were made. They were not made, so fees were never charged. Site is being dropped from fee program for now." So it never did charge fees, but there are plans for it to become a fee site in the future. On the Bridger-Teton Forest in Wyoming, the Bridge and Lynx Creek Campgrounds were listed as dropped sites with the comment, "We stopped charging a fee here several years ago." Yet all of these were included in the 480 sites that the Forest Service claimed were Fee Demo sites that did not meet the new criteria. It is hard not to conclude that the Forest Service was deliberately misleading the public and the Congress with this list.

In Colorado, the Forest Service is citing the FLREA as an excuse to reduce services while implementing more fees. In Heeney, Colorado, 80% of the town turned out for a contentious meeting on September 11, 2005, at which White River National Forest officials announced that they are increasing entry fees at Green Mountain Reservoir while adding restrictions on OHV use and removing some toilet facilities and campfire pits. Campers will be required to bring their own portable toilets,

carry out their human waste, and provide their own metal fire pans ($100). In the Summit Daily News, White River National Forest Recreation Program Manager Rich Doak is quoted as saying, "In our development sites we've been told they need to pay for themselves, or we need to get rid of them." The article goes on to say, "Doak attributed the cuts to decisions made in Washington. 'Last December, Congress passed fee legislation in the Federal Land Recreation Enhancement Act,' he said, adding that the local district rangers were simply following federal orders."They're being forced to do a lot of what they're doing here,' he said. 'As for doing nothing, we can't legally do that. So there's no easy answer.'

Mr. Doak's remark that "In our development sites we've been told they need to pay for themselves, or we need to get rid of them," reflects the fact that decisions on whether or not to charge fees are being driven by two similar agency policies, the Recreational Site-Facility Master Planning process (RS-FMP) within the Forest Service and the Cost Recovery doctrine in the BLM. These policies both call for recreational areas to be "sustainable" (i.e. profitable) and to have a marketable "Niche."

Under the Forest Service's RS-FMP, recreational sites, trails, campgrounds and roads are being graded as to their sustainability and Niche. Those that are not profitable (including unprofitable fee sites) will be closed to public use or in the case of a trail be allowed to grow back to their natural state. The BLM's Cost Recovery policy calls for much the same thing.

These doctrines are currently being incorporated into Forest Travel Plans and Forest Management Plans and into the Resource Management Planning process in the BLM. While Congress has vetted neither of these policies, they are being applied nationally with enormous implications for how the FLREA will be implemented and for the overall availability of diverse recreational opportunities on our public lands.

RS-FMP and Cost Recovery will certainly have a negative impact on local tourist economies as recreational opportunities disappear. They will definitely restrict public access to public land despite the fact that the agencies receive a vast majority of their funding from the taxpayer through Congressional appropriations. The implication is that most, if not all, recreational sites, areas, and uses must be profitable, through fees and permits, or they will be closed.

These policies conflict with the language in the FLREA protecting the public's right to access dispersed areas of public land and to use minimally developed sites without the burden of fees. The doctrine of "fee or close" represented by the RS-FMP and Cost Recovery leaves the agencies' ability to comply with the FLREA in question.

The Western Slope No-Fee Coalition also has great concern regarding the establishment and the effectiveness of the Recreation Resource Advisory Committees (RRACs) as called for in the FLREA. These RRACs are composed of 11 members mainly from various public land user groups and the outfitter/guide community. Their purpose is to advise the Secretaries of Interior and Agriculture on implementation, expansion or elimination of Standard Amenity and Expanded Amenity fee sites.

Whether or not it is appropriate for the agencies to implement a fee area should be guided by clear, concise legislation that spells out exactly what is allowed and what is not. Public representation through the RRACs should be limited to recommendations regarding amounts of fees and how those revenues might be best spent, not making recommendations or judgments as to what the law allows. The ambiguous and self-contradictory language in the FLREA as written has already led to excessive fees on public land.

While the groups represented on the RRACs come from diverse interests, almost all are dependent on the agencies involved to continue with their particular activity on public land. These groups will have little leeway in weighing various proposals concerning fee implementation, and the agencies will have undue influence over the RRAC's recommendations. Over-riding Forest Service and BLM policies, such as Cost Recovery and RS-FMP, leave RRACs and RRAC members largely with only two choices for recommendations: to implement a fee program at any given site or have it closed to public use.

Further narrowing the RRACs' ability to make open recommendations to the Secretaries is the effort underway to limit the number of RRACs to be established nationwide in spite of language in the FLREA requiring one RRAC per state. In fact the Forest Service and BLM have spent much time and have held numerous "lessoning sessions" to try and limit the number of RRACs to one or two nationwide. That would severely limit local input on implementing access fees. Another approach being considered by the agencies is to have existing RACs serve as the RRACs called for in the new law, or to create recreation subcommittees of existing RACs. In either case, recreational interests and user/local input would be minimized.

The Federal Lands Recreation Enhancement Act never received a vote on the floor of the U.S. House of Representatives and was never introduced in or considered by the U.S. Senate. This major change in public land policy was enacted without public participation. Like Fee Demo before it, the FLREA creates incentives within the agencies to push the boundaries on not only what is allowed under the law, but also what is appropriate in tern's of public interest.

We urge the distinguished Members of this Subcommittee to take decisive action to remedy the excesses and abuses in implementation that are occurring on our public lands and repeal the provisions of the FLREA that relate to the Forest Service, Bureau of Land Management, Bureau of Reclamation, and Fish and Wildlife Service.

Thank you for the opportunity to present these facts and observations about implementation of this law by these two agencies. I am available for any questions you may have.

Senator CRAIG. Kitty, thank you very much, and let me thank you for your organization's due diligence. I think that is extremely important, that the public be fully engaged in this and that we hear from you in that effort. Your statement will be a part of the record.

Now let us turn to Aubrey King, King & Gorin, representing Western States Tourism Policy Council, Southeastern Tourism Society, National Alliance of Gateway Communities, and National Association of RV Parks and Campgrounds. Aubrey, welcome before the committee again.

STATEMENT OF AUBREY C. KING, KING & GORIN, REPRESENTING WESTERN STATES TOURISM POLICY COUNCIL, SOUTHEAST TOURISM SOCIETY, NATIONAL ALLIANCE OF GATEWAY COMMUNITIES, AND NATIONAL ASSOCIATION OF RV PARKS AND CAMPGROUNDS, BOWIE, MD

Mr. KING. Good afternoon, Mr. Chairman, Senator Thomas. I am Aubrey King and it is indeed a pleasure to appear before you to discuss what certainly I think we can all agree is a very significant topic. I request that my full written comments, as mentioned earlier, be included in the record of the hearing.

I might add, by the way, that it is a pleasure for me to be associated with the panel here and to really commend these folks for their obviously heartfelt love of the public lands and love of recreation on those public lands. I think that is certainly a love that we all share and I hope we all are heading in the same direction in terms of trying to develop a program and a scheme that will maximize the right of the public to enjoy those public lands.

I also applaud the subcommittee for its efforts to hold the agencies to very strict standards in terms of implementing what is a novel, innovative, perhaps in some instances a disturbing, program. I think we have certainly heard from testimony today and from your comments, Mr. Chairman, and Senator Thomas's comments many of the really hard questions that we really need to raise about the implementation of the recreation fee program.

The four organizations that I represent here supported the recreation fee demonstration program as an equitable means of generating needed revenue from the Federal lands by collecting fees from those who receive the greatest benefit from those lands, the visitors and the users. It was realized that the fee demo program was flawed, that unjustified fees were charged in too many places, too frequently, that it suffered from a lack of inter-agency and

inter-governmental coordination, and that local input into the program was minimal.

