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before the
U.S. House of Representatives Committee on Natural Resources
Subcommittee on Public Lands and Environmental Regulation

July 23, 2013

RE: Sleeping Bear Dunes National Lakeshore Conservation and Recreation Act (H.R. 163)

Chairman Bishop, Ranking Member Grijalva, and Members of the Subcommittee,

Thank you for allowing me to submit this testimony to express our organization's support of H.R. 163. Its introduction represents the result of more than a decade of work by the National Park Service (NPS) and input by us and hundreds of other organizations and individuals into NPS proceedings to establish a new General Management Plan and Wilderness Study for Sleeping Bear Dunes National Lakeshore (SLBE), which runs seventy miles along prime Lake Michigan shoreline in Northwest Michigan. The NPS in 2009 finalized and adopted its new General Management Plan for this Lakeshore, but significant parts of it cannot be implemented unless and until its accompanying Wilderness proposal is adopted by Congress and signed into law. The Wilderness Boundary Map attached to the legislation is Map Number 634/80, 083B dated November 2010.

We are very grateful to the Honorable Dr. Dan Benishek, who represents northern Michigan and sponsored the bill. We also are grateful to the bill's many co-sponsors, especially the Honorables Bill Huizenga and Dave Camp, who, prior to redistricting, represented the two counties in which the Lakeshore is located. We are likewise grateful to our two U.S. Senators who represent Michigan, the Honorable Carl Levin and the Honorable Debbie Stabenow, who co-sponsored an identical bill, S. 23, which passed the U.S. Senate June 19th. The legislation has been a bi-chamber, bipartisan effort from inception.

In 2002, a public outcry erupted in Benzie and Leelanau Counties where the Lakeshore is located over the then current General Management Plan (GMP) proposals that were nearing their final stage and well on their way to adoption by the NPS. Until the 2002 NPS Newsletter had been released that gave details of Four Alternatives the NPS was considering at that time, along with their Preferred Alternative, most of the general public in the area were unaware of its implications. A few members of the public began publicizing those implications, and many in the area became incensed. After studying the matter and attending NPS hearings on such, some of us realized that there was no local governmental body or volunteer organization with sufficient manpower or resources to mount the sustained effort it would take to get the NPS to listen and respond to our concerns, so we formed Citizens for Access to the Lakeshore (CAL) as a nonprofit, citizen advocacy group. We recruited membership, elected a Board of Directors and collected dues and donations to support our newsletters, public presentations, educational outreach and the development and maintenance of a CAL Web Site.

At our founding, CAL never expected it would take eleven years for the issues to get addressed, nor had we any idea that it would require new legislation to be passed by Congress. However, the tedious and painstaking efforts by all concerned will be worth it if the legislation before you is passed. The bill is needed in order to allow the Park Service to implement the 2009 outcome of NPS proceedings and negotiations with the public which became, over time, a true collaboration, in our view, among the Park Service and all its stakeholders.

We are grateful to SLBE Superintendent Dusty Shultz for the new GMP and Wilderness Study subsequently developed and approved at the agency level in 2009. Superintendent Shultz had not been a part of the development of the former GMP proposals in the early 2000's, having arrived at the Park as its new Superintendent after they had already reached their final stage. When the Secretary of Interior, in response to public outrage, requested withdrawal in October 2002 of that previous GMP, Superintendent Shultz responded by thenceforth devoting much staff time and resources to learning why the community was so alarmed and why the NPS had been so taken by surprise by the outrage.

Those early years also saw the appointment of a new Director of the NPS Midwest Region, Mr. Ernie Quintana, who came to SLBE to view the Lakeshore, one of his new responsibilities. During that visit, he was kind enough to meet with CAL Board members in the presence of Superintendent Shultz. After listening to us, he expressed his view that we seemed to have legitimate concerns, that the NPS could address them, and that he would be supportive in that effort. He has, indeed, been supportive at all crucial, NPS/internal review and approval stages over the many years on these efforts, and we are very grateful to Director Quintana and his Midwest Region Staff in Omaha.

One of the first steps taken by the NPS during that contentious time was to send new personnel to SLBE who had expertise in public relations. CAL and others wondered at the time if Mr. Tom Ulrich had been sent simply to tell the local population that we didn't know or understand anything and to admonish us for having dared to question the federal bureaucracy. However, we soon learned that Mr. Ulrich was not sent for window dressing or simply to smooth ruffled feathers. Instead, we found him to be a dedicated public servant who was committed to listening to the concerns of the agency's stakeholders and who adeptly helped establish a working relationship among what had become, by that time, two distinct adversaries: the National Park Service vs. the SLBE's surrounding local communities.

