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## **Comments on Proposed Revisions to Director's Order #21 on Philanthropic Partnerships**

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These comments are offered on behalf of Public Employees for Environmental Responsibility (PEER) an alliance of scientists, rangers and other public sector specialists seeking to improve environmental and public health protections. PEER works with and on behalf of many current and retired employees of the National Park Service (NPS).

The draft of revised Director's Order (DO) #21: Philanthropic Partnerships posted on March 30, 2016 on the NPS Planning, Environment and Public Comment website (PEPC) would transform the Park Service's current passive posture of merely accepting donations to one where it would actively press corporations, vendors and other commercial interests for money. This drive by the NPS to begin aggressively pursuing donations from both corporations and park visitors is a major step in the wrong direction.

For over a century, private philanthropy has supported the preservation of park lands. To facilitate philanthropic support for national park projects, Congress set up a National Park Foundation to explicitly solicit donations. Rather than build on that foundation, this DO would move from "philanthropy with partners" to co-marketing with corporate donors who expect something from park managers in return.

As detailed below, the thrust of our comments is that this revised DO inappropriately diverts public resources to private fundraising, unwisely entangles NPS in corporate marketing schemes and unadvisedly privatizes the national park interpretive function, among other untoward effects.

In addition, the revised DO places great discretion in the person of the NPS Director. The incumbent in this position, Jonathon Jarvis, has been recently found by the Interior Office of Inspector General to have flagrantly violated ethical restrictions in connection with official fundraising. Because we believe that Mr. Jarvis is ethically unfit to fulfill the role assigned in the revised DO PEER recommends that the draft withdrawn until such time as it is reviewed and approved by the successor to the current NPS Director.

Our specific comments explain how, if adopted, the revised DO –

## **1. Inappropriately Converts Civil Servants into Fundraisers**

One of the major changes that would be effectuated by the revised DO is to significantly expand the role of NPS superintendents in obtaining private donations to support their park operations. Currently, superintendents are authorized to receive gifts of under \$100,000. The revised DO would increase that delegated level to as much as \$5 million and authorize them to execute “philanthropic agreements” of the same dollar value.

As this new \$5 million “cap” is a per-transaction limit without any time frame, park superintendents would be able to accept multiple multi-million dollar gifts per year, per month or even per week. Thus, the revised DO would vest park superintendents, almost all of whom are federal civil servants, with virtually unlimited fundraising authority, so long as gifts are in increments of up to \$5 million.

### **A. Soliciting Private Contributions with Public Funds**

The current DO states that “It is NPS policy that its employees not solicit donations” which is defined as “any request by an NPS employee to a non-federal entity, group or individual for donations to be made directly or indirectly to the NPS in support of its programs.” (§2.2)

By contrast, the revised DO declares:

“As a matter of policy, NPS employees generally may not solicit donations.” (§3.1.2)

It does not specify what the exceptions are to this “general prohibition.” Thus, it is unclear how much time senior NPS officials would be spending soliciting private contributions.

This section further states that the “Director and Deputy Directors...may solicit donations directly or indirectly from private individuals or organizations for the NPS and its programs.” Thus, the upper echelons of NPS leadership whose salaries are paid with appropriated funds would be able to spend official time soliciting gifts from private individuals, corporations and organizations.

This arrangement is both unseemly and without precedent. PEER knows of no other federal agency which allows unlimited use of official time to be devoted to private fundraising. This seems even more questionable in that Congress created the National Park Foundation to serve as the charitable arm for NPS. Under the revised DO, the National Park Foundation role would be assumed by the NPS itself.

### **B. No Legal Authorization for Official Solicitation of Donations**

The revised DO cites no authority to support the legality of any of its employees soliciting donations from private groups or individuals on official time and using federal facilities.

Executive Order 12674 on the Foundation for Ethical Behavior generally prohibits federal employees from soliciting or accepting any gift from any person or entity seeking official action, except as authorized by regulation. First there is no such authorizing regulation for any NPS personnel soliciting donations in their official capacity; nor is a DO a regulation.

Second, by authorizing reciprocal official actions in response to gifts – such as donor naming recognition in park facilities, cause marketing tie-ins and NPS logo licensing – this revised DO places all of these interactions into an ethical swamp of negotiated *quid-pro-quos*.