With the enactment of the Federal Lands Recreation Enhancement Act last December, Congress had the vision to correct many of those flaws in fee demo and move forward with a promising 10-year program. It is noteworthy, for example, that following the act the Forest Service promptly eliminated 435 sites that were relatively undeveloped.

Now, while it has only been a little more than 11 months since the FLREA was passed, we do have some preliminary thoughts and suggestions about the program. While the five agencies involved have worked diligently to develop plans and guidelines, the rate of implementation progress we believe has been frustratingly slow. We recognize that the agencies have to answer administratively to the Office of Management and Budget and politically to determined critics of any fee program. But we are concerned that it looks like it is going to take 2 years for this 10-year program to be fully operational.

This is especially important, I might add, with regard to the recreation resource advisory committees. As we have heard reflected several times today, we are all looking to those advisory committees to perhaps perform miracles for us in terms of determining what fees are fair and appropriate and which are not. But yet the fact of the matter is that now, again coming onto a year after passage of the act, there is not a single recreation resource advisory committee out there, and we would like to urge the agencies and Congress to do everything possible to expedite their establishment so that they can perform this very necessary role.

It is regrettable, we think, that the agencies have been unable to better utilize the experience and expertise of some very fine private companies, such as the Disney Corporation or Universal Studios or American Express and other credit card companies and banks that have had vast experience for many decades running complex fee operations serving large and diverse publics. Surely, we think, some means can be found for connecting the agencies to those sources of practical advice.

In turning to the Recreation Resource Advisory Committees, or RRACs, which we applaud their establishment certainly by Congress in the act, we are concerned, however, about the suggestion that there are apparently now to be created subcommittees of existing BLM State RACs, with new State and regional RRACs created where there are no BLM resource advisory committees.

Now, while we understand that this process may save money and avoid duplication of advisory committees that perhaps are doing very similar work, there would seem to be some potential for conflict and confusion here as well between the BLM RACs and the recreation fee RACs, which again are to be set up apparently as subcommittees. Now, will the decisions or recommendations of the RRACs have to be reviewed or cleared by the full RACs, and exactly what will those relationships be? We obviously think this needs much clarification.

We also urge that RRACs be used to consider other recreation issues beyond the fee program. Frankly, you are going to be getting together some folks with substantial experience and expertise,

knowledge of local recreation needs and problems, and we think it would be highly desirable to have them open their agenda and include other recreational issues. It is possible—in fact, we are glad to see that the agencies are apparently heading in that same direction, as was reflected in the testimony earlier.

Furthermore, we recommend that, with regard to the RRACs, some provision for local gateway business interests—and we are talking about businesses here that are not operating directly on the Federal lands—that they should have a role as part of this advisory process as well. For example, in many instances there might be concern over the use of fee revenue to fund activities, perhaps campground expansions, perhaps other programs, that are already being met in that local community and would, in fact, be detrimental to the economic interests of businesses already functioning there.

Finally, in conclusion, we have several quick recommendations for you. One is that I think none of us want to see the fee program looked upon as simply a means of generating revenue. It should be regarded instead as a part of a new, more innovative and flexible way of managing the Federal public lands.

The program should encourage closer partnerships between the Federal land agencies, State park agencies, State tourism offices, and other agencies, the private sector, and gateway communities. The program should be regarded as a means of focusing greater attention by the land agencies on visitor services and management. For example, as a means of better managing seasonal visitor fluctuations, coordinating inter-governmental fees and encouraging use of underutilized Federal lands.

The bottom line we believe is that we all want to provide the highest quality recreation experience for the greatest number of people on the Federal lands. We think that the fee program, the recreation fee program, is a tool, a means to accomplish that goal, and we commend it for your further study.

[The prepared statement of Mr. King follows:]

PREPARED STATEMENT OF AUBREY KING, KING & GORIN, GOVERNMENT AFFAIRS CONSULTANTS, REPRESENTING THE WESTERN STATES TOURISM POLICY COUNCIL, THE SOUTHEAST TOURISM SOCIETY, THE NATIONAL ASSOCIATION OF RV PARKS AND CAMPGROUNDS, AND THE NATIONAL ALLIANCE OF GATEWAY COMMUNITIES, BOWIE, MD

ORGANIZATIONS REPRESENTED

This testimony is presented on behalf of the following four organizations, all of which very much appreciate this opportunity to present their views regarding implementation of the Federal Lands Recreation Enhancement Act (REA), signed into law by President Bush last December as P.L. 108-447:

The Western States Tourism Policy Council

The WSTPC is a consortium of thirteen western state tourism offices, including Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming. The mission of the WSTPC is to support public policies that enable tourism and recreation to have a positive impact on states and communities in the West.

The Southeast Tourism Society

The STS represents public and private tourism and recreation interests in eleven southeastern states, including Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia and West Virginia. Thorough its affiliate, the Southeast Tourism Policy Council, the STS supports pub-

lic policies that enhance the positive contributions of tourism and recreation in the Southeast.

The National Association of RV Parks & Campgrounds

ARVC is the national trade association that represents the interests of the commercial RV park and campground industry in the United States. More than 3400 RV parks and campgrounds are member of ARVC.

The National Alliance of Gateway Communities

The NAGC represents the communities that serve as gateways for millions of domestic and international visitors to our national parks, forests and other Federal public lands.

BACKGROUND

Each of these four organizations were longstanding supporters of the recreation fee demonstration program that was the predecessor for the ten-year fee program enacted as REA.

They first supported fee demo as a means of providing additional revenue sorely needed by the National Park Service, USDA Forest Service, Bureau of Land Management and U.S. Fish & Wildlife Service and ensuring that most of that revenue would be spent on facilities and programs on the local land site where it was collected. But the fee demo program came to be seen as potentially much more than another source of revenue. In particular, it came to receive support from the tourism and recreation industries because of its potential for focusing more attention on visitor services, encouraging more innovative marketing approaches for the Federal lands and fostering greater intergovernmental and interagency cooperation and collaboration, as well as closer cooperation between the Federal agencies and the private sector and local communities.

While sensitive to the arguments that the Federal lands have always been owned by the public and their management and maintenance is funded already through taxes on the public, fee demo supporters believed it was equitable to require those receiving more enjoyment and benefits from their use of the Federal lands to assume more of the burden of their use.

As the same time, shortcomings in the fee demo program were apparent. Too often fees were charged for areas and activities that did not provide commensurate value to visitors. Too often fees were levied without being part of management or business plans and without resulting in improved visitor services. While there were some encouraging attempts to develop coordinated interagency fee projects, they were too few and too limited.

With the 2004 enactment of REA, Congress took important steps to extend the fee demo program for ten years and to correct many of its most egregious flaws. Fees were prohibited on certain activities or services and for certain persons or places and allowable fees were more clearly delineated. The opportunity for public participation in the fee implementation process was provided, including the establishment of Recreation Resource Advisory Committees. A national interagency pass, the "America the Beautiful Pass" and regional multi-entity passes were authorized. The Bureau of Reclamation was included in the program. Gateway communities were especially pleased that REA authorizes cooperative agreements with governmental and nongovernmental entities in gateway communities for fee collection and processing services while retaining a percentage of revenues collected, as well as allowing cooperative agreements for provision of emergency medical and law enforcement purposes.

REA IMPLEMENTATION

It has been nearly eleven months since REA was signed into law on December 8, 2004. During that time all five agencies have worked diligently to develop plans and guidelines for implementing the program.

Progress. The Forest Service, which was probably more criticized than any other agency for its implementation of the fee demo program, responded quickly to the tighter fee requirements of REA by eliminating 480 relatively undeveloped sites, while retaining fees at 4,024 sites. Of course, this action suggests that those sites should probably have never been included as fee sites under fee demo. Apparently, the Forest Service took too literally the concept of fee demo as an experimental program.