CAL strongly believes that, from 2002-2009, these two sides learned to listen and talk with each other as never before, and that the NPS adopted a new view that it is better to aggressively publicize its processes and genuinely solicit input up front rather than assume all is well only to learn late in the game that its stakeholders had not understood the implications of what it planned to do. The materials developed by the NPS in this particular effort are a vast improvement over what was available to the public before. For instance, upon resuming the GMP process in 2006, the NPS made new inter-active communication tools available to the public on an improved NPS Web Site that made it much easier for the general public to access, read and submit formal comment on each NPS proposal. It also appeared that the NPS liberalized, or, at least, publicized better, that any citizen who so desired could be put onto their mailing list to receive NPS proposals each step along the way where there was opportunity for public input.

In addition, ever since 2002, CAL had been speaking at local and county government meetings, road commission hearings, Chamber of Commerce meetings, Rotary Clubs, etc., in an attempt to inform as many people as possible about our discoveries of the implications of the NPS proposals. So the NPS spent the time and resources necessary to do the same and more: Superintendent Shultz and Deputy Superintendent Ulrich and other NPS staff began to attend meetings of their stakeholders/customers' organizations to make themselves available for questioning at their stakeholders' convenience and on their stakeholders' own territory. And, once the new GMP process was restarted in 2006, the NPS developed a Power Point Presentation they took "on the road" rather than relying on the few standard NPS Open Hearing dates which the public may or may not be able to attend.

As for the substance of the problem, it was, in a nutshell, that in 1981 the NPS had concluded a Wilderness Study and made a wilderness recommendation at a very young Park still deep in a contentious acquisition phase, its enabling legislation having only been passed in 1970. The full impact of that Study would not become apparent to the public until much later, after most of the land had come under Park Service ownership. Two and a half decades passed with issues simmering in

seemingly piecemeal NPS actions that the public only saw as separate, isolated irritants. However, the full implications of the 1981 Wilderness Study and its inherent incompatibility with reality surfaced explosively in the 2002 GMP.

Complicating matters was that this Park had not originated with vast amounts of never-used or never-privately-owned land, but of land that had been mostly held and used by small, private landowners for two centuries, along with two small areas of state park land. In order for the Park to become a reality, most of those private owners had to be removed from their land after the 1970 enabling legislation was passed. Many of the land parcels had been in the owners' families' possession for generations. Some were very willing to sell, some were not, and some were taken by eminent domain or its perceived threat. Another acquisition method was a sale in which the owners were allowed to reside for a specified time, usually through a twenty-five year lease.

Although generally beloved by the most of the local populace now, the Park's very creation had been wrenching and painful. Indeed, it had taken the whole decade of the nineteen sixties for proponents of a new federalized Park to win sufficient support inside the State of Michigan for the 1970 enabling legislation to pass. The promise held out to all at the time was that, by taking the land and making it a federal Lakeshore, its woods and dunes and beautiful beaches would forever more be saved for the recreational uses of the general public rather than swallowed up and transformed by large-scale private developers.

So, in 1981, the general public had little idea that "wilderness", if applied where roads already existed, would require the removal of those roads. The Wilderness acreage recommended in 1981 did, indeed, include many county roads in both Benzie and Leelanau Counties, roads which have provided the historical access to the beaches. The general public also had little idea that the 1981 "wilderness" would be interpreted by the NPS as a call for the destruction of many historical features throughout the Park. Indeed, it took two other citizens' groups, with the help of Senator Levin, to get the NPS to recognize that there were historical resources and cultural viewscapes worth saving within a Park where acquisition and a return-to-nature agenda were on full throttle.

Never-the-less, enough was understood about the 1981 Wilderness Recommendation that it was politically highly contentious from its inception: the Secretary of Interior would not approve it nor move it along for further approval. The Congress at that time reacted to the Secretary's inaction by inserting a few sentences about the 1981 Wilderness Study in a 1982 amendment to the Park's 1970 enabling legislation. The purposes of the 1982 amendment had mostly to do with making the acquisition process fairer to all property owners and with removing certain areas of land around Glen Lake from the Park boundaries.

Even though the 1982 legislation's intent and purposes had nothing to do with wilderness, Congress inserted language into that bill that instructed the NPS to manage all the land within the 1981 Wilderness Study as if it was "wilderness" unless and until Congress said otherwise. The effect, as noted in the Congressional Record at the time, was a wilderness designation imposed by the back door, a de facto wilderness where none had been formally designated by Congress according to the procedures of the Wilderness Act.