### **C. Fundraising Duties Would Be Substantial**

Setting aside the direct solicitation of gifts, the revised DO lays out thirteen separate fundraising duties which superintendents and other “authorized employees” “must” perform, including to –

- Accept donations;
- Develop “philanthropic partnership agreements”; and
- Review “all” donor “solicitation” and other materials about every proposed donation. (§3.1.3).

In addition to these multiple mandatory duties, superintendents would be encouraged to engage in another eleven listed fundraising activities, including to –

- Identify philanthropic opportunities;
- Liaison with fundraisers; and
- Work with and support funding partner programs.

The sheer number and range of these new fundraising responsibilities suggest that they will require park superintendents and regional directors to dedicate a significant amount of time to cultivating current and potential donors. Presumably this time that would be dedicated to fundraising would come at the expense of the time now spent furthering agency’s core mission – to preserve unimpaired the natural and cultural resources and values of the National Park System for the enjoyment, education, and inspiration of this and future generations.

### **D. Fundraising Prowess as Prerequisite for Career Advancement**

The revised DO identifies developing “successful philanthropic partnerships” as a “core” competency for superintendents and other NPS managers. These authorized employees “will be required to complete a training certification program to develop the knowledge base and skills for success in philanthropy and partnerships.” (§3.1.4)

This language strongly suggests that competence in fundraising would become a minimum requirement to become a park superintendent or above. Coupled with numerous other provisions in the revised DO spelling out donor cultivation activities, success at fundraising may become the basis for promotion in the NPS.

Moreover, it would not be hard to envision this and other language in the revised DO being made the basis for establishing fundraising quotas for superintendents and other leaders, such that meeting specified dollar goals in a quarter would be a major element in their performance evaluations, as well as an explicit factor in making promotional decisions.

By making fundraising prowess a core competency for its leaders, the revised DO would coarsen the agency culture by injecting a distinctly monetary element as an organizational principle. It

may also have the effect of excluding recruitment and retention within the NPS of talented conservation leaders who are not particularly interested in or adept at fundraising.

## **2. Removes Prohibition on Using Donations to Offset Appropriated Funds or Pay for Recurring Operational Requirements**

The current DO #21 provides in §1.1 that –

“Donations are not to be used as offsets to appropriated funds or to meet recurring operational requirements.”

This stipulation is not retained in the revised DO.

This omission, which is not mentioned in any of the NPS explanatory material concerning its revised DO, represents a fundamental (albeit unheralded) philosophical shift. It signals that the NPS intends to derive a significant and perhaps vital portion of its future operating budgets from corporate and other private donations.

This shift is underlined in another un-noted change. The current DO provides that:

“Employees are not to portray Congress, the Department [of Interior], or NPS as having failed to meet their respective responsibilities.” (§2.3)

However, the revised DO limits this prohibition only to “communications with donors or prospective donors” (§3.1.1). Thus except when soliciting donors, NPS employees would be free to state for public consumption that Congress underfunds national parks and that private donations are necessary for their daily operation.

This provision appears to provide a backhanded authorization to deploy this plea of poverty and use assertions of Congressional fiscal irresponsibility as an indirect or background fundraising tactic – to create a general public impression that parks cannot operate properly without robust outside financial assistance.

To our knowledge, no other federal land management agency explicitly encourages its employees to claim their operations are chronically underfinanced. Yet ironically, on an acre-for-acre basis national parks are far better funded than national forests or national wildlife refuges. Moreover, while the national park system has substantially higher visitation, visitation on national forest and wildlife refuges tends to be more intensive with hunting and fishing activities (outlawed in most parks) that require substantially more ranger supervision and enforcement to protect resources.

More significantly, however, the overall approach of the revised DO would be to move NPS away from its posture as a purely public agency and attempt to refashion it as a private-public joint venture. There is no statutory authority for such a fundamental shift in agency mission. PEER believes that if such a shift were to occur it should be sanctioned by statute and not accomplished on a stealth basis by a rewriting an obscure Director’s Order.

### **3. Invites Ethical Conflicts with Few Safeguards Preventing Abuse and Scandal**

The revised DO sets the stage for NPS “partnering” with corporations, business partners, associations and individuals. As envisioned, “philanthropic agreements” would be negotiated in return for naming rights, marketing tie-ins and other exchanges. These arrangements are fraught with threats to impartiality and public confidence which are not addressed by the vacuous and vague “Donor Review” provisions in the revised DO.

