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

February 14, 2006

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Fran P. Mainella
Director, National Park Service
1849 C Street, NW
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Dear Director Mainella:

We write to express our opposition to the proposed rewrite of the National Park Service's *Management Policies 2001*. Withdrawal of this proposal is necessary if the agency is to retain the confidence of the Congress and, more important, the public. Please include this correspondence as part of the official record regarding this matter.

The Administration apparently undertook a radical rewrite of the *Management Policies 2001* not as a substantive exercise but rather as a salvo in a long-running ideological, and often political, battle over resource management issues within the National Park System. Using the *Management Policies* as a weapon in that battle is a mistake.

While the *Management Policies* is a distillation of the NPS mandate, it must remain firmly rooted in law. Any change to the *Policies* must be undertaken judiciously if the document is to retain legitimacy. Release of the original, overtly political draft poisoned this process, leaving the new version of the *Policies* inalterably tainted. The Department's disavowal of the first draft was appropriate but raises serious questions regarding the wisdom of continuing this process.

If the *Management Policies* are outdated, rather than simply out of favor, the Administration needs to explain how. No such explanation has been provided.

The current version of the *Policies* was written more than 12 years after the prior draft in 1988. During those 12 years, the National Park System gained 45 new units, saw a complete rewrite of the concessions law, amendments to the Historic Preservation Act, and went from participating in two National Heritage Areas to twenty-three.

In contrast, since the 2001 *Policies* were adopted, the NPS has had little funding for land acquisition, few new unit designations, only four new Heritage Areas and no significant legislative or policy changes.

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The National Park Service appears to be continuing this rewrite not because it is warranted but because it would be embarrassing to abandon what the Administration started. More worrisome than a few red faces, however, is the prospect of a new *Management Policies* hobbled by ill-conceived changes and dismissed as a purely political exercise.

Not only is this redraft unjustified, it retains too much of what was wrong with the original work product. While claiming to provide clarity, the draft lacks precision regarding the National Park Service's conservation mission and appears to create unwarranted latitude to allow harmful resource impacts.

For example, a new, introductory section providing "a list of five key terms and concepts particularly relevant to managing the national parks," would appear to be a useful addition, until one explores this section more fully. The first "definition" conflates the terms "Conserve, Preserve, and Protect" by asserting they mean the same thing without ever actually defining them. In later sections, the draft specifically replaces one of these terms with another, indicating that their meanings are in fact distinct, but undefined.

This section goes on to offer discussions of "impairment," "appropriate and inappropriate uses," which may be "suitable," "proper" or "fitting" but are not to "diminish" resources or cause "unacceptable impacts" or "unreasonable interference." "Unacceptable impacts" are defined as those that are "inappropriate" or "inconsistent" and do not lead to "impairment." This collection of circular, overlapping definitions is at once redundant and contradictory, creating confusion regarding the fundamental issue of the National Park Service's core mission.

In discussing the advent of the National Parks, Section 1.1 of the new draft strikes the statement that creation of our National Park System was a development "of historic consequences." This minimization of the role our Parks have played in American and world history is puzzling and unwarranted.

Section 1.4.3 of the *Management Policies 2001* states that, "Congress . . . has provided that when there is conflict between conserving resources and values and providing for enjoyment of them, conservation is to be predominant. That is how Courts have consistently interpreted the Organic Act . . ."

This language is stricken from the draft and instead we are told that, "when there are concerns as to whether an activity or action will cause impairment, the Service will protect the resource while taking appropriate steps, including scientific study and public involvement, to resolve the concerns." According to the new draft, "The courts have recognized that the Service has broad discretion in determining how best to fulfill the Organic Act's mandate."

This new language lacks a clear statement in favor of conservation and seems to require that NPS strive to accommodate activities causing impairment. Given that neither the Organic Act nor relevant case law has changed in the last five years, this reinterpretation of the National Park Service's core mission cannot be justified.

While development of business plans for concessions management or capital investment is appropriate, language throughout the draft pressuring park managers to include financial considerations in long-term, resource management decisions is inappropriate. The frequent replacement of the term "possible" with the term "practicable" is a subtle change that has the cumulative effect of lowering expectations for our Parks.

