



August 6, 2013

The Honorable Mark Udall
United States Senate
SH-730 Hart Senate Office Building
Washington, DC 20510
By fax: 202-224-6471

The Honorable Michael Bennet
United States Senate
458 Russell Senate Office Building Washington, DC 20510
By fax: 303-455-8851

Dear Senators Udall and Bennet:

RE: Dinosaur National Monument Prospectus Insurance Requirements

As the primary providers of general liability and automobile insurance for outfitter and guide concessioners and holders of commercial use authorizations in National Park Service ("NPS") units, we are writing you to express our grave concern about the inappropriate insurance requirements that are emerging in Exhibit D of the prospectuses for outfitting and guiding contracts. Specifically, the insurance requirements in Exhibit D for Dinosaur National Monument are projected to raise premiums dramatically and include coverage requirements that are typically not available for outfitting and guiding. The imposition of these requirements may prevent many outfitters, including those currently operating at the Monument under contract, from submitting responsive proposals. Much of the existing outfitting and guiding community will be eliminated from participation in the NPS concessions program if these requirements become the standard throughout the NPS. If the same policies reflected in NPS contracts are extended to other federal land-managing agencies, small, family-run businesses providing outfitting services to the public will be eliminated from public lands.

We are asking you to intervene immediately to alter these requirements in Dinosaur National Monument. While we benefit from higher commissions from the sale of high-limit liability insurance coverage, we do not believe that these high limits for whitewater rafting and float trips and many other adventure activities are sustainable and they will force all but the largest

concessioners out of the outfitting and guiding business in National Parks. These requirements are unnecessary or inappropriate as we explain below.

While we have not had the time to price all of these coverage requirements and have not discussed, and will not discuss, the premium for each coverage among ourselves, some among us estimate the premiums for all coverages may increase by a factor of 3 to 6 times depending on the market timing and conditions including the additional coverages for collapse, underground property damage, total pollution, increased limits for Workers' Compensation and general liability.

Most outfitters and guides carry \$1,000,000 limits for general liability insurance per occurrence with a \$2,000,000 aggregate. The requirements in Exhibit D for the Dinosaur contracts for

- \$4,000,000 per occurrence with a \$5,000,000 aggregate for general liability will increase the cost of that coverage alone by 60% to 80%.
- Coverage for collapse, total pollution, and underground property damage are generally not appropriate for outfitting and guiding businesses operating on federal lands where they do not have facilities. NPS should not be setting insurance requirements for operations outside the boundaries of National Park units.
- Total pollution coverage is very broad and it is generally excluded from general liability coverage.
- Claims of a professional nature often fail to meet the definition of an occurrence and therefore do not provide a coverage trigger for general liability.
- Medical payments (voluntary) are not offered by many carriers for adventure-related activities.
- Aggregate coverage per location is unlikely to be offered.
- For auto liability coverage, "symbol 1" is generally not available for outfitting and guiding.
- Workers' Compensation limits of \$1,000,000 are higher than the standard policy and will add additional costs for these higher limits.
- The requirement for a Longshoremen and Harbor Workers endorsement on the Navigable Waters of the United States for whitewater rafting trips is inappropriate since whitewater rafting is not customary navigation and courts have held that maritime law does not apply to whitewater rafting on the Navigable Waters of the United States. We realize the Yampa River in the Monument is not Navigable Waters of the United States, but this endorsement in other Parks would create significant issues and dramatically increase Workers' Compensation premiums.
- The requirement for an A- rating is also inappropriate, since A.M. Best rates B to B+ carriers as "good". A stable B+ carrier should not be eliminated from providing coverage.

This is not the first occurrence of unreasonable insurance requirements. NPS recently reconsidered and changed the requirements in the Buffalo National River for canoe livery contracts and reduced the liability insurance limits for float trips in Grand Teton National Park

after similar objections were raised. We very much appreciate the responsiveness the Agency showed in these instances.

We believe the root of the problem is that NPS consultants do not understand the outfitting and guiding business and bring a corporate view to these issues instead of one that reflects the unique nature of adventure trips offered by small businesses in National Parks. Some within the NPS view insurance as a form of compensation, which is not the role of insurance. Insurance is a risk management strategy for the business and the contracting partner. Otherwise, NPS should be required to provide the same compensatory coverage to visitors participating on Agency-led trips and with non-profit organizations many of which are not required to have authorizations for the same or similar services.

We respectfully suggest that the NPS not issue these requirements without first consulting with the primary providers of insurance coverage for this market segment. We strongly urge you to intervene and request the Service to suspend the insurance requirements in Exhibit D for Dinosaur National Monument and work with us and others to develop more reasonable requirements.

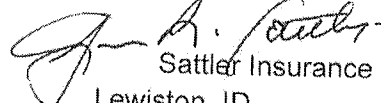
Sincerely,



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