#### **A. Unhealthy Corporate Embrace Encouraged**

The current DO #21 is entitled “Donations and Fundraising.” Indicative of its sea-change in approach, the revised DO is retitled as “Philanthropic Partnerships.” In this vein, the revised DO is suffused with language about bonding with donors and a commingling of purpose. Thus, the revision states that these partnership arrangements should strive to “create community of practice and shared understanding, bringing the NPS and its partners closer together” to align “each other’s organizational and ethical ‘cultures.’” (§3.1.4)

Thus, the DO appears to define these philanthropic partnerships as something more than situational, or confined to the parameters of the funded NPS project. The language of the DO goes farther and suggests there should be a larger organizational bonding or identification.

This official identification with corporate donors is epitomized by the \$2.5 million “co-branding” campaign that NPS entered into in 2015 with Anheuser-Busch/InBev, the world’s largest beer brewery. To consummate the deal, NPS had to waive its long-standing policy against identifying national parks with “alcohol or tobacco products.” In its explanatory material, NPS points to this agreement as a model it seeks to promote and the revised DO proposes to completely drop the prohibition of NPS tie-ins with alcohol manufacturers and distributors. (§5.1)

The authorizing memo signed by NPS Director Jarvis on January 21, 2015 calls for “aligning the economic and historical legacies of two iconic brands...with a corporate entity that has the same goals surrounding relevancy, diversity and inclusion” so as “to distribute our brand across the country.”

This linkage of national park values with the corporate values of a brewery or whoever wants to give the agency money is profoundly misplaced. Moreover, it is hard to fathom precisely how NPS and Anheuser-Busch share “economic and historical legacies” or what that even means. It is also disconcerting to contemplate why national parks would strive to be rooted in the same notion of “relevancy” as a beer maker.

Although this type of gushing language may be dismissed as breathless hype, the partnership relationships suggested in the revised DO convey that the NPS and its donors would need to develop a sense of shared interest and institutional mutuality. Precisely how this organizational melding is supposed to occur is never fully explained. Nor is it acknowledged that it will be far harder for NPS to exercise clarity of vision and the arms-length distance needed to protect public perception of its integrity and impartiality if issues arise from the desires or actions of a self-labeled “partner.”

This embrace of corporations and outside interests around fundraising is fraught with ethical and organizational challenges which NPS has shown itself ill-equipped to handle.

### **B. No Safeguard against Corrupting Influence of Donations – No Lesson Learned from Coca Cola Debacle**

The draft DO relies upon “integrity” safeguards contained in provisions tied to the time of the gift; that is, the initial decision to refrain from accepting any donation which appears “to be (such as by its size or circumstances), an attempt to influence the exercise of any NPS or Departmental regulatory or other authority” (§5.2.1) “or appear to influence any significant pending NPS or Departmental decision or action involving the donor’s interests.” (§5.2.2)

This firewall provides scant protection against the influence exercised by major donors – especially in an agency making itself increasingly dependent on corporate largesse. First, it should be noted that most of the corporate donations being solicited by NPS and the National Park Foundation are multi-million dollar gifts – presumably of sufficient size to carry a gravitational field of influence. However, since the overall thrust of the DO revision is to maximize donations, it is unlikely that NPS would ever reject a gift because it is too large.

Moreover, the influence of a gift does not end after it is accepted. It continues, in some part, due to NPS’ hope that the gift is renewed. The draft’s provision for annual review of donors is limited to “every year that the donor offers a donation” (§5.3) and contains no retrospective element. Thus, the pre-acceptance nature of reviews would not cover conflicts and opportunities to influence NPS actions arising months after the donor’s check has been cashed.

A classic example of how this influence works in ways not covered by the draft revised DO involves the Coca Cola Company which used its contributions to temporarily halt a planned ban on the sale of disposable plastic water bottles in Grand Canyon National Park. Coca Cola makes the most popular brand of bottled water, Dasani, sold in the U.S. It was disturbed by the long-planned Grand Canyon water bottle sales ban due to the prospect of reduced Dasani sales.

The company was also a “Proud Park Partner” due to its generous contributions to the National Park Foundation. Documents obtained by PEER after filing of a Freedom of Information Act lawsuit indicate that the corporate gift influence NPS Director Jarvis to personally intervene by issuing an order stopping Grand Canyon from going forward with on January 1, 2011.

