

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ECO TOUR ADVENTURES, INC.,)	
)	
Plaintiff,)	
v.)	
)	
RYAN ZINKE, <i>in his official capacity as</i> <i>Secretary of the Interior, et al.</i>)	Case No. 14-02178 (BAH)
)	
Defendants.)	
)	

STIPULATION OF SETTLEMENT AND ORDER OF DISMISSAL

Plaintiff, Eco Tour Adventures, Inc. (“Eco Tour”) and Defendants, Ryan Zinke, the Secretary of the United States Department of Interior, Michael Reynolds, Acting Director of the National Park Service, through Sue Masica, the Regional Director of the Intermountain Region, and the National Park Service (collectively, the “Agency”), by and through undersigned counsel, hereby enter into this Stipulation of Settlement and Order of Dismissal (“Agreement” or “Stipulation”) to resolve all disputed issues between Plaintiff and the Agency (hereinafter referred to as “the parties”), relating to or arising from the Agency’s award of two concession contracts (CC-GRTE032-14 and CC-GRTE024-14) to provide guided cross-country-ski touring services in Grand Teton National Park to Jackson Hole Mountain Resort Corporation (“Jackson Hole”) (CC-GRTE024-14) and The Hole Hiking Experience, Inc. (“Hole Hiking”) (CC-GRTE032-14) and not to Eco Tour, in connection with Solicitation CC-GRTESKI-13 (“the Solicitation”), including but not limited to all issues in the above-captioned civil action.

Accordingly, the parties agree as follows:

1. Eco Tour and the Agency do hereby agree to settle and compromise each and every claim of any kind, whether known or unknown, against the Agency arising directly or indirectly

from the alleged acts or omissions that gave rise to the above-captioned action under the terms and conditions set forth in this Stipulation.

2. The National Park Service (“NPS”), pursuant to 54 U.S.C. § 101913(1), will award Eco Tour one concession contract to provide guided ski touring services within Grand Teton National Park (the “Eco Tour Concession Contract”), which contract shall be substantially similar to the draft contract that was set forth in Part IV of the Prospectus that was issued via the Solicitation (“the Draft Prospectus Contract”), and which is attached hereto as Exhibit 1, and which shall contain substantially the same terms, exhibits and addendum as Concession Contracts CC-GRTE024-14 and CC-GRTE032-14, except as otherwise stated herein.

3. The Eco Tour Concession Contract shall include the elements from Eco Tour’s proposal dated March 20, 2013, and submitted in connection with the Solicitation to the extent those elements also were incorporated into Concession Contracts CC-GRTE024-14 (Jackson Hole) and CC-GRTE032-14 (Hole Hiking), and shall have a term of approximately seven years extending to, and including, October 31, 2024.

4. While the Eco Tour Concession Contract shall include the “Approved Routes” for CC-GRTE024-13 and CC-GRTE032-13 as forth in Section 4 (A)(2) of Exhibit B (Operating Plan) to the Draft Prospectus Contract, Eco Tour acknowledges that the following routes located in the Moose Wilson Road Corridor are subject to certain use limits pursuant to Grand Teton National Park planning documents and that those use limits are subject to change in accordance with applicable NPS policy and procedure:

- a. Granite Canyon from Valley Trail;
- b. Granite Canyon Trail - below the patrol cabin;
- c. Valley Trail between Granite Canyon and Bradley Lake;

- d. Phelps Lake Overlook Trail;
- e. Closed Section of Moose-Wilson Road;
- f. Moose-Wilson Road to Phelps Lake on routes outside the boundary of the Laurance S. Rockefeller Preserve;
- g. Spur trail connecting the Valley Trail to Granite Canyon Trailhead;
- h. Spur trail connecting the Valley Trail towards Teewinot lift; and
- i. White Grass Ranch Area.

5. The parties agree that so long as any use limitations are in place in the Moose-Wilson corridor, Eco Tour will receive no less than 1/3 (one-third) of the use limit allocations available to the three contracts (Concession Contract CC-GRTE024-14, CC-GRTE032-14 and the Eco Tour Concession Contract), but in no case will Eco Tour receive less allocations than either Jackson Hole or Hole Hiking.

6. The Eco Tour Concession Contract shall include the exhibits and addendum that were part of the Draft Prospectus Contract, with the following modifications: (a) up-to-date insurance requirements (Exhibit D to the Draft Prospectus Contract); (b) a new Section 9 to Addendum 1 to the Draft Prospectus Contract that contains provisions regarding the National Park Service Trademark License (Grant, Quality Control and Goodwill, and Rights and Ownership); and (c) a new Exhibit F (Intellectual Property Licensed Marks).