The interagency task forces created to develop guidelines for implementation of the new fee program have reached out to the public through no fewer than fifteen "listening sessions" around the country. Eleven listening sessions have been devoted to the structure of the RRACs, particularly as to whether there should be state, re-

gional or national RRACs. Four other listening sessions were devoted to the development of the ATB Pass. Having participated personally in three of these listening sessions, I can attest that they have been open and productive, with multiple agency staff joined by a dozen or more representatives from the public, the recreation industry and universities.

It is understandable that the implementation process has been slowed administratively by the necessity of complying with an array of requirements pertaining to the Federal contracting process and mandatory reviews by the Office of Management and Budget of all agency efforts to collect information from the public. Pricing analyses to set fee levels have used six different focus groups develop benchmarks with comparable fees charged by similar entities such as State parks.

The most tangible progress to date has been issuance of final public involvement guidelines, *Notice of Guidelines for Public Involvement in Establishing Recreation Fee Areas and for Demonstrating How the Public Was Informed on the Use of Recreation Fee Revenues*, published in the Federal Register, Vol. 70, No. 187 (September 28, 2005). In addition, the agencies have decided to create new recreation "subcommittees" of existing state BLM Recreation Advisory Committees as RRACs, supplemented by new RRACs in states or regions without BLM RACs. A general interagency recreation fee agreement has also been finally drafted and is now being circulated for review.

Agreement has also apparently been reached on the distribution of revenue from the ATB Pass. The agencies hope to be able to issue a Request for Proposal for administration of the ATB Pass within the next 30-60 days.

Concerns. Clearly, the agencies are taking great pains to be judicious and thorough, especially when they are dealing with a program that has been as politically controversial as the recreation fee program. Nonetheless, we are concerned that nearly a year after enactment of the new recreation fee program the agencies are still in the process of developing their plans and guidelines. No one has yet been appointed to a single RRAC and by the agencies' own estimate, the ATB Pass will not be in place until early 2007. It is unfortunate that a ten-year program requires more than two years to be fully functional, especially when it could build upon the experience of nearly a decade of the fee demo program.

Expertise Missed. It is also regrettable that the agencies have not been better able to utilize the experience and expertise of companies with vast experience successfully designing and implementing large fee programs, such as the Disney Corporation, Universal Studios, American Express and other credit card companies and banks. After decades running complex fee operations dealing with large and diverse publics, such companies could provide invaluable insights and advice. But, apparently for reasons both legal and political, they have not been directly consulted.

RRACs. A major justification for using existing BLM State RACs is that this will minimize the costs of establishing and administering new RRACs. We would like to have clarification, however, of how these "subcommittee" RRACs will relate to the existing BLM RACs. Will these RRAC subcommittee decisions and recommendations have to be reviewed and endorsed by the full RAC?

We also have two recommendations regarding future RRACs. One is that the local gateway community businesses that do *not* conduct business directly on the Federal lands should have representation on the RRACs. Pricing decisions made concerning recreation fees can have a significant impact on those local businesses, which often must compete with recreational facilities, such as campgrounds, located on the Federal lands. Similarly, local businesses can be dramatically affected by decisions as what projects or facilities will be funded by recreation fee revenue. If facilities already in competition with private businesses are able to modernize, upgrade or expand their operations using fee revenue, those local businesses might suffer economic loss.

Our second recommendation is that the jurisdiction of RRACs should be expanded beyond the recreation fee program. There are many other recreation issues that would benefit from review and consideration by such a representative advisory body, including programs and projects and visitor services not related to recreation fee revenue.

Beyond the Recreation Fee Program. We have two recommendations for future consideration by Congress. One is that the U.S. Army Corps of Engineers be included in the recreation fee program. As arguably the provider of more recreation than any other Federal agency, it should have the same authority to collect recreation fees as the five agencies now included. This would also avoid the confusion that now results when different agencies that manage adjacent sites, such as a Corps Lake surrounded by a National Forest, have different fee policies.

Our second recommendation is based on the belief that a fundamental justification for the recreation fee program is that revenue collected from user fees should

be retained where it is collected to benefit those users. We believe this same fee retention principle should be applied to other user fees, such as those paid by ski areas and forest homeowners.

CONCLUSIONS

The Western States Tourism Policy, the Southeast Tourism Society, the National Association of RV Parks and Campgrounds and the National Alliance of Gateway Communities support the recreation fee program. We support its implementation as intended by Congress. While the five Federal agencies included in the program have worked carefully to develop implementation plans and guidelines, we urge that its implementation be expedited as much as the law and administrative practice allow.

We further urge that as the recreation fee program is implemented, the following principles should be followed:

- The program should never be viewed simply as means of generating revenue for the Federal land agencies.
- The program should instead be regarded as part of a new, more innovative and flexible way of managing the Federal public lands for the benefit of our nation.
- The program should be regarded as encouraging closer partnerships between the Federal land agencies, State Park Agencies, State Tourism Offices and other agencies, the private sector and gateway communities.
- The program should be regarded as a means of focusing greater attention by the Federal land agencies on visitor services and management, for example, as means of managing seasonal visitor fluctuations, coordinating intergovernmental fees and encouraging use of underutilized Federal lands.

Senator CRAIG. Aubrey, thank you.

Now let me turn to some questions of you, because I appreciate all of your testimony. I will ask this question of Mr. Stalcup, Mr. Young, Ms. Benzar. I would like each of you to take a shot at answering the following question. Maybe, Kitty, you could start. On June 9 the Forest Service stated that they had reviewed all of their fee sites and claimed to have dropped 480 sites that were not in compliance with the FLREA. What can you tell me about how this affected fee implementation in your areas?

Ms. BENZAR. Thank you, Mr. Chairman. We got that list. There were 480 sites on the initial list. It was subsequently revised down to 435. We compared that side by side with the list of 4,500 fee demo sites that were in effect as of the date of enactment. What we found is that more than half of the sites that were supposedly dropped did not meet the definition of a previous fee demo site that was being dropped because it did not meet the requirements of the new act.

There were a variety of those categories. Some of them had already been closed. Some of them never had been listed as fee demo sites to begin with. Some of them, they were planning to add a few amenities and then reopen them again as fee sites, so that they were not really being dropped. I have some examples that I had in my notes that I ran out of time for. On the Rio Grande National Forest in Colorado, they listed 11 sites where fees were being dropped, but all of those had been charging under the Granger Act authority and they had not ever been fee demo sites.

There were six sites on the Cherokee National Forest in Tennessee that had been closed due to flood damage. On the Humboldt-Toyabe National Forest in Nevada, they dropped sites from some campgrounds, but they only dropped them in the shoulder season. During the prime season when most people visit, those are operated by concessionaires and continue to be fee sites.

On the Mount Baker-Snoqualmie Forest in Washington, there was a trailhead that was already closed because its road was

washed out. In Idaho's Payette National Forest, the Justrite Campground, they had been authorized to charge fees, but they had never made any of the upgrades they planned to do, so they never had charged a fee there. In Wyoming, the Bridge and Links Creek Campgrounds were listed as having had fees dropped years before, and that is a direct quote. The comments were there. It said "We stopped charging a fee here several years ago."

So none of those that I just mentioned and many other examples—more than half the sites on the list, in fact, did not meet that criteria. And more importantly, that list did not even begin to touch the areas that we have been primarily concerned about and that all three of us have testified about here today, such as the Red Rocks Pass, Mount Evans, Arapaho National Recreation Area, the Adventure Pass in southwestern California, the Northwest Forest Pass, the entire White Mountain National Forest in New Hampshire.

These are huge areas where essentially either the entire forest or darn near the entire forest is a fee area, and that dropped site list did not address any of those.

Senator CRAIG. Well, thank you. It sounds like latent housekeeping instead of response to the implementation of the law.

