

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

LITTLE HOUSE RESORTS, LLC
18330 Irvine Lane
Lakeville, MN 55044

Plaintiff

v.

VOYAGEURS NATIONAL PARK, a unit
of the National Park Service
360 Highway 11 East
International Falls, MN 56649

**SUPERINTENDENT OF THE
VOYAGEURS NATIONAL PARK**, in their
official capacity as the Superintendent of the
Voyageurs National Park
360 Highway 11 East
International Falls, MN 56649

DEPARTMENT OF THE INTERIOR
1849 C Street, NW
Washington, DC 20240

DOUGLAS BURGUM, in his official
capacity as Secretary of the Interior
1849 C Street, NW
Washington, DC 20240

NATIONAL PARK SERVICE, an agency of
the Department of the Interior
1849 C Street NW
Washington, D.C. 20240

JESSICA BOWRON, in her official capacity
as the acting Director of the National Park
Service
1849 C Street NW
Washington, D.C. 20240

Defendants

Civil No. 25-cv-1374 (JRT/DTS)

AMENDED COMPLAINT

Plaintiff, Little House Resorts, LLC, brings this action against Voyageurs National Park, the National Park Service, the Department of the Interior, and, in their official capacities, Voyageurs National Park Superintendent, Doug Burgum (Secretary of the Interior), and Jessica Bowron (Acting Director of the National Park Service). Plaintiff alleges as follows:

INTRODUCTION

1. Little House Resorts, LLC (“Little House” or “Plaintiff”) owns and operates a historic resort, Pines of Kabetogama, on the shores of Lake Kabetogama in northern Minnesota near Voyageurs National Park. Pines of Kabetogama is a resort with both cabins and RV sites that operates seasonally between May and October each year and offers on-site amenities, including both land and water-based recreational activities such as hiking, a water trampoline, both motorized and non-motorized boat rentals, and boat tours. It is physically located outside the established boundary of Voyageurs.
2. A resort was first established at this location in 1939, and thereafter, successive owners have purchased the resort or its assets, and invested in its improvement, based upon the resort’s access to, and riparian rights of, the public waters of Lake Kabetogama. Plaintiff and its owners acquired the resort, and continued its improvement, relying upon the longstanding riparian rights and rights of access to the Lake.
3. An underlying premise of the Congressional legislation establishing the Park was that the Park would promote and benefit resorts located outside the Park like Pines of Kabetogama, and Congress provided no authority to take that property.
4. For the first time in the 50-year history of Minnesota’s only national park, Voyageurs National Park (“Voyageurs” or the “Park”) has, purported to deny Plaintiff and other outside-the-Park riparian resorts from conducting resort business unless the resort obtained

and accepted a permit that acknowledged the Park's right arbitrarily to terminate, and consequently take, Plaintiff's right to conduct its business, and to regulate its resort business operations located outside the Park.

5. Essentially, Defendants have summarily implemented a new policy that mandates Commercial Use Authorizations permits for a certain set of abutting landowners located outside of the Park requiring them to submit themselves to the jurisdiction of the National Park Service as if they were located inside the Park. The proposed permit does not merely apply the regulations applicable to all users of Lake Kabetogama and Voyageurs National Park, but instead treats Plaintiff as if it were an in-the-park concession operating entirely at the sufferance of the Park.
6. Prior to the existence of the Park and continuing after the establishment of the Park, private riparian landowners have made free and open use of the surface of Minnesota's northern lakes and rivers, including Lake Kabetogama, as is their right under both federal and State law. When Congress established the Park, it intended that the Park would promote and support the operation of resorts like Pines of Kabetogama. Congressman Blatnik, the bill's lead sponsor, made it clear that the legislation had been designed to avoid harm to resorts and other commercial enterprises. (Testimony before House Subcommittee on National Parks and Recreation, Hearings on a Proposal for Voyageurs National Park, 91st Cong., 2nd Sess., 16 and 17 July 1970 p 62.) The legislation had been designed "to minimize adverse resort owners or the industry, all having a legitimate interest there and trying to minimize to the greatest extent these adverse effects on cabin owners, resorts, and businesses dependent on the park for their livelihood." *Id.* at page 62.
7. Despite the clear intent of Congress, Defendants have unjustly and unlawfully demanded