An email from then-National Park Foundation President Neil Mulholland to Jarvis warning about the consternation caused by the impending Grand Canyon bottle ban read:

“While I applaud the intent, there are going to be consequences, since Coke is a major sponsor of our recycling efforts.”

The following June, Jarvis went further, directing, without public announcement, that no park may eliminate plastic water bottle sales so as to preserve “consumer choice” – the rallying cry of the commercial bottlers. An email from his lead staff person that month read: “the Director’s view is NOT ban sale of bottled water, but to go the choice route” (emphasis in original).

When asked by reporters about PEER charges that the National Park Foundation in essence successfully lobbied him on behalf of Coca Cola, Jarvis issued this blanket denial:

“My decision to hold off the ban was not influenced by Coke, but rather the service-wide implications to our concessions contracts, and frankly the concern for public safety in a desert park.”

However, the documents obtained by PEER in our lawsuit against NPS showed that this statement had no basis in fact. NPS records reflect that public safety was not a consideration explicitly raised at any phase of its decision-making. Significantly, it was not even an item for discussion at a January 2011 summit with bottlers, concessionaires and park managers discussing the agency’s bottle ban posture. Following that meeting, NPS developed follow-up research assignments which mainly revolved around economic issues; again, visitor safety was not an assigned topic for any further investigation.

These documents confirmed was obvious – corporate donations influenced national park conservation policies. This is a form of influence not deterred in the least by the revised DO even as it opens channels for repetition of the same dynamic on even a broader scale.

In addition, the role of Director Jarvis to alter policies to please a corporate donor and then dissemble about his actions does not bode well for any relaxed gift policy –especially with one casting him as the ethical speed governor for determining what is an inappropriate arrangement.

The Coca Cola episode is not an isolated example but part of a pattern. Under the proposed DO emphasizing a keep-the-customer-satisfied donor cultivation approach, one can reasonably expect such unseemly collusions to multiply.

Further, by encouraging park managers to actively solicit contributions to supplement park budgets, potential donors inevitably obtain much greater access to and influence over park decision-makers. Thus, park scientists, administrators or law enforcement personnel who find themselves involved with actions that affect donors’ interests become inherently at risk for pressure or retaliatory action to prevent irritating or alienating a donor who is providing a measurable portion of that park’s budget or is the key sponsor of a high-profile project.

By fostering an all-encompassing quest for donors, the proposed DO would become an insidious and pervasive corrupting influence on impartial park management.

### **C. “Prohibited Sources” Rule Has Troublesome Loopholes**

The proposed rule would declare that “NPS policy is to decline donations from: Concessioners and holders of commercial use authorizations (CUA) or those seeking a concession contract...” (§5.1) The revised DO then imbeds two big loopholes allowing parks to accept funds from those with which it does direct business:

1. Co-Sponsorships. In another section (§ 3.13, second (h)), the draft DO authorizes superintendents to “Accept offers to support park activities through co-sponsorship of events by concessioners and others.” Thus, through co-sponsorship of “events” (a term

not defined) a prohibited source is transformed into an entity that has its donations accepted.

2. Donations to Partners. In a parenthetical clause the Prohibited Source provision states “this does not prohibit an authorized philanthropic partner from accepting donations from these sources for NPS projects.” In other words, concessioners, vendors and others either doing business or seeking business from a park may channel unlimited donations through the parks “friend” group or other partner. Similarly, these businesses could also seek donor recognition and other acknowledgement so that the scope of their generosity is unmistakable.

As the draft DO makes clear while indirect donations to NPS are subject to vetting, general donations to philanthropic partners “are not subject to NPS donor review policies.” (§5.4) Consequently, this loophole undermines the appearance of integrity and impartiality which NPS purports to maintain.

It is highly questionable for any federal agency to accept, let alone solicit, funds from businesses seeking concessions from it either directly or indirectly.

#### **4. Diverts Tax Dollars to Donor Databases, Background Research and Other Fundraising Overhead Expenses**

The revised DO designates two-high level Washington Office officials whose full-time job would be to direct donor solicitation and cultivation operations: An Assistant Director for Partnerships and Civic Engagement (§3.1.6) and a Division Chief to run a re-named Office of Partnerships and Philanthropy (§3.1.7). These officials would serve as generals overseeing a gift-seeking army.

Among the duties that these positions would perform are activities that are questionable uses of tax-dollars, such as –

- “Develop and maintain a database” on potential and actual donors (§3.1.7);
- Conduct background checks on potential and current donors (§5.3); and
- Conduct “feasibility studies...to assess the likelihood that a fundraising effort or campaign will be successful” (§6.2.6).