In defining the feasibility of new unit designations, Section 1.3.3 of the new draft goes beyond the current requirement to consider "constraints on funding and personnel" to assert that the "priority [is] maintaining and conserving existing national park system units." Section 2.3.1 is altered to require that General Management Plans consider "the financial as well as environmental impact of proposed facilities and programs . . ."

These changes, taken together, send a clear message that the National Park Service will no longer aspire to develop a world class park system even if current budgetary constraints prevent realization of that goal. Rather, park managers will be pressured to limit their planning to existing acres, facilities and budgets. This subtle disincentive to strive for excellence is shortsighted and biased against improving or expanding our parks.

In Section 3.7 language directing park managers to, "identify what lands or interests in land within unit boundaries need to be in federal ownership to achieve management unit purposes consistent with public objectives," is deleted. Given that acquisition of inholdings already receives significant Congressional oversight, this prohibition on even *assessing* inholdings for management purposes would needlessly delay an already extensive process. Such a prohibition cannot be justified.

Section 4.6.2 would severely restrict the ability of the National Park Service to assert jurisdiction over legitimate Federal reserved water rights. The proposed changes are overreaching and will leave federal reserved water rights determinations vulnerable to unwanted and inappropriate political influences. The allegation that virtually no activity or purpose of the National Park Service justifies the assertion of a federal reserved water right is a bold step backward that will frustrate the agency's ability to manage park resources.

Section 4.9 attempts to redefine the concept of soundscapes and weaken standards for their protection. Decisive language in the current *Policies* declaring that the NPS will "preserve, to the greatest extent possible, the natural soundscapes of parks" is deleted along with language stating that natural soundscapes "exist in the absence of human-caused sound."

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Language is then added to the section implying that parks should simply keep some noise, in some circumstances, below a certain decibel level. This is an oversimplification which glosses over the role human activity plays in the creation of noise pollution and dumbs down the requirements for addressing such pollution.

Chapter 6 of the draft undercuts NPS efforts to protect Park wilderness dating back to enactment of the Wilderness Act. The rewrite eliminates the long-standing NPS designation of "Potential Wilderness" and significantly weakens the protections afforded land studied for wilderness character prior to official designation. These changes could lead to the permanent loss of wilderness acreage during pendency of the Congressional approval process.

Finally, the proposed changes to sections 8.2.3.1 through 8.2.3.3 dealing with off road vehicles, snow mobiles and personal watercraft should be rejected. The proposed edits reorient these sections away from describing constraints on the use of these vehicles within parks and toward discussing when and where such uses would be appropriate. This characterization of park policy is misleading and inconsistent with the requirement, contained in regulation and Executive Orders, that NPS units are closed to all off road vehicles unless opened by specific regulation.

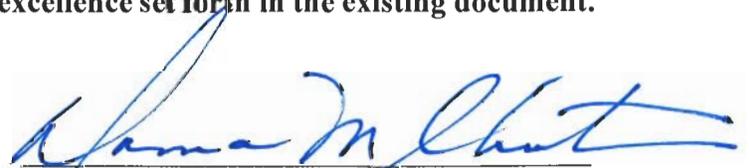
This correspondence includes many of our concerns but this list is by no means comprehensive. Overall, the new draft *Management Policies* is disjointed and confused, stitching together some of the worst of the first draft with long sections that, after being scrubbed of political influence, are left simply vague and unhelpful. In too many instances, what is now clear policy is to be replaced with fuzzy "guidance" providing park managers little useful information. This flawed rewrite process, begun in secret and without expertise, has progressed in awkward fits and starts to produce a result inferior to the existing *Policies*.

There may come a day when the National Park System faces significant new challenges warranting revised *Policies*. Today is not that day. There should be a public process for updating the *Policies* which inspires confidence in the final product. This has not been that process.

We urge the National Park Service to halt this rewrite of the *Management Policies* and redirect its energies to meeting the standards of excellence set forth in the existing document.



NICK J. RAHALL, II
Ranking Democratic Member
Committee on Resources



DONNA CHRISTENSEN
Ranking Democratic Member
National Parks Subcommittee