that riparian landowners, including Plaintiff, must now accept as a permit condition authorizing the Park to terminate their business at the whim of governmental bureaucrats, to regulate their business, monitor their finances, impose conditions on the Plaintiff's employment agreements, as if the Plaintiff were an in-the-Park concession.

8. Voyageurs' Commercial Use Authorization mandate is in excess of the authority and jurisdiction granted to the federal government by the State of Minnesota's land donation to the United States of America for the establishment of Voyageurs National Park and by 54 U.S.C. § 101925 as it goes beyond the scope of either methods of bestowment of authority and jurisdiction. Further, it forces the Plaintiff to accept terms that would allow a taking of its business without compensation and due process of law.
9. The entire Commercial Use Authorization scheme and its conditions are in violation of the Administrative Procedures Act and are arbitrary and capricious in nature.
10. Furthermore, Defendants' application of the proposed terms of Commercial Use Authorization to Plaintiff, in particular, is unconstitutional as violative of the fifth amendment.

JURISDICTION AND VENUE

11. The Court has subject matter jurisdiction because the claims are under the Constitution and laws of the United States, 28 U.S.C. § 1331, and because the individual Defendants are United States officials. 28 U.S.C. § 1346(a)(2).
12. The Court has authority to enter a declaratory judgement and to provide temporary, preliminary, and permanent injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure, 28 U.S.C. §§ 2201-2202, 28 U.S.C. § 1651, and the Court's inherent equitable powers.

13. Venue is proper in the District of Minnesota because Plaintiff is located in this District, conducts business in this District, and Voyageurs National Park is located in this District.

THE PARTIES

14. Little House Resorts, LLC (“Little House” or “Plaintiff”) owns and operates a historic resort, Pines of Kabetogama, on the shores of Lake Kabetogama in northern Minnesota near Voyageurs National Park.
15. Plaintiff is a limited liability company registered in the State of Minnesota and pursuant to Minnesota Statutes, chapter 322C.
16. Jason Sheehan and Sara Sheehan, husband and wife, are the sole members of Little House. Jason Sheehan is designated as President and Sara Sheehan is designated as Secretary and Treasurer.
17. Prior to Plaintiff’s ownership and predating the establishment of Voyageurs National Park, other resorts, Esslinger’s Resort and Red Pines Lodge, operated in the same location as Pines of Kabetogama. Pines of Kabetogama has been recognized as one of the premier resorts of its kind in Minnesota. The ability of Plaintiff (and similar resorts) to maintain a high quality of service, to obtain financing, and to continue to invest in high quality sound operations would be severely impeded if the Federal Government retained the ability to terminate its right to conduct business.
18. The National Park Service is a federal agency headquartered in Washington, D.C. that oversees national parks, such as Voyageurs National Park in Minnesota.
19. Jessica Bowron is the acting Director of the National Park Service. She is sued in her official capacity.
20. The Department of the Interior is a federal agency headquartered in Washington, D.C.
21. Douglas Burgum is the Secretary of the Interior. He is sued in his official capacity.

22. The position of Superintendent of Voyageurs National Park, formerly Robert DeGross, is vacant. Notwithstanding the position vacancy, the Superintendent of Voyageurs National Park is sued in their official capacity.
23. Voyageurs National Park is a national park headquartered in International Falls, Minnesota operating as a unit of the National Park Service.