Use tax dollars to pay for these philanthropic overhead expenses, especially building dossiers on current and prospective donors, will be controversial. The notion of NPS dollars diverted to conduct market research to evaluate fundraising pitches will also raise eyebrows.

Moreover, these donor research and cultivation activities can be quite expensive. For example, a PEER analysis of personal contributions to the National Park Foundation indicates these gifts are far more likely to be absorbed by overhead, fundraising expenses or the care and feeding of corporate donors. In Fiscal Year 2011, less than one-third of National Park Foundation expenditures were grants to parks (\$4.5 million). A greater amount (\$4.7 million) went for



fundraising and administrative expenses. Another \$.5 million was spent on “program support” – a nebulous category that ranges from promotional materials for corporate donors to the hotel bar bill following the National Christmas Tree Lighting.

The revelation that a federal agency will be spending large sums of taxpayer dollars on cultivating corporate and individual donors may also cause negative reactions which may undermine public support for national parks generally.

## **5. Vastly Expands Sales of Naming Rights**

To encourage large donations, the proposal substantially liberalizes rules on what is called “donor recognition.” This liberalized recognition policy would have the effect of subjecting the public commons to corporate branding campaigns in which companies are not selling their product per se but are selling themselves and their images.

The revised DO takes what is currently a deliberately understated fundraising tactic and greatly amplifies its scope and limits in order to attract more, presumably corporate, donors.

### **A. Ban on Commercialism Dropped**

The current DO states an “NPS policy that parks be free of commercialism...” (§10.2) This language disappears from the revised DO.

The fact that the draft directs NPS managers to meet “the needs of donors” (§8) is implicit recognition that donor recognition is a thing of value conveyed in exchange for the donation. In effect, NPS, using the rhetoric of donation, is, in reality, selling public space to corporations for display of their names and corporate symbols. Under this revision, the difference between widespread donor recognition and paid advertising become elusive.

### **B. Donor Recognition Becomes Mandatory**

The draft DO is quite explicit that superintendents are required to offer donor recognition in park facilities, materials and programs:

“All parks and programs that receive, or expect to receive, donations must have a donor recognition plan.” (§8.2)

The revision stipulates that these plans must be approved by “Regional, associate and assistant directors.” Moreover, any “plans that deviate from the [national] template” require Headquarters sign-off. (§8.2.1)

### **C. Significant Expansion of Scope of Naming Rights**

The revised DO would lift several restrictions in the current DO which limit donor displays (see §§10.2, 10.2.1 and 10.2.6). The current DO stresses that such donor recognition should be “short, discrete, [and] unobtrusive.” (§10.2) In contrast, the revised DO contains no such stipulation. Instead, the draft DO lists as the first consideration in designing donor displays should be the “needs of the donors.” (§8)

To further this aim, the revised DO would repeal several restrictions in the current policy. Thus, the revision would allow donor, including corporate recognition and logos, to be displayed on –

- Park furnishings;
- Benches;
- Theater seats;
- Rooms and other “interior spaces”;
- Landscaped areas;
- Food lockers;
- Paving stones; and
- Vehicles. (§8.5.2)

In addition, “temporary signage” featuring donor recognition would be allowed for periods up to five years. It is not clearly stated what, if any, limits apply to temporary signage.

The net result of all these relaxations is that national parks will increasingly become venues for product placement. Other than the natural vistas themselves, everywhere in developed areas of parks where a visitor looks – benches, equipment, free-standing display, paving stones and park vehicles – he or she will see corporate branding.

The proposed open-door policy for corporate donor recognition makes no provision allowing managers to selectively refuse recognition to one corporation that is offered to others. As a result, there will no means to consider the cumulative effect of donor recognition that becomes so increasingly pervasive that it negatively affects the visitor experience.

#### **D. Use of Logos Allowed**

The current DO limits display of corporate logos to a “credit line on printed or electronic material, audio/video/fil products and temporary construction/restorations signs.” (§10.2.1)

The revised DO drops that restriction and instead states:

“The use of corporate name scripts or logos may be a proper form of donor recognition in some circumstances.” (§8.7)

It does not elaborate, however, on what those circumstances might be.