Ms. BENZAR. More than half of it would fit that description, Mr. Chairman.

Senator CRAIG. Mr. Young, would you wish to comment?

Mr. YOUNG. Yes, Mr. Chairman. Thank you. I did some field work also in our area, mostly the Mount Baker-Snoqualmie National Forest, and, as I testified earlier, I found that the vast majority of trails were out of compliance with the law, not the 18 that were on the list, the initial dropped list, nor the 12 on the revised drop list.

But I did do some special investigation on those on the dropped list and found that about a third of those were actually not previously charging for fees or for other reasons realistically were not dropped from the list. So I find the Secretary's statement that the law has changed the way that they have enforced fees in our area not to be true. I find that by and large, with very few exceptions, the fees under the new law are identical to the demo fee program prior to this enactment.

A few specific examples would be Huckleberry Creek, which was officially dropped from the list. As it turns out, Huckleberry Creek is .9 miles long, but of course once you go that .9 miles you hit national park land and it goes for another 12, 15 miles. So effectively they are giving away a national park trail.

Boulder River has never had a sign or charged fees. Similar, a short trail. Another trail that they listed, Clear West Peak; it takes about 20 miles of rough dirt road to get to this and it is the end of a forest road, strewn glass, whatever, no trailhead signs, no development whatsoever. It would be probably a 3-hour round trip hike for a hike—or a round trip drive, for a hike that is maybe 45 minutes. This is one that they decided to drop.

So I find that there is very little evidence of their taking the new laws to heart. If I might expand on that just a little bit, I did want to mention the special recreation permit fee. I find this disturbing in the way that it is being applied to several uses in our area, and

I believe Senator Thomas spoke to this. It allows a lot of leeway in requiring permits of people that should not be required—this is my opinion—should not be required to have fees.

Typically, historically the special use permit was required of commercial use, and that everybody understands. If it is a commercial use, you should have to have it permitted. However, to generalize the special recreation permit requirement to noncommercial or ORV use or horseback riding or a family picnic I think is dangerous without further refinements of the law.

Thank you, Mr. Chairman.

Senator CRAIG. Thank you.

Mr. Stalcup.

Mr. STALCUP. Thank you, Senator. As I mentioned before, on my map I have shown that around Sedona none of the fee demo sites have changed—the same fees, the same signage. In the Push Ridge Wilderness Area down near Tucson and up the road, the Lemon Mountain Highway, the only thing that they have dropped there are charges for pulling out at some of the scenic areas. Everything else there is as it was during the fee demo program. So there has been very little change in Arizona as far as I can see.

Thank you, Mr. Chairman.

Senator CRAIG. I think we would get great public reaction if we found out they were charging for a view. Maybe they felt the same way.

Mr. Stalcup, let me stay with you with the next question. In your testimony you say that Howard—how do we pronounce that? I think it is "ZANN-ei-zer"?

Mr. STALCUP. I am sorry?

Senator CRAIG. The author of the 1964 Wilderness Act.

Mr. STALCUP. Yes, sir. I do not know how to pronounce it either.

Senator CRAIG. I think I am close. But anyway, the words were used, his words, "untrammelled," to define wilderness, and he defined "untrammeled" as "not being subject to human controls and manipulations that hamper the free play of natural forces."

I wonder how you feel, would feel if the agency limited entry into wilderness areas because their monitoring data suggested overuse by the public?

Mr. STALCUP. Well, first of all I would like to comment on that definition of "untrammeled." It reads like poetry, and I think it is true.

Senator CRAIG. We all agree.

Mr. STALCUP. Around Sedona, we are surrounded by wilderness areas, and right now we are paying to use our wilderness areas and it is not right. It is not fair to the people that come from around the United States and from around the world. They come to Sedona to hike our mountains, and it is not fair to charge for that service.

The lady, the hiker, whether it is a boy or a girl, the hiker in that image there, can you imagine anyone wanting to charge that person for doing exactly what he is doing? He is enjoying what God put here for us to enjoy. So it is not if the Forest Service is charging. They are charging us. That person, if that site is anywhere near Sedona, paid to do what he is doing today if he followed the law.

I am afraid I have been a scofflaw. I have not bought a Red Rock pass, and I was waiting to get caught. But the other day I was at a trailhead and I saw a small sign on the trailhead. It is the only place in Sedona I have seen this sign, and it says if you have a Golden Age Passport, which I do, then you do not have to pay the fee to park on Forest Service land.

So although I thought I was a scofflaw, under the new law I am not. But it is not fair even then to make—to give me better privileges than the rest of the people who are younger than I in this room, to do the same thing that person is doing.

Thank you.

Senator CRAIG. Mr. Young, after reading your testimony I think you have made some extremely good points and I would urge the agencies to consider. But I am troubled by your apparent concern about outfitters and guides and the recreation industry, like REI, being asked to pay to take clients on Federal lands. Here is why. I have long been concerned by companies like REI and others who make literally millions of dollars off selling the image of recreating on national forests and in our national parks, but contribute almost nothing to the operation of those programs on those lands. It is kind of—it is clearly profiting from a public resource. I do not think there is any question about it, and you speak most eloquently of that public resource.

I have long been frustrated by many of these companies, like REI or the Sierra Club or Patagonia, who lobby to end commodity extraction on Federal lands, yet seem to want to complain about being asked to help pay for the upkeep of these lands. Ultimately, somebody is going to pay for the management of these lands.

Having generally succeeded in ending the commodity programs—and I think that is generally true, and I lump all of these groups together as having been a phenomenally effective lobby over the years in passing given public policy that has changed the character of the use of our public lands—I am wondering why you think these companies and groups should not have to pay for managing the resource that they are benefiting from and in some instances clearly profiting from?

Mr. YOUNG. A very insightful question, and this brings to mind my impression of the Senate over the years as a very deliberative body and a very impressive ability to get to the heart of matters. Good question, and I will try to restate to make sure that I understood the question correctly. Specific example REI, who sells recreation gear and makes a profit off of that gear for people that can only use public land or perhaps some small private land locations. Yet their profits go into their company and not into the maintenance of the public land that is required for the use of that gear. Is that sort of the question?

Senator CRAIG. Or I could say it another way.

Mr. YOUNG. Okay.

Senator CRAIG. If the public lands did not exist, would REI exist?

Mr. YOUNG. Probably not, and that is——

Senator CRAIG. Not in their size or not in their profitability. That is for sure.

Mr. YOUNG. Yes. Actually, that is a very good matter to pursue. I would have to agree with you on that. I think there is an imbal-

ance, and to take the other end of the spectrum, an oil company that goes into a wilderness area are taxed and pay for the developments that they do on that land.

Senator CRAIG. Let us restate that. Oil companies no longer go into wilderness areas. They cannot by law.

Mr. YOUNG. Fortunately, although I understand ANWR is on the board again.

Senator CRAIG. It is not a wilderness area.

Mr. YOUNG. Oh, it is not? Oh, okay.

Senator CRAIG. By definition or at least by law. Some may view it as that, but it is not.

Mr. YOUNG. So I would have to say I am not really qualified to suggest how this could be done. But I understand and I agree. I do believe that commercial entities operating on public land need a permit, need supervision, and need to pay for that right. That is only appropriate.

I would like to differentiate that from charging for nonprofit groups or private people or family groups, where they are not profiting and they are there purely for recreation.

Senator CRAIG. So do I. I agree with you.

That is my frustration. I guess I have not been the harbinger of doom over a good many years here, but I have cautioned, and loudly and publicly, certain groups for advocating one thing when the consequence of that advocacy, if successful—and in many instances it has been—would cost somewhere else. We are now in a phenomenal budget bind with our public land resource agencies because they no longer pay for themselves. They used to in large part. Some arguably, if you look at total resource value, extractive resource value, they may still do so. That may be arguably so with the BLM. Certainly not with the Forest Service today.