BACKGROUND

24. Prior to the creation of Voyageurs, the northern-most part of Minnesota attracted tourists to its abundant lakes, including Lake Kabetogama. Since the turn of the century, tourism has played an important economic role in the development of the Voyageurs' area.
25. At the time of the establishment of Voyageurs National Park in 1975, 650 summer homes, weekend cabins, hunting shacks, resorts and state lease cabins occupied sites within the park boundaries and even more private properties existed immediately outside the park boundaries, including along the shore of Lake Kabetogama.
26. Congress established Voyageurs National Park on January 8, 1971 "to preserve, for the inspiration and enjoyment of present and future generations, the outstanding scenery, geological conditions, and waterway system which constituted a part of the historic route of the Voyageurs who contributed significantly to the opening of the Northwestern United States." 16 U.S.C. § 160.
27. Only a limited number of properties (about 13) located within park boundaries, would be taken. Congress intended that the remainder would continue to thrive by providing resort and other services to park visitors. Senator Mondale and others explained why there was majority support for the National Park amongst resorts located outside park boundaries:

“This does not mean economic sacrifice for my state, however. The establishment of this park will mean important new revenues for the economy of Minnesota as a result of tourism, increased recreation, and new facilities. These revenues have been estimated by state agencies at \$37 million the first year, creating more than 3,000 new jobs in the State.” Hearings at p 35.

28. Based on the Congressional intent to preserve commercial resort enterprises, the Chamber of Commerce endorsed the legislation and testified that unlike the Boundary waters, VNP would provide access to seniors, the disabled and those who prefer not to camp and portage canoes:

The National Park will be a great complement to the B.W.C.A. The National Park will siphon off some people who will opt for a less arduous scenic outdoor experience by visiting the National Park. People who by limitation imposed by age, infirmity, or inclination, can have a delightful Northern Minnesota Wilderness experience combined with sleeping in a comfortable motel or resort bed and view the scenery with no more strenuous exercise than riding in a power boat. Hearings at p 93.

The Park can be established with positive benefits to local units of government in the area. This area has traditionally been hard pressed for enough tax base to support local services. Establishment of the Park will diminish the local tax take by less than \$60,000 according to the latest figure• available. This demonstrates the minimal effect of having raw land on the tax roll. The communities need development on the land. Historically national parks have stimulated substantial investment in tourist serving facilities around the park. This investment will be a great asset to local governments since it demands minimal public services. The tourist dollars will do for these communities what major league sports dollars do for us in the metropolitan area.

29. The establishment of Voyageurs was “made contingent upon the donation by Minnesota to the Secretary of the Interior of some 25,000 acres of state-owned land lying within the boundaries of the 219,000-acre park.” *United States v. Armstrong*, 186 F.3d 1055, 1057 (8th Cir. 1999).
30. The State of Minnesota passed legislation to authorize the Minnesota governor to facilitate the transfer of State land to the federal government. Minn. Stat. § 84B.03.
31. The State’s donation was limited to “(1) trust fund lands; (2) lands forfeited to the state for

nonpayment of taxes and held in trust by the state for taxing districts; and (3) other lands acquired or otherwise owned by the state.” Minn. Stat. § 84B.03, subd. 1.

32. Lands held by private entities and citizens were not included in the State’s grant of land to the federal government for the Park’s creation. As heretofore stated, the Act limits the Park’s taking authority to thirteen identified resorts located within the boundaries of VNP, and Congress has never authorized the taking of resorts located outside those boundaries.
33. Upon information and belief, original park establishment was based on a map provided to congress that showed proposed park boundaries and property to be included or excluded from the park.
34. Current boundaries of Voyageurs are “generally depicted on the map entitled ‘Voyageurs National Park, Proposed Land Transfer & Boundary Adjustment’, numbered 172/80,056, and dated June 2009 (22 sheets).” 16 U.S.C § 160a-1(a).
35. 16 U.S.C. § 160a-1(a) has not been amended since March 12, 2019.
36. Little House is the owner of real property, Parcel Identification Number 402-0010-01970, where Pines of Kabetogama is located, legally described as:

LOT 3 EXCEPT PART PLATTED AS COOKSONS PLAT ESSLINGERS
ADD ESSLINGERS HOMESITES AND EXCEPT 12/100 ACRE AT
NORTHWEST CORNER, SECTION 27, TOWNSHIP 69 NORTH, RANGE
21 WEST, ST. LOUIS COUNTY, MINNESOTA.