The revised DO is laid out in a form that suggests that what is allowed at one park will be presumptively be allowed at all parks. As a result, the draft may set off a corporate display arms race where more and more prominent displays are dangled by superintendents pressured to raise outside funds. This will inevitably result in few places in the common areas of national parks remaining off-limits to the Nike swoosh or the McDonald’s arches.

#### **6. Entangles NPS in Corporate Marketing Schemes**

The revised DO would significantly expand the ability of the NPS to participate in “monetary, marketing and other forms of [corporate] support for NPS activities.” (§4.4) The proposed limits

on these arrangements appear to be vague and reliant on subjective concepts such as “strategic co-branding, quality and mission alignment.” (§6.4)

The cumulative effect of this mass commercialization of national park images is to cheapen the brand and threaten to transform “America’s Best Idea” into just another idea for promoting corporate products.

#### **A. Virtually Limitless Corporate Co-Branding**

The revised DO would authorize NPS to license park and landmark names, as well as secondary logs for corporate use. The only limit is that “The NPS arrowhead mark will not be licensed for use.” (§6.4, Emphasis in original). Yet the provision allows “negative space arrowhead/arrowhead outline” to be licensed.

In addition, the revision would drop the current prohibition on licensing use of NPS uniforms or employees, such as park rangers: “The NPS will not allow... an NPS employee or any part of the uniform to be featured in any advertisement that promotes a corporate brand, service, product, or enterprise”. (§7.0)

Commercial use of national park symbols, employees and their uniforms carries with it a tacit official endorsement which makes the revised DO’s prohibition against statements of NPS official endorsement superfluous.

In addition, once one superintendent agrees to appear in or supply a statement for a corporate ad, every other superintendent will be hard pressed to refuse similar requests.

It also appears to be assumed that co-branding is intended to allow corporate contributors to use their donations to burnish their corporate images. Thus under this revision, a company such as Wal-Mart could run television advertisements portraying it as a caring corporation starring a park ranger who extols Wal-Mart’s generous contribution to a national park. Similarly, oil companies, such as Exxon-Mobil, would be allowed to run ad campaigns featuring various national park symbols saying the multi-national corporation is a good neighbor because it donated money to enhance wildlife habitat in parks.

The only limits on these co-branding campaigns is the discretion of the NPS Director after a somewhat vague vetting process which has no firm standards and instead relies upon bullet points of considerations such as “Protect brand integrity, including the use of NPS marks.” (§5)

These proposed co-branding arrangements will be the brainchildren of corporate advertising firms – not known as paragons of good taste. As a result it is not hard to imagine co-branding efforts linking –

- Old Faithful and erectile dysfunction products such as Viagra;
- The Statue of Liberty and lingerie lines such as Victoria’s Secret; and
- The Lincoln Memorial and hemorrhoid creams.

## **B. Co-Branding Through Scandal**

There is no shortage of recent situations where seemingly upstanding corporations are suddenly found to have engaged in questionable and often outright illegal behavior. Consequently, NPS “partnering” and “co-branding” with corporations is fraught with peril for the NPS brand when these corporate partners become scandal tarred.

Consider the type of partnerships NPS could have consummated had this revised DO been in place during past years –

- BP co-branding with national seashores on the eve of its massive Gulf spill;
- Volkswagen diesels becoming official national park vehicles before emissions cheating was discovered; and
- Partnering with Enron to focus on neglected park infrastructure in the months before the infrastructure giant itself imploded.

Moreover, corporations flirting with potential scandal may, in fact, have more interest in co-branding with a so-called white hat entity such as natural parks. Nor does NPS have the acumen or the research capacity to sniff out potential disgrace brewing behind boardroom doors.

NPS co-branding agreements with corporations that are then seared with scandal risks damaging the NPS brand and the public’s regard for the agency’s integrity. In short, the revised DO flies in the face of the old adage about getting up with fleas if you lie down with dogs.

## **C. Alcohol Tie-Ins**

The revised DO drops long-standing NPS policy forbidding association of national parks with alcoholic beverages. The revised DO declares:

“After the effective date of this Order...the NPS will permit – after thorough review – philanthropic partnerships with, and will accept donations from, corporations that produce or distribute alcohol.” (§5.1)

Other than noting this change, NPS materials did not explain the basis for this change or seek to justify it other than to note that it had waived the prohibition in 2015 in order to authorize a co-branding campaign with Anheuser-Busch brewery (see Comment #3, above). Three months after inking this agreement, Anheuser-Busch unveiled its two-year “Up for Whatever” campaign featuring the slogan “The perfect beer for removing ‘no’ from your vocabulary for the night” on Bud Light bottles. The company has since apologized for this slogan while pushing 139 other “light hearted” labels. It also plugs a promotion of “all things beer” called “Let’s Grab a Beer” to hike suds sales.