As a result of that, this Congress has not yet come up to speed on funding adequately the needs of these management entities to meet resource needs, and we are begging and borrowing from one and stealing from another. It is frustrating to me when I see resources maybe ineffectively managed or trammeled and the resource, the public resource, is not there to effectively meet those management challenges because the revenue flow is gone from what was historically the case, and we have not been able to effectively replenish it.

I have also cautioned the public very clearly over the years to be careful of fees. It is a way of replenishing a lost resource, a revenue. That is why we were very careful in trying to craft—although I opposed the rec fee situation that is now before us, I was not successful. That is why I want to make sure that there is a full compliance under the prescription that is set forth in the law.

But I guess in looking at other resources that is my frustration. There are clearly those who do not operate by definition on public lands, but they profit mightily from public land access by those who seek their services or what they provide. I am also one that does not like to levy taxes, but we have done that uniquely so over the years for certain maintenance levels.

Anyway, that was my question. That is the thrust of where I think this Congress is going to look and explore over the years as it relates to how do we sustain effectively financed management

agencies for the purpose of monitoring, controlling, and managing these very valuable resources.

Aubrey, let me get to you with one last question. In several places in your testimony you have called for Congress to make changes in law. Are you completely certain that you really want Congress to reopen the law? I mean, if we reopen it I have to believe that there is a high probability that Congress could decide to scrap many of the provisions that your clients have supported in the past. I am always, as I should say, cautious about dealing with myself. Are you willing to take that risk when you speak to Congress addressing it?

Mr. KING. Mr. Chairman, you are perceptive as always. That is indeed a difficult question to answer. You put difficult questions I think to all of us. I think the bottom line is we do not want to see dramatic wholesale changes in the Federal Lands Recreation Enhancement Act. If that is the price that modifications would require, I do not think we would be supportive of that at this point in time.

We would hope that some of the major recommendations that we had made, for example expediting the process, getting those recreation resource advisory committees set up and in place, expediting the establishment of the America the Beautiful Pass, we think those can certainly be done administratively. I think certainly one of our recommendations, with regard to the recreation resource advisory committee, to provide representation for local gateway businesses that perhaps are not involved directly on the lands—we recognize that it would require a change in the law and perhaps it is inappropriate to move that at this particular time.

We would nonetheless like to call attention to the problem that underlies that suggestion, the problem being that we clearly want to avoid instances where expenditures, as a result of recreation fee revenue, are used in a manner that competes unfairly with local businesses—campgrounds, other operations in the communities, certainly.

Senator CRAIG. Well, I think those are wise and just observations. In fact, when Lynn Scarlett was testifying earlier and she mentioned the building of a facility that had showers—or maybe, did you, Marv, mention that?

Mr. STALCUP. No.

Senator CRAIG. No, I guess it was—I leaned over to my colleague here and said: Why showers? Are there not private showers? That is the kind of thing that concerns me, that we begin to create duplicative resources or services that can in effect, adjoining these properties, be done by the private sector, whereas the public resource could be used for other purposes.

Mr. KING. Absolutely. Frankly, we think that the first rule should always be to look to the community, look to the businesses outside the park, and see if they are capable and interested in providing that service or that needed function, and if so let them do it.

That also is beneficial to the lands. It avoids other construction, other activities on the lands that are perhaps unnecessary.

Senator CRAIG. Well, to all of you, thank you very much for your due diligence and your constant diligence as it relates to our public

resources. As we monitor and observe and shape what the administrative agencies are going to do with this new public policy, we will do our diligence and watch it very, very closely. I do believe that advisory groups are important, that there is appropriate representation of stakeholders. I think these are extremely valuable templates for assisting these agencies in making decisions. I have got one opinion, they have got another. I am going to probably give a little bit as it relates to combining entities together for the sake of economy as long as it does not disrupt effective representation into the right kind of input as to the implementation of this new law.

Thank you all very much for being with us. We appreciate it. The committee will stand adjourned.

[Whereupon, at 3:55 p.m., the hearing was adjourned.]

APPENDIX

RESPONSES TO ADDITIONAL QUESTIONS

DEPARTMENT OF THE INTERIOR,
OFFICE OF LEGISLATIVE AND CONGRESSIONAL AFFAIRS,
Washington, DC, November 17, 2005.

Hon. LARRY E. CRAIG,
Chairman, Subcommittee on Public Lands and Forests, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Enclosed are answers to the follow-up questions from the hearing held by the Subcommittee on Public Lands and Forests on the implementation of the Federal Lands Recreation Enhancement Act, P.L. 108-447.

Thank you for giving us the opportunity to respond to you on this matter. Sincerely,

Sincerely,

JANE M. LYDER,
Legislative Counsel.

[Enclosure.]

RESPONSES OF ASSISTANT SECRETARY LYNN SCARLETT

Question 1.

A) Please provide for the Committee a spreadsheet that lists each of the High Impact Recreation Areas and the following information for each of these Areas:

(1) Name of the HIRA;
(2) Number of acres within the HIRA;
(3) Number and type of amenities, such as permanent outhouses, campground, day-use areas, trailheads that meet the requirements of Section 803(f)(4)(d), and trailheads that do not meet the requirements of Section (f)(4)(d), boat docks or boat launches; (3) Estimated annual use (total visits) within the area,
(4) Number of miles of paved roads within the HIRA;
(5) Number of miles of unpaved Forest Service system roads within the HIRA;
(6) Number of scenic overlooks or developed[1] pullouts within the HIRA;
(7) Number of undeveloped pullouts or scenic overlooks within the HIRA;
(8) Number of undeveloped dispersed camping areas, or picnic areas within the HIRA;
(9) Number of undeveloped (those without amenities) trailheads in the HIRA.

B) We would also like for each HIRA a written description of: a) the significant opportunities for recreation found in the area; b) the amount of investment in the area since 1995.

Answer. The Bureau of Land Management (BLM) does not have "High Impact Recreation Areas;" this is a term used by the Forest Service. All of BLM's standard amenity recreation fee sites meet the requirements of the Recreation Enhancement Act (REA) and contain the requisite amenities. As mentioned in our testimony, we also issue individual Special Recreation Permits (SRPs) at 22 recreation areas. In FY 2004, BLM issued approximately 105,200 individual SRPs and charged an associated SRP fee in 21 recreation areas, located in 5 States (AZ, CA, NV, UT, NM), and approximately 500 SRPs, without associated fees, in one additional recreation area in the State of Idaho. Ten of these areas are river segments, four are canyon trails, and eight are off highway vehicle (OHV) areas. BLM has been issuing such SRPs for 35 years through a public planning process. The authority provided in

[1] Having facilities (bathrooms) and/or picnic tables, and/or paving with true interpretive signs (not just signs saying this is a rec. fee site) or a majority of these amenities.

REA is substantially similar to BLM's previous authority for SRPs, and thus, we do not expect changes in our implementation of the SRP program.

Question 2. In your testimony you mentioned flying sewage out of Wilderness Areas. Please provide the specific instances of this and certify that these flights were either allowed under the Wilderness Act (because it was a non-conforming use that was practiced in the area prior to the 1964 Wilderness Act) or that these flights were approved under the emergency provisions that allow for helicopter flights into the Wilderness Area. For all flights approved under the emergency provisions, please provide copies of the signed decision notices that authorized the flights.

Answer. Testimony submitted by the Forest Service, not the Department of the Interior, included a discussion about flying sewage out of Wilderness Areas. We, therefore, defer to the Forest Service for an appropriate response.