(the “Little House Property”).

37. The Little House Property was not included in the State’s donation of land to the federal government nor did the federal government acquire the Little House Property by other means.

38. From the Park's establishment in 1975 through June 2024, Voyageurs consistently excluded Lake Kabetogama riparian landowners, including the Little House Property, from the Park's boundaries and regulations applying to activities "within Park bounds."
39. From the enactment of the Commercial Use Authorization statute in 1998 through December 2024, Voyageurs did not require the majority of Lake Kabetogama riparian landowners to obtain Commercial Use Authorizations for freely exercising their riparian right to utilize the surface of Lake Kabetogama for water-based commercial activities.
40. During this time period, Voyageurs did regulate some activities on the various lakes in and around the Park through commercial use authorizations, 54 U.S.C. § 101925, but on a volunteer basis.
41. On or about December 6, 2021, Little House purchased Little House Property from the resort's prior owner-operator.
42. At the time of purchase, Little House was correctly informed by the prior owner-operator that a Commercial Use Authorization was not required for the resort's operation and water-based recreational activities.
43. On or about April 18, 2023, nearly two years after Little House purchased the Little House Property, Voyageurs staff contacted Little House and stated Little House needed to obtain a Commercial Use Authorization as a formality for boat rentals to confirm the boats are registered and Little House had proper insurance. No other conditions were attached to the initial Commercial Use Authorization and providing data was voluntary.
44. Upon information and belief, Voyageurs did not require any other Lake Kabetogama riparian landowners to obtain a Commercial Use Authorization for boat rentals in 2023.
45. Upon information and belief, Voyageurs staff consistently told other Lake Kabetogama

riparian landowners the Commercial Use Authorization was optional.

46. In or around December 2023, Voyageurs staff began communicating with Lake Kabetogama riparian landowners that changes would be coming to Commercial Use Authorization requirements. It appears that these policy changes were conducted internally without public notice or comment. The resulting policy changes strongly suggest that the authors of the policy revisions were predicated on a belief that resorts located outside the park could be treated as if their businesses operated entirely at the sufferance of the Park.
47. On or about June 14, 2024, Voyageurs completed the new terms and conditions attached to the Commercial Use Authorization.
48. On or about July 17 and July 18, 2024, Voyageurs staff held informational meetings regarding the new conditions to Commercial Use Authorizations and stated that Lake Kabetogama riparian landowners, including Little House, would be required to obtain a Commercial Use Authorization for all water-based activities of its customers utilizing the surface of Lake Kabetogama. Under this new proposed policy, permits would not be required for water-based activities conducted by persons staying in non-riparian resorts or cabins, nor would they be required for persons using rented or owned boats obtained from non-riparian vendors.
49. During the Voyageurs' informational meetings, Voyageurs staff stated that a decision has been made to recognize the Kabetogama lakeshore businesses as "in Park bounds."
50. On or about November 20, 2024, Voyageurs staff hosted another informational meeting to reiterate a decision was made to recognize the Kabetogama lakeshore businesses as "in Park bounds."
51. Upon information and belief, prior to 2024, large portions of privately-owned Lake