Despite proposing a national policy embracing alcohol tie-ins, NPS has not issued any analysis of how well this partnership with this brewery has worked out or how the NPS mission was furthered beyond the \$2.5 million payment from the company.

The only categorical prohibition the revised DO would retain is “with tobacco or any type of illegal products.” (§5.1)

The rationale for accepting co-branding with alcohol – a product with huge social and public health costs – while denying such arrangements with tobacco is not clear as tobacco is not illegal in this country. Why is identification with a bourbon appropriate co-branding for a national park but not the cigar one might smoke with it?

With this one exception, the revised DO makes clear that tie-ins with every other legal product or service would be potentially acceptable. Thus, national parks could co-brand with casino gambling, contraceptive devices, religious organizations, pesticides, X-rated movies, spray paints, exotic dance clubs, dating websites and a limitless array of other products and services for whom tie-ins with parks raises a number of knotty questions which NPS may be ill-equipped to address.

#### **D. Dubious Cause Marketing Authorized**

The revised DO also explicitly authorizes “cause-related marketing” in order to “co-brand with a corporation” in a manner which “achieves a purpose, inspires passion, and generates profits.” (§4.4.1)

No example is given of instances where NPS has ever lent its “logo or mark” as envisioned in this provision to a cause-marketing campaign. Thus, it is unclear what range of non-park projects or causes NPS will allow itself to promote. However, NPS official involvement with one charity may disadvantage other, competing charities for limited public philanthropy. It is questionable that NPS should seek out in order to promote “corporate social responsibility.” (§4.4.2)

#### **7. Privatizes Park Interpretive Programs**

The revised DO recognizes Cooperating Associations (§3.3) and identifies them as “Strategic Philanthropic Partners.” (§6.1)

Under another DO (DO 32: Cooperating Associations), these cooperative associations have access to park facilities, may charge visitors for lodging and provide interpretative services for park assets. That DO further provides:

“While the NPS cannot guarantee the profitability of an Association, it is dedicated to promoting a sustainable business environment.” (§6)

These cooperative associations can operate, essentially, as a private park service inside a national park. Through this DO revision, NPS could go even further and assist the cooperative association in fundraising without any defined limits.

There is nothing barring a national park from entering into a strategic partnership with a cooperating association which would enable the latter to take over all or nearly all interpretive functions, displacing civil servants with private non-profit employees not on the government payroll or eligible for government benefits.

Thus, through these incremental internal orders, NPS may be able to transform itself into a non-profit allied organization which provides the bulk of visitor services. Such changes have received scant outside scrutiny or public involvement.

### **8. Puts NPS into Competition with National Park Foundation and Friends Groups**

Under the revised DO, NPS would undertake many of the donor related tasks now performed by the National Park Foundation and park support groups (often called “Friends Groups”). Under the revised DO many of their activities would become superfluous and assumed by NPS employees.

Moreover under the revised DO, these various groups can operate only under formal agreements negotiated with NPS: “Philanthropic partners are required to have written agreements with the NPS.” (§6.2)

If, for whatever reason, NPS became displeased with a Friends Group or other philanthropic partner and refused to execute an agreement under the terms of the revised DO that entity would not be able to operate. This posture appears to give NPS near dictatorial power over private associations seeking to benefit national parks. These outside organizations would risk their existence by publicly criticizing or disagreeing with any national action, decision and policy.

### **9. Increases Donation Pressures on Park Visitors**

While the current DO authorizes what it terms “In-Park-Friend-raising” (§6.3) and donation boxes on park property (§6.3.1), the revised DO would make it easier for park personnel to importune funds directly from visitors with proceeds going directly to the park.

The revised DO stipulates that “Donation boxes must clearly inform the public how the NPS or its partners will use the money. Without this information, moneys collected in a donation box must be considered miscellaneous receipts and deposited to the U.S. Treasury.” (§4.6.2.)