Question 3. It is the Committees' observation that the federal Lands Recreation Enhancement Act (born as a rider to an appropriations bill) began life on very shaky ground. The Committee believes that implementation must be transparent and beyond reproach.

It is the Bureau of Land Management willing to quickly have each of its HIRA sites which were carried over from the Recreation Fee Demonstration programs to FLREA status reviewed by a panel of non-recreation employees? The panel will decide whether the HIRA's were converted from the Recreation Fee Demonstration program to the Federal Land Recreation Enhancement Act within the spirit of the law. It will also make recommendations to the Forests.

We would suggest that you not allow personnel from the Forest or region where the site is located to serve on the review team for that Forest or district. We also expect those recommendations to be reviewed by the Recreation Resource Advisory Committees once the HIRAs have been configured.

Answer. As mentioned above, BLM does not have "High Impact Recreation Areas."

We do agree that implementation should be transparent with opportunities for public participation, and we are committed to an open process. In this spirit, the Fee Council recently clarified the Departments' view of the duties of the Recreation Resource Advisory Committees (Recreation RACs). The Council agreed that the Recreation RACs should be encouraged to discuss, in an advisory capacity, BLM and the Forest Service's recreation fee programs, including standard amenity recreation fees as well as individual Special Recreation Permit fees.

RESPONSES OF UNDER SECRETARY MARK REY

Question 1a. Please provide for the Committee a spreadsheet that lists each of the High Impact Recreation Areas (HIRA) and the following information for each of these areas:

(1) Name of the HIRA;
(2) Number of acres within the HIRA;
(3) Number and type of amenities, such as permanent outhouses, campground, day-use areas, trailheads that meet the requirements of Section 803(f)(4)(d), and trailheads that do not meet the requirements of Section (f)(4)(d), boat docks or boat launches;
(4) Estimated annual use (total visits) within the area;
(5) Number of miles of paved roads within the HIRA;
(6) Number of miles of unpaved Forest Service system roads within the HIRA;
(7) Number of scenic overlooks or developed) pullouts within the HIRA;
(8) Number of undeveloped pullouts or scenic overlooks within the HIRA;
(9) Number of undeveloped dispersed camping areas, or picnic areas within the HIRA;
(10) Number of undeveloped (those without amenities) trailheads in the HIRA.

Answer. Please see Attachment A for response to Question 1a.[1]

Question 1A3—we provided a list of all developed recreation sites that are located within each HIRA boundary and listed in INFRA, the Forest Service's corporate developed recreation site database. In addition, we also included the amenities located at each specific developed recreation site. The collection of these developed recreation sites and additional services constitutes the HIRA.

Question 1A4—We are not able to provide visitation data specifically for each HIRA. The Forest Service does not collect specific site visitation in a coordinated, statistically valid method. The National Visitor Use Monitoring (NVUM) project is

[1] All attachments have been retained in subcommittee files.

the official method of measuring visitor use on National Forest System lands. This information is collected in a statistically valid and consistent manner across all national forests and grasslands in the nation. We have provided the NVUM visitation number for each national forest that has a HIRA.

Questions 1A8, 1A9, and 1A10—The table provided in Attachment A describes the developed facilities that are inventoried and tracked in the Forest Service INFRA database. Undeveloped facilities described in A8-10 are not tracked in any database.

Question 1b. We would also like for each HIRA a written description of: a) the significant opportunities for recreation found in the area; b) the amount of investment in the area since 1995.

Answer. Please see Attachment B for a brief description of the significant recreation opportunities for each HIRA. Available records or corporate databases do not track historical expenditures of investments for a specific area. As a result, we are unable to provide how much has been invested in each HIRA since 1995.

Question 2. During the hearing we asked you about the relationship between local or state law enforcement departments and the Forest Service as it relates to enforcement of the Federal Lands Recreation Enhancement Act. We need you to more completely develop your answer to that question. What are the variety of agreements and responsibilities for the Forest Service enforcement officers and for the state or local officers? Please provide a more complete listing of what enforcement actions may be taken by each of the parties when they find a violation of the FLREA.

Answer. Violation of REA involves nonpayment of a fee owed the federal government. Therefore, enforcement of collection of this fee is the responsibility of federal law enforcement officers. Enforcement actions by Federal law enforcement officers for fee violations of REA range from patrolling and informing individuals of the requirements to pay a fee to issuing violation notices. A first offense of nonpayment of a recreation fee under REA is punishable by a fine of up to $100 and is not subject to a prison term. The fine of up to $100 for a first offense of nonpayment provided for in REA is considerably lower than the penalties that would otherwise apply under federal law for a Class B misdemeanor (up to a $5000 fine and up to 6 months imprisonment). REA explicitly precludes application of these stiffer penalties to a first offense of nonpayment, (18 U.S.C. 3571(e)). Only subsequent offenses of nonpayment are punishable as a Class A or Class B misdemeanor.

The Forest Service has separate authority from REA to reimburse state and local law enforcement agencies on National Forest System lands (16 U.S.C. 5.51a). The Forest Service provides approximately $5 million dollars of its appropriated law enforcement funds each year for that purpose to county sheriffs. In addition, the Forest Service uses REA fee revenues to reimburse state and local law enforcement agencies for costs they incur in enforcing state law and in increasing patrol presence in recreation fee areas.

Question 3. In your testimony you mentioned flying sewage out of Wilderness Areas. Please provide the specific instances of this and certify that these flights were either allowed under the Wilderness Act (because it was a non-conforming use that was practiced in the area prior to the 1964 Wilderness Act) or that these flights were approved under the emergency provisions that allow for helicopter flights into the Wilderness Area. For all flights approved under the emergency provisions, please provide copies of the signed decision notices that authorized the flights.

Answer. Please see Attachment C for a description of helicopter use for removal and servicing of human waste in wilderness areas.

Question 4. On page one of the pictures you provided to the Committee at the hearing you have two pictures of cars parked along a road in Utah. Please provide us a list of the specific amenities that those recreationists have been provided (from the list of required amenities under the standard amenity fee authorization) and the proximity of those amenities to the parked vehicles (within ¼ mile or over ¼ mile is sufficient).

Answer. See tables below for description of amenities and proximity of those amenities.

Table 1.—FIGURE 1 DESCRIPTION, AMERICAN FORK CANYON, UINTA NF

Figure 1	Amenity (List)	Distance from Photo Point (> ¼ mile; < ¼ mile)
	Designated Developed Parking.	Less than ¼ mile
	Permanent Toilet Facility	Less than ¼ mile
	Permanent Trash Receptacle.	Less than ¼ mile
	Picnic Tables	Less than ¼ mile
	Security Services	Less than ¼ mile
	Interpretive Signs (Planning Stage).	Less than ¼ mile

Table 2.—FIGURE 2 DESCRIPTION, AMERICAN FORK CANYON, UINTA NF

Figure 2	Amenity (List)	Distance from Photo Point (> ¼ mile; < ¼ mile)
	Designated Developed Parking.	Less than ¼ mile
	Permanent Toilet Facility	Less than ¼ mile
	Permanent Trash Receptacle.	Less than ¼ mile
	Picnic Tables	Less than ¼ mile
	Security Services	Less than ¼ mile
	Interpretive Signs (Planning Stage).	Less than ¼ mile

Question 5. On page two of the pictures you provided to the Committee at the hearing you have a picture of cars parked along a road in Utah. Please provide us a list of the specific amenities that those recreationists have been provided (from the list of required amenities under the standard amenity fee authorization) and the proximity of those amenities to the parked vehicles (within ¼ mile or over ¼ mile is sufficient).

Answer. Please send table below with list of amenities and proximity of amenities.

