



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

JUL 01 2004

Honorable Thomas G. Tancredo
House of Representatives
Washington, DC 20515-0606

Dear Mr. Tancredo:

This is in further response to your letter of March 18, 2004, which referred to an April 21, 2003, letter you had written to the National Park Service concerning backcountry parachuting. Your April 21 letter included a proposed process by which more access would be granted to those who wish to parachute in backcountry areas of various units of the national park system. Although Mr. Loran Fraser of the NPS had sent you an interim response, this more complete response is long overdue. For that we sincerely apologize.

As NPS Associate Director Richard Ring had pointed out in a July 2002 letter to you, the general NPS regulation governing parachuting is published in section 2.17 of Title 36 of the Code of Federal Regulations. That regulation prohibits "Delivering or retrieving a person or object by parachute, helicopter, or other airborne means, except in emergencies involving public safety or serious property loss, or pursuant to the terms and conditions of a permit." While the regulation (promulgated in 1983) authorizes superintendents to permit parachuting, superintendents over the years have tended not to exercise that authority, due to general concerns about safety and conflicts with other park uses.

A key reason why superintendents have not been inclined to permit parachuting is because the NPS has had some unpleasant past experiences with this activity-especially at Yosemite National Park. The Yosemite superintendent in 1980, following a request by the U.S. Parachute Association (USPA), allowed a test period for jumping from El Capitan. Conditions under which the jumps would occur were agreed to and the test period began. However, it had to be ended prematurely after five weeks as problems became apparent. In the superintendent's view, the accident rate was excessive and the rules were blatantly disregarded by too many of the jumpers. The park also had difficulty managing the traffic and crowds drawn by the spectator atmosphere that was encouraged and promoted by some of the jumpers. The USPA acknowledged the need to discontinue the activity, withdrew its sanction, and branded the sport as a dangerous stunt.

As you have noted, the NPS's general concerns about BASE jumping are reflected in section 8,2.2.7 of our 2001 edition of *Management Policies*, which states:

BASE (Buildings, Antennae, Spans, Earth forms) jumping-a/so known as fixed object jumping – involves an individual wearing a parachute jumping from buildings, antennae, spans (bridges), and earth forms (cliffs). This is not an appropriate public use activity within national park areas, and is prohibited by 36 CFR 2.17(0)(3). [36CFR2.17(a)(3)]

Under the NPS regulations in 36 CFR 2.17(a)(3), delivering or retrieving a person or object by parachute is prohibited “except. . .pursuant to the terms and conditions of a permit” As with other discretionary NPS policies, this policy may be waived by the Director, and was indeed waived in the case of "Bridge Day" at New River Gorge National River. A permit was issued to Vertical Visions of West Virginia, an organized BASE jumping group, for parachuting activities during that event. The NPS perceives 'parachuting on Bridge Day as an exceptional situation. It is a once-a-year special event that originates on State property and is part of a major festival. In making the decision to grant a policy waiver, the Director considered these factors, plus the park's enabling legislation, management plans, other visitor uses, park values, and various resource issues before concluding that the activity could be sustained without causing unacceptable impacts to park resources or values. In addition, the Director took into account that the activity would be tightly managed, there would be ample emergency personnel on hand to cope with the hundreds of BASE jumpers and the many thousands of spectators, and the parachutists would pay for rescue/pickup boats on the river.

Given this background, the NPS does not view the Bridge Day event a precedent or model for parachuting in other areas of the national park system. However, Director Mainella is committed to providing the public with appropriate opportunities for enjoyment of park resources and values, and to thoughtfully reviewing our policies and procedures when they are called into question. I am confident that she would expect park superintendents and other NPS decision-makers to give serious consideration to parachuting and similar activities as part of their normal responsibilities for managing recreational uses. The NPS does not think, however, that the process proposed in the attachment to your letter is the best approach to take at this point.

While the proposal recognizes that some NPS units and areas will necessarily be more restricted and regulated than others, it contains a presumption that certain categories of park units, by dint of nomenclature, may be inherently more suitable for parachuting than others. The NPS is compelled to apply a more comprehensive planning approach that includes public involvement and takes into account the park's resources; the 1916 NPS Organic Act; other relevant statutes, Executive orders and regulations; and many other factors. The legislation or Presidential proclamation establishing a particular park unit is often especially important in helping us make planning and management decisions.

Another concern the NPS has with the approach outlined in the attachment to your letter is that it relies exclusively on one particular user group to advise park managers on matters that could be quite controversial. In addition to being contrary to long-standing NPS planning

practices and the Director's commitment to more broadly engaging the general public, it would likely violate provisions of the Federal Advisory Committee Act and regulations implementing the National Environmental Policy Act.

The approach we would suggest instead is that representatives of the parachuting community involve themselves in the planning process that takes place at each park. Each park is required to have a general management plan to provide a clearly defined direction for resource protection and visitor use. Citizens are encouraged to help define that direction by participating in the planning process.

Visitor use management plans are another form of plan that is required, and in which the public is encouraged to participate. These plans may be addressed as action plan components within a general management plan or a resource management plan, or as coordinated activity-specific documents (such as a backcountry use plan), or as a single integrated plan that addresses a broad spectrum of recreational activities. The approach taken by each park will depend on local park needs and circumstances.

During the preparation of planning documents, park managers invite everyone who may be interested to offer their ideas and perspectives regarding appropriate recreational uses of the park. The planning process is a forum for the exchange of ideas, for determining areas of agreement and conflict, and for finding solutions to problems. Because the planning is performed in a comprehensive way, it reduces the likelihood of unintended consequences. Decisions that are made at the conclusion of the planning process take into consideration a park's purposes and the effects that a decision may have on park visitors and resources. They also take into account the park's capability to properly manage an activity. If an activity cannot be accommodated within a park, the planning process will often help to identify appropriate alternative locations.

If, at the end of the planning process, a superintendent were to conclude that parachuting was an appropriate use of the park, the superintendent could apply for a policy waiver from the Director (as was done at New River). The Director would consider the justification offered by the superintendent as well as any Servicewide implications of granting the waiver request. The request would address whether the activity would result in a significant alteration in the public use pattern of the park or be highly controversial. If so, and the waiver were to be granted, the Service would have to promulgate a special regulation to authorize the activity, in accordance with regulations published at 36 CFR 1 .5.

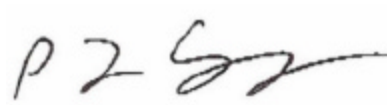
In closing, we appreciate your calling this matter to our attention and offering ideas to consider. Although we cannot accommodate all of your suggestions, the process outlined above provides for the case by case, park by park approach that you had recommended. We hope that members of the parachuting community will avail themselves of the many opportunities that the parks offer for involving them in the planning and decision-making process, as outlined above. Because there are 388 national park units, different parks will be at varying stages in their planning processes-anywhere from just beginning, to already completed.

since the planning process is cyclic, even parks that have recently completed their plans will be revisiting them from time to time.

Anyone who has internet access may obtain comprehensive information about specific parks (including the status of planning projects) by accessing the individual park web sites through www.nps.gov. Timely information about ongoing planning activities within park units may also be accessed through the NPS's planning website at www.planning.gov. These websites generally contain information on when and how the public may become engaged in the planning process. If someone's information needs cannot be satisfied at one of these websites, then communication should be initiated with the park superintendent's office. As an alternative, if we were given a list of parks they are interested in, we could then provide information on the status of planning in those parks.

Please let me know if there is any further information we can provide you on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "P L Scarlett", followed by a vertical line.

P. Lynn Scarlett
Assistant Secretary - Policy, Management
and Budget