

Congress of the United States
Washington, DC 20515

April 27, 2018

The Honorable Ryan Zinke
Secretary
United States Department of the Interior
1849 C Street, N.W.
Washington, DC 20240

Mr. Paul Daniel Smith
Acting Director
National Park Service
United States Department of the Interior
1849 C Street, N.W.
Washington, DC 20240

Dear Secretary Zinke and Acting Director Smith:

Each year, the commercial river outfitters in Grand Canyon National Park guide approximately 18,000 visitors through the Grand Canyon. Because most Americans and international visitors lack the experience and/or equipment to safely undertake a whitewater trip through the 277-mile stretch of the Colorado River through the Park, the only way most people can experience such a trip is using the services of one of the concessioners who provide these services under 16 contracts with the National Park Service.

It has come to our attention that the outstanding prospectus for the award of new contracts to provide these services provides for a significant increase in the minimum franchise fee payment required to be made to the National Park Service (NPS): from a tiered structure requiring payment of 4% to 18% of certain gross receipts, to one requiring payment of 5% to a remarkable 22.5% of gross receipts.

We are deeply concerned that the proposed fee increase, alone and taking into account substantially higher labor, insurance, and other costs that will be associated with providing these services under the new contracts, will result in unintended consequences to the visitor experience and place an undue burden on the concessioners. The fact that these payments come out of gross revenues, rather than net profits, means that a concessioner is required to make these payments, even if it means operating at a loss. The fact that many of the existing operators already have sold much of their inventory for trips in 2019, and some even for trips in 2020 at rates that do not reflect these increases in costs, will impose an even further burden on the concessioners in the early years of the new contracts.

In the Concessions Management Improvement Act, Congress clearly directed the NPS, when setting franchise fees, to consider “the probable value to the concessioner of the privileges granted by the particular contract involved . . . based on a reasonable opportunity for net profit in relation to capital invested and the obligations of the concession contract.” Congress also made clear that “[c]onsideration of revenue to the United States shall be subordinate to the objectives of protecting and preserving System units and of providing necessary and appropriate services for visitors at reasonable rates.”

We seriously question whether the NPS’s prospectus for guided multi-day interpretive whitewater river trips within Grand Canyon National Park complies with these mandates. Demanding significantly higher franchise fee payments, at a time when the concessioners are facing the substantial financial burden of higher minimum wage and overtime costs under Executive Order 13658 and state and local law, suggests a profound lack of understanding of the economics of river running operations in Grand Canyon, as well as of the potential implications of such a decision on these operations and the visitor experience. NPS’s non-answers to the questions posed by potential offerors in response to the prospectus do nothing to indicate otherwise.

We are aware of, and the NPS has provided, no justifiable basis for the NPS’s proposed increase in franchise fees. In its final rule implementing Executive Order 13658, the Department of Labor suggested that contractors “typically will have the ability to negotiate a lower percentage of sales paid as rent or royalty to the Federal Government in new contracts prior to application of the Executive Order that could help to offset any costs that may be incurred as a result of the Order.” While the NPS concessions contracting process of course provides no such opportunity for negotiation, the NPS nonetheless has represented that the substantial increase in labor costs associated with implementation of Executive Order

circumstances, the NPS would be increasing, rather than reducing, the minimum franchise fees required to be paid under the new contracts.

We believe that the proposed increase in the minimum franchise fee, on top of the increase in costs that will be associated with providing these services under the new contracts, is too high to ensure a high quality of operations at reasonable rates while providing concessioners a reasonable opportunity for profit, and will adversely affect the public's access to outdoor recreation opportunities in the Grand Canyon. Although the NPS has inexplicably suggested that the cost increases that the concessioners will face under the new contracts should not be passed on to visitors, the fact of the matter is that the additional franchise fee, labor, and other costs will require the concessioners to substantially increase prices to Park visitors. We question, however, whether the market can bear these increased costs without hurting demand and making it considerably more difficult for the broader public to afford a Grand Canyon whitewater river trip. We also believe that this proposal is likely to result in significant unintended impacts on visitor opportunities and the visitor experience as operators look for ways to try to mitigate the financial impact on visitors—for instance, by favoring shorter, more profitable trips; lowering the number of guides to passengers; reducing investments in personnel and equipment; and other measures that will be sure to have impacts on visitors.

The current prospectus does not lend itself to ensuring the success of the river concessioners who are valued Park partners committed to visitor safety and preservation of the natural and cultural resources of the Grand Canyon, and who are essential to making a Grand Canyon whitewater river experience accessible to the vast majority of visitors. We urge the NPS to re-evaluate its proposal to increase the franchise fees under the new contracts, and to revise the prospectus and its minimum franchise fee requirements in a manner that meets its statutory requirements to provide prospective offerors with a reasonable opportunity for net profit in relation to the obligations of the contract.

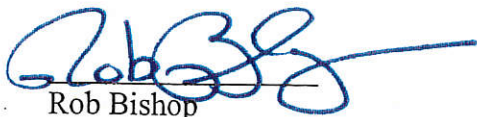
Sincerely,



Paul A. Gosar, D.D.S.
Member of Congress



Tom O'Halleran
Member of Congress



Rob Bishop
Member of Congress



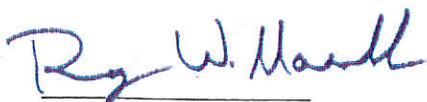
Bruce Westerman
Member of Congress



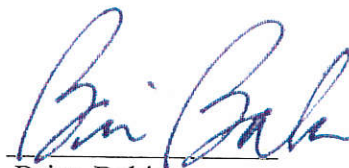
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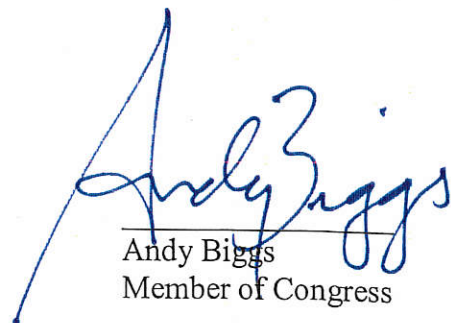

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Greg Gianforte
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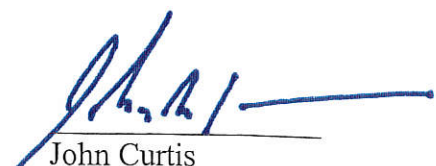

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Doug Lamborn
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Martha McSally
Member of Congress

Cc: Ms. Susan Combs, Acting Assistant Secretary for Fish and Wildlife and Parks