7. The Eco Tour Concession Contract will be executed by the Agency within 7 business days following execution by Eco Tour, which shall be within 7 business days of the Agreement's Effective Date (as defined in paragraph 12 below)

8. As of the Effective Date of the Agreement, the Agency waives any claim that it may have against Eco Tour for repayment of the \$36,250 in bid preparation costs paid to Eco

Tour by the Agency pursuant to a Judgment entered on April 17, 2014, in *Eco Tour Adventures, Inc. v. United States*, Case No. 13-532 (Ct. Fed. Cl.).

9. As of the Effective Date of this Agreement, and in exchange for the consideration set forth in the paragraphs above, Eco Tour releases all claims which have been or could have been asserted by Eco Tour in the above-captioned action the Agency, its agents, servants, and employees (collectively, the “Released Parties”), including any and all claims, demands, rights, and causes of action of whatsoever kind and nature arising from the events alleged in the above-captioned action, whether known or unknown, whether asserted or unasserted in the above-captioned action, for which Eco Tour, its officers, directors, executives, managers, employees, agents, successors and assigns, and each of them, now have or may hereafter acquire against the Released Parties, including, but not limited to, any claim for attorneys’ fees or costs.

10. This Agreement is not, is in no way intended to be, and should not be construed as, an admission of liability or fault on the part of the Released Parties, and it is specifically denied that the Agency (or any other of the Released Parties) is liable to Eco Tour. This settlement is entered into by Eco Tour and the Agency for the purpose of compromising disputed claims and avoiding the expenses and risks of further litigation.

11. The persons signing this Agreement warrant and represent that they possess full authority to bind the persons on whose behalf they are signing to the terms of the Agreement.

12. Execution of this Agreement by Plaintiff, counsel for Plaintiff and counsel for the Agency shall constitute a dismissal with prejudice of all claims asserted against the Agency in the above-captioned action, effective upon entry of this Agreement on the docket as an order of the Court (hereinafter, the “Effective Date”).

13. Following the execution of the Agreement by the signatories for all parties, counsel for Plaintiff shall file the fully executed Agreement with the Court. In the event additional action is necessary to obtain an order from the Court dismissing the claims and parties referenced in the preceding paragraph, Plaintiff agrees to take any such additional action, at its expense, and also to cooperate fully with the Agency in that effort. Plaintiff agrees to seek to obtain a Court order of dismissal of the claims referenced in the preceding paragraph in a timely manner; time being of the essence. Plaintiff further agrees that the Agency may void this Agreement at its option in the event such an order is not obtained in a timely manner.

14. This Agreement may not be used as evidence or otherwise in any civil or administrative action or proceeding against the Agency, the United States, or any of its agencies or officials or present or former employees or agents, either in their official or individual capacities, except for proceedings necessary to enforce the terms of this Agreement.

15. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same document. A facsimile or other duplicate of a signature shall have the same effect as a manually-executed original.

16. The parties acknowledge that the Court, by entering this Stipulation as an order of the Court, retains jurisdiction to enforce the terms of this Stipulation, and further acknowledge that any party may seek enforcement of the terms of this Stipulation in this Court, including by a motion to compel specific performance of the terms of this Stipulation.

IN WITNESS WHEREOF, the parties hereto, by and through their authorized counsel, intending to be legally bound, have executed this Agreement on the dates shown below.


Taylor Phillips, President/CEO of Eco Tour


Executed this 8th day of August, 2017

CHANNING D. PHILLIPS
D.C. Bar # 415793
United States Attorney

DANIEL F. VAN HORN
D.C. Bar # 924092
Chief, Civil Division



Kevin Garden
D.C. Bar # 426745
The Garden Law Firm, P.C.
901 N. Pitt Street, Suite 325
Alexandria, Va. 22314

By: 
JEREMY S. SIMON
D.C. Bar # 447956
Assistant United States Attorney
United States Attorney's Office for the
District of Columbia
555 Fourth Street, N.W.
Washington, D.C. 20530

Attorney for Eco Tour

Executed this 8th day of August, 2017

Attorneys for the Agency

Executed this 8th day of August, 2017

SO ORDERED:

On this ___ day of _____, 2017

United States District Judge