- Kabetogama shoreline were correctly treated as “out of Park bounds.”
52. Permitting for permanent docks in Lake Kabetogama is through the Minnesota Department of Natural Resources, not Voyageurs or another entity of the federal government.
 53. The policies described in this Complaint are the result of arbitrary and capricious decision making rushed at the end of the prior administration to confer unwarranted and unlawful authority on Park staff to control private businesses outside the park with no connection to protection of navigable waters or the Park. Little House and other similarly situated riparian landowners subject to the Park’s new mandate originally were given from December 2024 through February 28, 2025, to apply for a two-year Commercial Use Authorization. Voyageurs extended the deadline to apply to April 14, 2025.
 54. Upon information and belief, Voyageurs does not require boat rental and other commercial operators on Ash River and Crane Lake, which directly connect with Lake Kabetogama, to obtain Commercial Use Authorizations for water-based commercial activities and are considered “out of Park bounds.”
 55. Upon information and belief, Voyageurs does not require operators who do not own shoreland property but transport trailers and boats from their property to a Voyageurs-owned boat launch on Lake Kabetogama to obtain a Commercial Use Authorization for water-based commercial activities. Similarly, such use of the surface of Lake Kabetogama does not require a park pass, permit or entry authorization.
 56. There are public access points into Lake Kabetogama that are run by the Minnesota Department of Natural Resources and do not require a park pass, permit or entry authorization.
 57. In approximately 2024, the National Park Service has issued new, general conditions for

all commercial use authorizations. The general conditions are attached hereto as **Exhibit A**.

58. In approximately 2024, Voyageurs issued new, additional conditions specific to commercial use authorizations within Voyageurs National Park. The Voyageurs-specific conditions are attached hereto as **Exhibit B**.
59. The National Park Service's new, general conditions for all commercial use authorizations permits the Voyageurs superintendent unlawfully and arbitrarily to unilaterally revoke or suspend a commercial use authorization to outside the Park resorts for any length of time without recourse or compensation and permits Defendants to change all stipulations and conditions without written notice, and without compensation. These and the following policies were generated based upon the incorrect assumption that abutting riparian resorts are operating entirely at the sufferance of the Park, as if they were inside the Park concession resorts that had already been taken by eminent domain and thus operating at the sufferance of the Park.
60. The National Park Service's new, general conditions for all commercial use authorizations illegally and arbitrarily requires businesses to set prices or rates to the satisfaction of the Voyageurs Superintendent, authorizing the Superintendent to infringe on private business decisions.
61. Conditions of the Commercial Use Authorization arbitrarily require annual reporting about visitor use statistics, and employee data, reportable injury data, and gross receipts earned from the entire operation – not just from the Commercial Use activity permitted by Voyageurs.
62. A condition of the Commercial Use Authorization arbitrarily governs accounting, stating

that the holder is to maintain an accounting system under which its accounts can be readily identified within its system of accounts classification. This accounting system must be capable of providing the information required by this authorization. The holder grants the United States of America access to its books and records at any time for the purpose of determining compliance with the terms and conditions of this authorization.

63. A condition of the Commercial Use Authorization improperly governs employees' sick leave stating that the holder must comply with all provisions of Executive Order 13706 of September 30, 2016 (Establishing Paid Sick Leave for Federal Contractors) and its implementing regulations, including the applicable contract clause, codified at 29 C.F.R. part 13, all of which are incorporated by reference into this authorization as if fully set forth in this authorization.
64. A condition of the Commercial Use Authorization governs advertising stating that advertising specific pickup times or locations on a set schedule is prohibited.
65. A condition of the Commercial Use Authorization prohibits storage of vessels or any equipment within park boundaries other than during an active trip; despite the extension of docks being a fundamental riparian right and marinas and docks within Lake Kabetogama solely being regulated and permitted by the Minnesota Department of Natural Resources, not by the federal government.
66. A condition of the Commercial Use Authorization requires the holder to provide a list of any employees operating under this authorization along with any certifications or licenses required or requested by the Government. The employee list shall be updated or confirmed as accurate no less than once per year.
67. Upon information and belief, Park staff have communicated to some Lake Kabetogama

riparian landowners that the Commercial Use Authorization is not required if riparian landowners remove their boats from Lake Kabetogama in between rentals.

