

May 3, 2002

The Honorable Gale A. Norton
Secretary of the Interior
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Subject: The National Park Service's Supplemental Environmental Impact Statement over the Snowmobile Phase out in Yellowstone Park

Dear Secretary Norton:

The Office of Advocacy of the U.S. Small Business Administration (Advocacy) was established by Congress pursuant to Public Law 94-305 to represent the views of small business before Federal agencies and Congress. One of the primary functions of Advocacy is to measure the impacts of Government regulation on small entities and make recommendations for eliminating excessive or unnecessary regulation of small entities.

On March 29, 2002, the National Park Service published a Notice of Availability for the Supplemental Environmental Impact Statement (SEIS) on the phase-out of snowmobile use in Yellowstone and two other national parks.¹ The SEIS provides the information upon which the Park Service proposes to base the decision whether to reconsider the phase-out or not. The SEIS also presents alternatives using the final rule, which phases out snowmobiles, as the baseline.

¹ See 67 Fed. Reg. 15223, for the notice. The SEIS can be found at www.nps.gov/grte/winteruse/intro.htm.

Advocacy previously filed a comment letter concerning the final snowmobile rule on April 16, 2001. The subject of today's letter is to raise new questions, based on the SEIS, about the Park Service's decision to certify the final rule, in lieu of preparing the Final Regulatory Flexibility Analysis or FRFA. Section 605 of the Regulatory Flexibility Act (RFA)² allows an Agency head to certify the rule if it is not expected to have a significant economic impact on a substantial number of small entities, but there must be a factual basis for the decision.

The RFA certification was based on facts presented in the FEIS, but the SEIS provides information that contradicts the FEIS. For example, the SEIS shows that the small entity impacts, which were already extreme when compared with their revenue, are even greater than had been assumed. It also shows that alternatives to limit the number and type of snowmobiles in these parks, alternatives Advocacy supported, would actually cost significantly less than the rule, which would phase out all snowmobile use. SEIS, Table S-2.

The RFA certification is based on the FEIS, however new facts regarding the impact were revealed in the SEIS. For this reason, Advocacy recommends that the Park Service withdraw the certification and amend it in light of the SEIS. If after reconsideration, the Park Service finds that the rule will not be expected to have a significant economic impact on a substantial number of small entities, the Agency may certify the rule but must provide a factual basis for the decision. Otherwise, the Park Service must prepare a FRFA and release it for public comment.

Sincerely,

/s/Shawne Carter McGibbon
for Thomas M. Sullivan
Thomas M. Sullivan
Chief Counsel for Advocacy

/s/
Austin R. Perez
Assistant Advocate

² See 5 U.S.C. §§ 601, et. seq.