Table 3.—FIGURE 3 DESCRIPTION, AMERICAN FORK CANYON, UINTA NF

Figure 3	Amenity (List)	Distance from Photo Point (> ¼ mile; < ¼ mile)
	Designated Developed Parking.	On site
	Permanent Toilet Facility	On site
	Permanent Trash Receptacle.	On site
	Picnic Tables	On site
	Security Services	On site
	Interpretive Signs (Planning Stage).	On site

Question 6. In reference to Figure 4, page two of the pictures you provided, please provide us an explanation of why the collection of trash from the picnic grounds has anything to do with the implementation of the Federal Lands Recreation Enhancement Act. Under the Act picnic grounds do not qualify as areas for which the agency can charge; why did you send us pictures about the collection of trash from picnic grounds? Why should we be concerned about the cost of collection of trash from picnic grounds that aren't part of the FLREA authority?

Answer. Picnic grounds may qualify for a recreation fee under REA if they meet the requirements of the standard amenity fee. Nothing in REA prohibits charging at picnic grounds that meet standard amenity fee criteria. Trash management, including providing the permanent trash receptacles and removal of trash required for charging a standard amenity recreation fee, is a large expenditure for almost all recreation fee sites, regardless of their recreation fee category. The photographs of trash collection and removal were included to illustrate that those tasks are a domi-

nant issue at all recreation fee sites and that recreation fees are used to address this issue within HIRAs as well as at other recreation fee sites. In addition, when asked in visitor surveys how they want their fees spent, most people rank toilet cleaning, trash collection, and health and safety the highest.

Question 7. Figure 5, page 3 is a picture of trash outside an outhouse in American Fork Canyon. Please provide the Committee with a full description of the area. We are unable to understand whether this is a standard amenity fee site or expanded amenity fee site.

Answer. This picture (Figure 5) was taken at Tibble Fork Reservoir. The purpose of this picture was to show some of the use that occurs on a daily basis during the summertime. A standard amenity fee of $3 for three days is charged for this area. The amenities offered on site are designated developed parking, permanent toilet facilities, permanent trash receptacles, picnic tables, and security services. Interpretive signs are located less than a quarter mile away from this site.

Question 8. On pages four through six you have provided pictures of vehicles either parked or camping on the Wasatch-Cache National Forest. What physical amenities or services are being provided in the immediate area (within 1/4 of a mile) that justify the Wasatch-Cache National Forest in believing this area qualifies as a standard amenity fee site under provision 803(f)(4)(a)?

Answer. Please see Attachment D.

Question 9a. Figure 16 on page nine of the pictures you provided shows medical support personnel on the San Bernardino National Forest. Are those Forest Service personnel? If so, how are they funded? Are they funded out of fire suppression or out of Recreation Fee receipts?

Answer. One of the people shown in the photograph (Figure 16) is a Forest Service Adventure Pass patrol officer, paid for from recreation fee receipts. All the other responders are San Bernardino County employees. The Forest Service employee was first on the scene and called the emergency responders.

Question 9b. Please provide the Committee with detailed information on the following:

(1) Number of employees (both direct and indirect) on each forest that are funded with the receipts of the FLREA.

(2) What are the total costs for those employees?

(3) How much total FLREA receipts were collected on each forest in FY 2005?

Answer. Please see Attachment E. The Forest Service is able to provide the total amount of salaries paid out of recreation fee receipts in fiscal year 2005. We also provided the permanent full-time equivalent (FTE) positions that the salaries support on each administrative unit. Please note that the FTE number does not equal the actual number of employees paid out of recreation fee receipts. Forests employ seasonal and term (non-permanent, full-time employees) to work on recreation fee projects. The salaries for these non-permanent positions, which were paid out of recreation fee funds, are included within the total FTEs reported in Attachment E.

Question 10. For each picture on pages ten through twelve, please provide me with a list of the physical amenities and services provided in the immediate area (within ¼ of a mile) that justify the White Mountain and Coconino National Forests in believing these areas qualify as standard amenity fee areas under provision 803(f)(4)(a).

Answer. Table of Amenities and Proximity of Amenities—White Mountain and Coconino National Forests.

Table 9.—FIGURE 18 DESCRIPTION, COCONINO NF

Figure 18	Amenity (List)	Distance from Photo Point (¼ mile; <¼ mile)
Bell Rock Trailhead, Red Rocks Project, Arizona.	Parking Lot	< ¼ mile (located on site)
	Toilet	> ¼ mile
	Trash Disposal	> ¼ mile
	Kiosk	< ¼ mile (located on site)
	Picnic Tables	> ¼ mile
	Security	< ¼ mile (located on site)

Table 10.—FIGURE 19 DESCRIPTION, COCONINO NF

Figure 19	Amenity (List)	Distance from Photo Point (¼ mile; <¼ mile)
Midgely Bridge, Red Rocks Project, Arizona.	Parking Lot	< ¼ mile (located on site)
	Toilet	> ¼ mile
	Trash Disposal	> ¼ mile
	Kiosk	< ¼ mile (located on site)
	Picnic Tables	< ¼ mile (located on site)
	Security	< ¼ mile (located on site)

Table 11.—FIGURE 20 DESCRIPTION, COCONINO NF

Figure 20	Amenity (List)	Distance from Photo Point (¼ mile; <¼ mile)
Traffic jam heading south out of Oak Creek Canyon, Red Rocks Project, Arizona.	Parking Lot	< ¼ mile
	Toilet	> ¼ mile
	Trash Disposal	> ¼ mile
	Kiosk	< ¼ mile
	Picnic Tables	< ¼ mile
	Security	< ¼ mile

Table 12.—FIGURE 21 DESCRIPTION, COCONINO NF

Figure 21	Amenity (List)	Distance from Photo Point (¼ mile; <¼ mile)
Typical weekend at West Fork Picnic Area, Red Rocks Project, Arizona.	Parking Lot	< ¼ mile (located on site)
	Toilet	< ¼ mile (located on site)
	Trash Disposal	< ¼ mile (located on site)
	Kiosk	< ¼ mile (located on site)
	Picnic Tables	< ¼ mile (located on site)
	Security	< ¼ mile (located on site)

Table 13.—FIGURE 22, WHITE MOUNTAIN NF, LOWER FALLS RECREATION AREA

Figure 23	Amenity (List)	Distance from Photo Point (¼ mile; <¼ mile)
Lower Falls Recreation Area.	Picnic Tables	< ¼ mile
	Permanent (Vaulted) Public Toilets.	< ¼ mile
	Designated Paved Parking	< ¼ mile
	Interpretive Panels—Geology.	< ¼ mile
	Permanent Trash Receptacles.	< ¼ mile
	On-site Staffing and Security Patrols.	< ¼ mile
	Well Water Supply	< ¼ mile
	Grates and Grills	< ¼ mile
	Pavillion	< ¼ mile

Question 11. Please have the White Mountain National Forest provide a written description of the amenities that are provided at the Lower Falls Day-Use Site as

pictured in Figure 23, page twelve of the pictures you provided. Additionally, since day-use sites do not qualify under FLREA, please explain why you have included this picture in the material for the FLREA implementation hearing.

Answer. The White Mountain National Forest provides these amenities at Lower Falls:

1. Picnic tables (4)
2. Permanently affixed steel trash receptacles
3. Vaulted public restroom
4. White Mountain National Forest staffing (7 days/week) (funded from REA receipts)
5. Drilled well public water supply
6. Steel cooking grates (5)
7. Public security and rescue patrols (WMNF staff) funded with REA receipts
8. Designated paved parking area
9. Safety and rescue support (WMNF staff funded with REA receipts)
10. Constructed picnic pavilion

This picture was included to illustrate the level of use at this recreation site that is included within the Kancamangus Scenic Byway High Impact Recreation Area. The amenities listed above are all within a short walk from the river, although they are not visible in the picture provided.