68. Voyageurs and National Park Service communication to Lake Kabetogama landowners shows that failure to apply for a Commercial Use Authorization by April 14, 2025, will prohibit Little House and other similarly situated entities from applying for or receiving a Commercial Use Authorization for two years.
69. Little House's business operations and income relies on its right and ability to utilize its riparian property and leverage its riparian property to produce income. Congress has not authorized the Park to impose this condition on outside the Park resorts, and it is completely contrary to the Congressional intent to foster and enhance private resorts.
70. In light of Voyageurs' new requirement and conditions, Little House contacted the Park for clarification on its questions presented in this lawsuit, but the Park failed to provide an adequate response.
71. In order to apply for a Commercial Use Authorization, Little House would be required to disclose the data to Defendants that Plaintiff argues Defendants have no right or legal basis to obtain and agree to the conditions that Plaintiff argues Defendants have unlawfully and arbitrarily appended to the Commercial Use Authorization.
72. There is no immediate judicial review of the Commercial Use Authorization scheme and conditions and no adequate alternative remedy other than bringing this lawsuit.
73. Little House is willing and able to file the application for a Commercial Use Authorization; however, Little House has serious concerns over filing the application and submitting themselves to the Park's jurisdiction and conditions without having the questions about Voyageurs' ability to regulate riparian landowners and enforce conditions resolved by the

Court.

74. Voyageurs and National Park Service communication to Lake Kabetogama landowners shows that persons or entities operating or engaging in activity deemed to be a “commercial use” by Voyageurs will result in criminal prosecution of the persons or entities. *United States v. Armstrong*, 186 F.3d 1055 (8th Cir. 1999).
75. Little House and other similarly situated entities are forced to choose between kowtowing to Defendants by submitting to the federal jurisdiction and giving Defendants unfettered access to their financial and employee data and agreeing to the Park’s ability to terminate its business operations and livelihood.
76. Defendants’ conduct results in immediate and irreparable harm to Little House and other similarly situated entities.

CLAIMS FOR RELIEF

Count I

(Against all Defendants)

Unconstitutional Taking and Interference with Riparian Rights

77. Plaintiff repeats and realleges the allegations set forth in the preceding paragraphs as if fully set forth herein.
78. In authorizing the establishment of Voyager’s National Park, Congress did not authorize, nor did it intend to authorize the taking of the right of landowners, persons and businesses located outside the Park, including riparian rights, to access Lake Kabetogama.
79. The value of Plaintiff’s property, including the land and its longstanding business is dependent upon the riparian and other associated rights to provide access to the lake for

itself and its customers. Plaintiff, and its predecessor businesses, have been, and remain committed to providing high quality services which support the environmental and scenic attributes of the Park. Conducting a high-quality business fulfilling those objectives, requires a significant investment in real estate, maintenance, and labor. Among other improper terms, the terms of the Commercial Use Authorization, illegally requires an applicant to cede to the Park supervisor and the Park the unilateral ability summarily to terminate access without the authority of statute, or regulation, and this requirement, not only undermines Plaintiff's property rights without compensation, but undermines the protection of the Park which the new policy as administered seeks to uphold.

80. This Complaint does not seek compensation for the unauthorized takings that the Park seeks to impose: to the contrary, it contends that Congress did not authorize the taking, and that there is no authorization for the taking, and that the Defendants' practices and purported policies need to be evaluated to avoid that unauthorized taking.
81. Landowners whose property abuts water has the right to use the entire surface for all suitable purposes in common with all riparian owners, both as a member of the public and as a riparian owner.
82. Riparian rights are generally described as the rights to use and enjoy the profits and advantages of the water, which encompass the free and open right to make commercial use of the water.
83. Riparian landowners have a specific property right and a vested interest in protecting and using that right. The riparian right "is property, and is valuable, and, though it must be enjoyed in due subjection to the rights of the public, it cannot be arbitrarily or capriciously destroyed or impaired. It is a right of which, when once vested, the owner can only be

deprived in accordance with established law, and if necessary that it be taken for the public good, upon due compensation.” *Yates v. City of Milwaukee*, 77 U.S. 497, 504 (1870).