Over the years, the NPS attempted, from time to time, to acquire the county roads within those de facto wilderness areas, per the 1982 Congressional action. However, for thirty years, the Counties have adamantly resisted federal acquisition of their roads, having no wish for their residents and tourists to lose public access to the beaches. The Park Service was never successful in eliminating the historical vehicular access on the mainland, but was successful on the Park's two islands, North and South Manitou, by disallowing use of the landing piers by cars and by a 1987 letter to South Manitou residents.

The building tension over the NPS's repeated attempts to acquire the counties' roads came to a head in the 2002 GMP proposals. Having little familiarity with the long forgotten 1981 Wilderness Study and having little acquaintance with the fact that the Study's effects had become federal law in 1982, most local people were completely dumbfounded in 2002 on a number of levels:

- Why did the 2002 GMP call for the acquisition and demolishment of the county roads, which provide the only vehicular access of the general public to the beaches?

- Why did the 2002 GMP propose "mouldering" many of the area's historical resources?

- Why did the 2002 GMP proposals portray half the Lakeshore as a place where the human foot had left no mark and where only "wilderness" had existed?

  In this aspect, the GMP's tone, as well as the content, was highly offensive to local people who themselves or their parents had been uprooted from the very land now called a "wilderness" where, allegedly, no one had ever settled. In reality, the local populace had firsthand knowledge that said lands had been farmed, settled and lumbered for generations, and that Native Americans and lumbering companies had worn trails that still exist and are used to this day. South Manitou Island, with its great natural harbor and nautical refuge in Lake Michigan, had been settled, farmed and lumbered even before the City of Detroit was developed.

  The 2002 GMP proposals were not only offensive for proposing that the general public lose its access to the beaches, the very purpose of the enabling legislation, but added insult to injury by attempting to wipe out the magnificent human history of the area's forebears.

- And why did Park Service staff, in attempting to explain these matters to an outraged citizenry, keep saying that it had all been "mandated" by Congress?

It took CAL much study of past legislation and NPS documents to track down all the historical events leading to the disastrous 2002 collision between the Park Service and SLBE's local communities.

Once CAL identified the 1981 Wilderness Study and the 1982 law as the cause of much of the problem, CAL sought to have the offending lines in the 1982 legislation removed, which would have freed the Park Service from any wilderness "mandate" and would have allowed them to begin afresh a new GMP unencumbered with de facto wilderness. However, we ascertained, to our initial disappointment, that there was no Congressional, political or agency will for such. It appeared that doing so might be interpreted and maybe contested by wilderness proponents as a removal of "wilderness" from the Lakeshore, even though such had never been officially designated.

However, our Senators and Congressmen actively supported the public's desire to be heard, and, at the same time, they actively supported the Park Service's desire to allow for a cooling off period and to give the NPS time to look anew at the problems and situation. Our Senators and Congressmen supported the NPS' entering into a long, multi-year, continuing dialogue with the local communities. Our elected officials also supported CAL whenever it appeared to us that the NPS was not listening nor understanding us. Thanks to our Senators and Congressmen, we learned to read and speak Park Service-ese, and the NPS learned to understand us, even though we weren't always conversant or familiar with the multitudinous NPS procedures, policies and technical terms.

It worked! The 2009 GMP/Wilderness Study addresses and corrects all the unresolved issues of the previous Wilderness Study. Now the areas proposed for wilderness make sense, and will provide that the primitive, natural areas can remain as the local population wishes – in their natural state – without cutting off public access where it is needed.

The bill before you, if adopted, will finally, finally throw out the flawed 1981 Wilderness Study that has had our Lakeshore tied up for so long in administratively applied wilderness sanctions where they were inappropriate and unenforceable, and will replace it with the new 2009 Wilderness recommendation that puts the Lakeshore's counties' roads, beaches, fundamental historical resources and all remaining private inholdings outside wilderness jurisdiction. At the same time, the bill would give a true, Congressionally approved wilderness designation to those areas of the Park, a good half of its acreage, where a wilderness designation is appropriate and can be easily enforced by the Park Service and supported by its stakeholders.

The bill is a win/win for proponents of wilderness and conservation as well as proponents of public access and varied recreation usage. It is not a bill where the proponents give grudging, reluctant support, feeling compromised and unhappy about something. Rather, this is a bill wherein almost everyone involved has emerged quite satisfied.

CAL highly supports this bill and respectfully asks your consideration for its passage.

Submitted by,

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