Question 12. Figure 24 on page thirteen of the pictures that were provided is a picture of what appears to be a local fire and rescue squad on the White Mountain National Forest. Are these federal employees and are they paid with FLREA receipts? If they are not federal employees why does the Forest Service feel this is an amenity that they are providing the recreationists who use that area?

Answer. The photograph shows members of the Carroll County, New Hampshire, Fire and Rescue Squad and a White Mountain National Forest (WMNF) employee carrying an injured Forest visitor from the Lower Falls swimming area. The Carroll County Rescue Squad assists the WMNF on rescue calls and often responds to accidents at this popular site.

This cooperative work done by Forest Service employees and agency cooperators serves to fulfill the requirement that security services be available in areas where a standard amenity fee is charged. This work is part of a larger effort that includes WMNF staff on site at this location seven days a week during the peak season. These employees are funded from REA receipts and serve as first responders assisting with immediate needs, coordinating rescues, and assisting with litter carries. Forest employees also educate and warn visitors about the hazards of the area, are on site to answer questions, provide interpretive information to the public, monitor security, and clean up litter.

Question 13. For each picture of trash that you have provided please provide the law enforcement log for the areas in the pictures for the last year tracking how many tickets were given for littering versus how many tickets were given for failure to have a recreation pass.

Answer. The Forest Service database of law enforcement incidents does not allow the Agency to narrow searches to one specific site on a national forest.

White Mountain National Forest—The fiscal year 2005 statistics for the Saco Ranger District (which includes Lower Falls) show 3 citations issued for littering and 0 citations for failure to display a parking pass. Forest-wide, the Agency issued 14 citations for littering and 1 for failure to display a parking pass in fiscal year 2005.

San Bernardino National Forest—The fiscal year 2005 statistics for the San Gabriel River Ranger District shows the following violations:

Failure to pay a recreation fee:
- Notice of noncompliance—8,477
- Violation Notice—4

Sanitation:
- Incident report—3 (used when violator is not known)
- Warning Notice—4 (not a ticket, but a warning)

Uinta National Forest—The fiscal year 2005 statistics for the Pleasant Fork Ranger District shows that 6 tickets were issued for failure to pay a recreation pass and 0 tickets were issued for littering.

Coronado National Forest—The fiscal year 2005 statistics for the Santa Catalina Ranger District shows the following violations:

Failure to pay a recreation fee:
- Notice of noncompliance—2,700
- Violation Notice—10

Sanitation:
Incident report—136
Violation Notice—11

Question 14. On the lower left-hand corner of page three of the pictures Ms. Kitty Benzar submitted (which were provided to you prior to the hearing) there is a picture of a sign at Grand Lake saying a fee is required to boat into Shadow Reservoir. Under Sec. 803(d)(1)(D) of the law it prohibits the Secretary from charging a fee "For persons who are driving through, walking through, boating through, horseback riding through, or hiking through Federal recreational lands and waters without using the facilities and services." How do you square the language in the bill with what they are charging for on the Arapaho Roosevelt at Grand Lake and Shadow Mountain Reservoir?

Answer. As opposed to Grand Lake and most other bodies of water on National Forests, The waters of Shadow Mountain Reservoir are under the jurisdiction of the Forest Service. We have multiple responsibilities for public safety and amenities for boaters using the area, including safety/courtesy boat patrol, underwater hazard marking by buoy placement, channel depth marking between Shadow Mountain Lake and Grand Lake, water rescue to stranded and overturned boaters, boating regulation enforcement in coordination with the county sheriff and state parks boating enforcement crew, boat ramp extensions, courtesy docks, a gin pole for sailboat mast raising, shoreline cleanup, and sanitary regulation enforcement. There are several developed recreation sites along the shoreline of the Shadow Mountain Reservoir as well. We will continue to review specific fee determinations at Shadow Mountain Reservoir to insure that they meet REA requirements and will make adjustments if necessary. We look forward to working with the public on this issue as well.

Question 15. I know that many of the collection facilities on the Arapaho Roosevelt National Forest were bought and paid for with revenues from the Recreation Fee Demonstration program, but how do those facilities enhance a recreationist's visit to that area?

Answer. The Recreation Fee Demonstration Program authority and REA allow federal agencies to use a portion of fee revenue to pay for collection facilities. These facilities may be paid for through a mixture of fee revenue and appropriated funds. Centralized information stations, which may also be used to collect recreation fees, provide a convenience for visitors, one stop instead of two to obtain information and paying a fee. There are other payment options available to the visitor besides the information station.

Question 16. It is the Committees' observation that the Federal Lands Recreation Enhancement Act, (born as a rider to an appropriations bill) began life on very shaky ground. The Committee believes that implementation must be transparent and beyond reproach.

Is the Forest Service willing to quickly have each of its HIRA sites which were carried over from the Recreation Fee Demonstration programs to FLREA status reviewed by a panel of non-recreation employees? The panel will decide whether the HIRA's were converted from the Recreation Fee Demonstration program to the Federal Lands Recreation Enhancement Act within the spirit of the law. It will also make recommendations to the Forests.

We would suggest that you not allow personnel from the Forest or region where the site is located to serve on the review team for that Forest or district. We also expect those recommendations to be reviewed by the Recreation Resource Advisory Committees once the HIRAs have been reconfigured.

Answer. All recreation fee sites have been reviewed by regional recreation fee boards, which include non-recreation employees such, as foresters, engineers, and District Rangers, as well as recreation employees. Although these employees are from the same region as the sites they are reviewing, they conduct an independent assessment of the fees charged at site and have recommended adjustments to recreation fees, including HIRAs.

The Forest Service plans to have every HIRA presented to the Recreation Resource Advisory Committees for their review and recommendations. This direction was stated in the Forest Service REA Interim Implementation Guidelines, issued on April 22, 2005.

Question 17. (Asked During Hearing) Could you provide the committee with the visitation use numbers for the Forest Service for each of the last 10 years by the end of November? If you could break those numbers out into the following categories of use, that would be most helpful to us. And I do not know whether this is possible. Take a look at it and see whether you can: driving for pleasure, hunting, fishing,

birdwatching, camping, hiking, picnicking, and other non-wilderness dispersed recreation, or wilderness use.

Answer. In the past, estimates of visitor use on National Forest System lands have been unreliable and not statistically accurate. Because of this, describing recreation trends for the past ten years is not possible. Beginning in 2000, the Forest Service implemented the National Visitor Use Monitoring (NVUM) program to provide for the best-available scientific methods in data collection, analysis, and reporting.

In addition to serving the needs of USDA Forest Service managers, NVUM results and data are used by the public and other governmental entities, including states, private industry, and academia. The information provided by the NVUM program will also be useful for Congressional reporting, resource monitoring, and strategic planning analyses. The data provide managers with valuable information about the people they serve.

By knowing how many people recreate on a national forest, their activities they engage in, how long they stay, how much they spend, and how satisfied they are with the facilities and services provided, managers can make more informed and responsive decisions.

The first full cycle of the NVUM program occurred from January 2000 through September 2003. During each of these 4 years, 25 percent of the national forests were surveyed. Since October 2004, ongoing sampling has occurred on approximately 20 percent of the national forests each year. The available data cover the four year period when all national forests were sampled.

The following table shows the number of visits on National Forest System Lands for specific activities during the four-year survey period.

Primary Activity	Number of Visits (millions)
Hunting	15.3
Fishing	15.0
Viewing Wildlife	5.7
Driving For Pleasure	8.1
Winter Activities	33.8
Camping/Hiking/Picnicking	38.9
All Other Activities	80.7
Total	197.5

We have also included Attachment F, which displays the number of site visit and national forest visits for all national forests. A national forest visit consists of 1 or more site visits. A person may visit a campground and visitor center (2 site visits) in one national forest visit.

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