

## **Our Shared Goal – Getting More People Outside**

Most Americans agree with the following basic principle: It is good for people to get outside. People from all walks of life recognize the power of outdoor recreation, and research shows the long-term benefits of recreating and learning outdoors. Outdoor recreation provides a welcome respite from our daily lives, improves our mental and physical health, helps us connect with friends and family, contributes to an appreciation of the natural world, and creates jobs that drive a vibrant outdoor recreation economy.

The key to getting people to spend time outside and eventually care for our public lands and waters is to provide them with a positive first experience. Currently, there are thousands of organizations and businesses whose mission is to take people outdoors and provide them with these experiences. These organizations offer a broad range of services, from casual walks to highly structured programs that teach people the outdoor skills they need to spend several days in the backcountry. They provide a valuable public service, because many first-time visitors to America's public lands report they would not have visited without the services of a guide or outdoor educator.

To provide outdoor recreation and education opportunities, businesses and organizations need access to public lands. Unfortunately, our current system for managing access has become complex and cumbersome, and frequently serves as a barrier that prevents organizations and businesses from taking people outside.

The Outdoor Access Working Group believes solving this issue is critical to the future of the outdoor industry, to the conservation of America's public lands, and to the well-being of all Americans. National Park visitation as a percent of population is declining. Younger Americans are less connected to the outdoors in their daily lives, and often need guides or mentors to take them outside because they have little experience in the outdoor world. We need to ensure that people -- particularly young people from urban environments and diverse backgrounds -- learn the benefits of adopting an active outdoor lifestyle.

The outdoor industry knows there is a demand for these opportunities, and we believe outdoor businesses and organizations can provide them with manageable impacts on the land. However, without reform of the access management system, they may never have a chance.

## **History and Challenges**

The current system for managing recreation access for organized groups involves commercial use permits, sometimes called "outfitter-guide" permits. The system for issuing permits developed over the last 30 years from a combination of legislative and administrative decisions. It is one variant of a broader system of managing numerous uses of public lands that categorizes human powered recreation the same as timber, mining, and other "commercial" uses. The system developed, in part, as a response to high impact recreation activities by large

groups at special events, which were once frequent on public lands before the development of the Leave No Trace user ethic.

Half a century later we have an entirely different situation. Today, the idea of low impact recreation is firmly established within the guided recreation community. Thousands of professional guides, outfitters, non-profit organizations, and institutions pride themselves in taking Americans out on public land and teaching them how to treat it with the respect it deserves. Yet the system continues to apply a framework developed for consumptive uses to recreational uses that have less impact. As a result, organized recreation is sometimes treated as an impact to public lands instead of a way to connect people to the places that need their support the most.

Here are some examples of the outcomes produced by the existing access management system:

- The Montana National History Center provides outdoor experiences to 3,000 kids annually. However, the U.S. Forest Service will only allow the Center to take 800 kids to the Lolo National Forest, and will not allow them to take any kids to the Bitterroot National Forest. As a result, the Center must rely on state and private land to run its programs.
- A canoe and kayak outfitter in the Southeast U.S. invested thousands of dollars in new stand up paddleboards (SUPs) to satisfy a growing demand for boards in his area. A local land manager then told him that his outfitter-guide permit only covered canoes and kayaks. As a result, he could not use the SUPs under his permit.
- Big City Mountaineers in the Pacific Northwest tried to obtain permits from numerous National Forests in Oregon and Washington, only to be told that no permits were available. One Forest Service staff person said that there was a moratorium on permits for use of Wilderness areas.
- The Seattle YMCA offers programs that specifically focus on developing young, diverse outdoor leaders (BOLD and GOLD). These programs have been unable to get permits to operate climbing programs on the public lands near Seattle because of permit moratoriums. They have been forced to take participants to Canada to teach them rock climbing, driving by many suitable teaching locations that are closer to Seattle.
- A university program in Utah has been prevented from offering a short river education course with students because the BLM turned down their request for permits due to a permit moratorium. Other outfitters have extra user days during the shoulder season, but BLM policy prohibits them from sharing those user days with the university.
- To authorize outfitters to take 1,200 people on pack trips in the Pasayten Wilderness, the Forest Service spent years producing a 700-page Environmental Impact Statement. In some circumstances, the agency requires the outfitters to pay the costs of producing these analyses. If it had done so in this case, six small businesses would have been required to pay hundreds of thousands of dollars, which would have been an impossible burden.