Besides donation boxes, visitors can be hit up to donate when they leave the park under a “Checkout Counter Donation Program.” (§4.6.3)

The revised DO also authorizes indirect fundraising pitches to visitors by park personnel:

“Without personally soliciting donations, NPS employees may, when asked, offer information about NPS and park needs, as well as, discuss the opportunity to support the park...” (§4.6)

The public already pays twice for national parks, once with taxes and again with the steadily rising visitor fees charged at entrance gates. The revised DO would encourage parks and their partners to take a third or more shots at the visiting public’s wallet.

Depending upon how aggressive a park may be in pointing out its needs, this non-interpretive information may color visitor experience, especially if every park employee encountered is poised to function as a fund pitch-person. In addition, confronting visitors with a welter of donor recognition displays further reinforces a feeling that requests for money are a large part of what will become the national park experience.

## **9. Provides No Greater Accountability over Use of Funds**

Although it is clear that that the thrust of the proposed DO revision is to increase donations from outside sources, it provides for no additional public accounting of the funds thus donated. The language in the current DO (§3.3) is almost word-for-word identical to the language in the proposed revision (§4.8). Both require that donations be “deposited in a donation account, be accounted for and disbursed using the same standards and procedures used for appropriated funds.”

However, the revised DO encompasses a wide range of funding channels –license revenue, co-branding funds, cause-marketing, special events and many others – which would be either wholly new or are not widely utilized currently. Besides much greater accounting complexity, the proposed DO does not require NPS to report annually or on any other basis about the totality of funds flowing from the far flung corners of a new world of philanthropic partnerships.

In addition, these accounting rules apply only to NPS and not to the cooperating associations, corporate donors and other partnering entities. These outside groups directly expending funds on park-related projects are not required to accounting review at all.

As a consequence, individual parks may be able to amass the functional equivalent of off-the-books slush funds of donated funds that are not subject to oversight or reporting requirements – and certainly not as rigorous as those for congressionally appropriated funds.

This lack of accountability has two dimensions: 1) opacity or secrecy surrounding particular corporate or foundation gifts and 2) absence of any cumulative reporting that provides the public an accurate picture of each park’s various revenue streams.

The National Park Service should provide some sort of mechanism whereby private partnership agreements may be reviewed and commented upon by the general public. In addition, NPS should specify some measure of transparency so that the end use of donated funds can be traced by members of the public and so that the total amount of donated funds received by a park can be generally known.

## **11. Relies upon an Ethically Challenged Director as Arbiter of Propriety**

Recently, the Interior Inspector General (IG) uncovered a string of ethics violations by NPS Director Jarvis in connection with a book about national parks that he authored. The IG found Director Jarvis –

- Approached a concessionaire for whom he had just signed an agreement for operating 138 park stores to publish his book, thus flouting conflict of interest prohibitions;
- Kept the copyright for the book in his own name, contrary to the ban on compensation for work relating to one’s job duties;
- Used government equipment and staff time for his personal project, while misusing his office, as the book made repeated references to his position;

- Improperly approved display of the official NPS Arrowhead logo on the book jacket; and
- Ignored repeated warnings that he needed to obtain ethics approval for the book (which he avoided because he did not want it edited by Interior officials).

To top it off, he then lied to his superior, Interior Secretary Sally Jewell, telling her that the concessionaire had approached him with the book idea – when in reality it was the other way around. Further, Mr. Jarvis sought to conceal his violations by creating a phony email trail. He also sent Secretary Jewell a note with a copy of the newly published book which falsely declared “there are no ethics issues.” (Emphasis in original)

Incredibly, the subject of his book is ethics and is titled “Guidebook to American Values and Our National Parks.” At the time of the IG report in February 2016, the book had only “sold” 228 copies –not counting the 50 or so Mr. Jarvis has sent to staff and friends. As a result, his “publisher” is out several thousand dollars for his powerful patron’s vanity project.

The Interior Department punished Mr. Jarvis by issuing him a written reprimand and stripping him of any supervisory responsibility over the NPS ethics program for the remainder of his tenure.

Under the revised DO, however, Director Jarvis would be the ultimate arbiter of what corporate tie-ins are considered “appropriate” and “tasteful.” However, Mr. Jarvis’ record gives pause regarding the soundness of his judgment. Moreover, his philosophical orientation and past actions suggest that Mr. Jarvis has yet to meet a “partnership” arrangement that he would not enter.

PEER urges that NPS withdraw this proposed DO revision until after Mr. Jarvis has left his position in order to obtain a more dispassionate review by his successor.

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