



Society of Environmental Journalists

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July 20, 2006

The Honorable Dirk Kempthorne
Secretary of the Interior
Department of the Interior
1849 C Street, NW, Room 6156
Washington, DC 20240

The Honorable Fran P. Mainella
Director, National Park Service
Department of the Interior
1849 C Street, NW, Suite 3112
Washington, DC 20240

Re: Department of the Interior Policies on Permits and Fees for Filming and Photography on Public Land

Dear Secretary Kempthorne and Director Mainella

In the Federal Register of April 13, 2006 (pp. 19127-19129) the Department of the Interior issued its "Final Rule: Making Pictures, Television Productions, or Sound Tracks on Certain Areas Under the Jurisdiction of the Department of the Interior." This rule rescinds earlier regulations prohibiting requirement of permits or fees for photography on National Park Service land, in order to implement on an interim basis the requirements of Public Law 106-206, passed May 26, 2000.

The Society of Environmental Journalists (SEJ) is concerned about this issue, particularly in light of language in the notice that the agency intends to develop department-wide policy on photography on federal lands in the near future and on news reports that a task force has been created to develop that policy. We expect to comment more fully when formal proposed regulations are issued for public comment, but we hope that you might find helpful an articulation of our major concerns while the task force develops its proposals

SEJ is the world's largest and oldest organization of individual working journalists covering environmental issues. Founded in 1990, SEJ consists of journalists, educators, and students dedicated to improving the quality, accuracy, and visibility of environmental reporting.

Working through its First Amendment Task Force and WatchDog Program, SEJ addresses freedom of information, right-to-know, and other news-gathering issues of concern to journalists reporting on environmental topics.

Our membership includes news gatherers who are print reporters, nature photographers, photojournalists, authors, documentary film producers, radio and television reporters and producers, freelancers and others, taking both still and motion pictures, for print, broadcast, and online media.

We are very concerned that photography for news purposes could be considered to trigger a levy of fees. We were pleased that our Executive Director received written assurance from Lee Dickinson, a Special Park Uses Program Manager with the Visitor and Resource Protection program of the National Park Service, that current guidance to field personnel clearly exempts news coverage from requirements for permits and therefore does not allow fees to be levied against news coverage. However, we believe that it is critically important for the regulations being developed to give narrow, clear and specific definition of the "commercial photography" subject to permits and fees. It is important that Interior Department personnel not confuse news photography with "commercial photography."

Certain things seem obvious to us as starting points for discussion of these issues. Clearly, while the purpose of PL 106-206 was to regularize the patchwork of rules governing photo fees on lands under the Interior and Agriculture Departments, it was also to allow agencies to tailor fee rules to the unique purposes of the different land categories. Thus, for example, it is in keeping with that law for the National Park Service to write photo-fee rules that maximize public access to a publicly owned resource, rather than to exploit access restrictions for maximum possible revenue..

Another thing that seems clear is that PL 106-206 makes a deliberate distinction between motion and still photography. It presumes that fees may be appropriate for commercial motion picture photography (because of presumably greater crew size, equipment footprint, duration of filming, administrative costs, and park disruption). On the other hand, it clearly presumes that fees are not appropriate for still photography, except under certain conditions. While the law sets out a graduated array of conditions, its presumption is that in most cases still photo fees are at best discretionary, not mandatory, and may well be prohibited.

We greatly appreciate your consideration of our concerns.

Yours truly,

A handwritten signature in black ink, appearing to read "Perry Beeman". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Perry Beeman
President, SEJ Board of Directors