The Outdoor Access Working Group does not believe that the agency employees involved in these incidents were intentionally trying to undermine America's outdoor future. We know that many people within the agencies recognize that recreation is a sustainable industry that will help renew America's public lands. Many local rangers and line staff would like to provide more recreation opportunities, but they are often stymied by policies, laws, and the threat of litigation, that keep them from reaching a rational outcome and that limit innovation to support the outdoor recreation economy. One mission of the agencies is to help more people enjoy public lands. The outdoor recreation industry wants to help the agencies fulfill that mission by providing safe, enjoyable, educational experiences that will get youth, families and international visitors excited about America's public lands.

### **Capacity and Process**

The core of the problem turns on two dimensions: capacity and process.

Capacity refers to both the carrying capacity of the land and the capacity of land managers to administer the system. Both present challenges.

With respect to carrying capacity, there are places that have already reached maximum capacity for recreational use. We fully support permit limitations in these areas if they are implemented through thoughtful, scientifically-based land management plans. However, these limits have generally been reached only in iconic, high-demand landscapes.

In many areas, opportunities remain. However, before issuing permits for a less-used area, agencies are required to determine the area's carrying capacity. Unfortunately, the process for making this determination is complex and expensive, so much so that land managers whose budgets have been slashed do not have the resources to perform this analysis. As a result, land managers cannot provide permits to businesses and organizations that are ready to offer recreation services.

There are many new uses and activities that simply never get a reasonable opportunity for consideration because agency planning processes are too slow to adapt and do not allow field managers the flexibility or incentive to say "yes." Reams of documentation are often required to support a new use even if it is already occurring by users who are not required to have a permit or to comply with regulations. Providing permits for new uses, especially those that are "commercial," may be a risk to the career of an aspiring ranger in the field if the ranger's agency is threatened with a lawsuit.

The current system favors casual groups of recreation users and restricts or denies access outright for organized groups. Consider two scenarios. In the first scenario, four friends get together informally and head out on a hiking trail. They cut across trail switchbacks, leave waste on the trail, and get lost in a storm without appropriate equipment, requiring a rescue. In the second scenario, the four friends hire a professional guide to lead them on a trip, or they

participate in a student-led educational trip offered by a university academic or recreation outing program. The professional guide or student leader ensures that they have appropriate equipment and skills and teaches them Leave No Trace ethics.

Intuitively, the first scenario seems more worthy of careful regulation, and yet the system does just the opposite. The informal trip is largely unregulated, but when the friends hire a guide or participate in a university academic and recreation outing program, their trip falls into the commercial category and is subject to the restrictions of the permitting system. This is a strange result, particularly since guided recreational use under permits is a small percentage of overall use in many locations on public lands, especially in designated wilderness. Thus, the regulatory structure falls heavily on just a few users. This outcome has significant negative consequences. Land managers and outdoor leaders miss out on an opportunity to create lifelong public lands stewards who know how to recreate in a low impact way. And small businesses miss an opportunity to provide memorable experiences that make a positive contribution to the local recreation economy.

We are not opposed to reasonable regulation of guided use, but we believe it is critical to provide reasonable opportunities to organized groups. Protecting the land is an important goal, but it is also important to allow Americans to experience the land. Increasingly, Americans are relying on organized groups to provide them with these experiences. The current system is making it very difficult to achieve this goal.

It is time for the Outdoor Industry and land managers to come together and reduce the barriers that are making it difficult to get all Americans outside on the public lands we share. We know that we can fulfill the demand for guided recreation and education opportunities while still protecting the land and ensuring that individual users have access.

### **Focus Areas For Review**

The Outdoor Access Working Group has identified three aspects of the permitting system that would benefit from comprehensive review.

#### **1. Needs Assessments, Carrying Capacity, NEPA and the Availability of Permits**

Federal law and agency policy require land management agencies to complete three types of analyses before issuing permits for new or expanded outfitter-guide services:

- Needs Assessments and Extent Necessary Determinations
- Carrying Capacity Analysis
- Environmental Analysis

Completing these analyses requires agency staff time and resources. Unfortunately, in many situations, the staff and resources needed to complete these analyses are simply not available. When an agency does not have the resources to complete the required analyses, it cannot issue

new or expanded outfitter-guide permits. We think the agencies may be able to streamline this process and adopt best practices that have been used successfully in other circumstances.

## 2. Increasing Awareness of the Availability of Permits

The land management agencies provide limited public information about permit availability and the permitting process. Limited agency communication makes it difficult for permit-seekers to understand the process for obtaining a permit and identify locations where permits are – or are not – available. In addition, online agency resources are difficult to navigate and do not provide adequate information about permit availability.

## 3. Risk Management and Insurance

Land management agencies impose three insurance and liability related requirements that sometimes pose challenges to outfitter-guides and other recreation service providers:

- Indemnification of the U.S. Government
- Limits on Liability Waivers
- Minimum Insurance Requirements

Universities and community-based recreation programs often have difficulty complying with the first requirement. Regarding the second requirement, agency policies on exculpatory agreements for inherent risks often are contrary to the laws of the states in which the activity occurs. Third, in recent years high liability insurance limits for operations in National Parks have caused concern among outfitters and insurers. Overall, each of these items challenges the ability of outfitter-guides, nonprofits and state universities to effectively operate their programs.

## **A Path Forward**

In an effort to address these issues, outdoor industry leaders have established the **Outdoor Access Working Group (OAWG)**. The OAWG proposes to engage the federal land management agencies in a conversation about ways to improve the agencies' permitting systems. We believe that, working together, we can develop a process that is more responsive to both the needs of the agencies and the needs of the outdoor recreation community. With new access opportunities, outfitter-guide businesses and nonprofit organizations can get more people out on public lands. These new opportunities will help develop the next generation of public lands stewards and will drive the outdoor recreation economy.

## **About the Outdoor Access Working Group**

The mission of the Outdoor Access Working Group is to develop outdoor industry recommendations for improving sustainable access to public lands and waters. The OAWG will develop a set of access recommendations that address the needs of the outdoor recreation, education, and outfitting communities, while respecting the mission and values of public land

management agencies. The Working Group will develop these recommendations through mutual education; transparency in process; identifying, evaluating, and recommending options that meet the needs of the many stakeholders involved; and fostering communication between constituents and the land management agencies.

Once these recommendations are developed, they will be presented to land management agencies, elected officials and other stakeholders. At an appropriate time, the Steering Committee will invite the land management agencies to join the development process by attending Steering Committee meetings and commenting on Working Group recommendations.

### **Steering Committee Members and Areas of Representation**

- Commercial Outfitters and Guides:
  - David Brown, America Outdoors Association
  - Brian Merrill, Western River Expeditions
  - Rebecca Bear, Recreational Equipment, Inc.
- Universities, Colleges, Metropolitan and Military Programs:
  - Jeannette Stawski, Association of Outdoor Recreation and Education
- Nonprofit Outdoor Programs
  - Aaron Bannon, National Outdoor Leadership School
  - Paul Sanford, The Wilderness Society
- Volunteer Organizations and Clubs
  - Katherine Hollis, The Mountaineers
- Advocacy and User Group Organizations
  - Adam Cramer, Outdoor Alliance
- Outdoor Industry
  - Dan Nordstrom, Outdoor Research
  - Jessica Wahl, Outdoor Industry Association