84. While the federal government has authority over navigable waters, the authority is “limited to the control thereof for purposes of navigation... And while Congress, in the exercise of this power, may adopt, in its judgment, any means having some positive relation to the control of navigation and not otherwise inconsistent with the Constitution...it may not arbitrarily destroy or impair the rights of riparian owners by legislation which has no real or substantial relation to the control of navigation or appropriateness to that end.” *United States v. River Rouge Improvement Co.*, 269 U.S. 411, 419 (1926) (internal citations omitted).
85. Pursuant to the Takings Clause as applied by the Fifth Amendment of the United States Constitution, no person shall "be deprived of life, liberty, or property, without due process of law" by the federal government. U.S. CONST. amend. V. An important aspect of that due process is that the taking cannot be conducted unlawfully.
86. The Commercial Use Authorization scheme, as applied to Lake Kabetogama riparian landowners, unconstitutionally restricts and impairs the riparian rights of Little House and other similarly situated entities and their right of access to public waters.
87. Minnesota could not have ceded or donated private entities’ riparian rights without due process to those entities.
88. The Little House Property was not included in the State’s donation of land to the federal government nor did the federal government acquire the Little House Property by other means.
89. Neither the federal government nor the State of Minnesota provided due process to take

the riparian rights of Little House or its predecessors-in-interest.

90. The Commercial Use Authorization scheme is solely an economic control over access to Lake Kabetogama by a certain group of persons, rather than being related in any manner to navigation.
91. The general public, including Plaintiff, may utilize the surface of Lake Kabetogama without submitting themselves to Voyageurs' jurisdiction or requiring Voyageurs' permission to do so.
92. The Commercial Use Authorization is not reasonably related to navigation of Lake Kabetogama or other reasonable interests of the United States in operating the Park.
93. The conditions attached to the Commercial Use Authorization are not reasonably related to navigation of Lake Kabetogama or other reasonable interests of the United States in operating the Park.
94. Defendants lack jurisdiction to restrict Little House's riparian rights by compelling compliance with the Commercial Use Authorization scheme and conditions.
95. By requiring Little House to obtain a Commercial Use Authorization and including conditions authorizing suspension or revocation of the Authorization at the sole discretion of the Voyageurs' Superintendent and authorizing Defendants to unilaterally modify or add conditions without notice, Defendants have infringed on Little House's exercise of its riparian rights and seemingly grant themselves the ability to further restrict or completely prohibit the free exercise of those riparian rights without having ever obtained the jurisdiction to prevent Little House's exercise of its riparian rights.
96. Voyageurs' requirement that riparian landowners, like Little House, obtain a Commercial Use Authorization is an unlawful taking of their specific property right.

97. Voyageurs lacks jurisdiction to interfere with or destroy riparian rights on Lake Kabetogama.
98. This constitutional violation results in immediate and irreparable harm to Little House and other similarly situated entities.

Count II

(Against all Defendants)

Unlawful Rulemaking in Violation of the APA Under the Guise of Agency Guidance

99. Plaintiff repeats and realleges the allegations set forth in the preceding paragraphs as if fully set forth herein.
100. Under the Administrative Procedures Act, a rule “means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency.” 5 U.S.C. § 551(4).
101. The APA “empowers federal courts to ‘hold unlawful and set aside agency action, findings, and conclusions’ if they fail to conform with any of six specified standards.” *Marsh v. Or. Natural Res. Council*, 490 U.S. 360, 375 (1989) (quoting 5 U.S.C. § 706(2)).
102. A reviewing court may set aside agency action that has failed to observe those “procedure[s] required by law.” 5 U.S.C. § 706(2)(D).
103. Generally, agency guidance does not have the force or effect of law; however, whether a guidance document is a legislative rule is largely a legal question turning primarily on the text of the document. The question is whether the document’s statements are simply reminders of preexisting regulatory requirements or whether they create new regulatory obligations. See *Iowa League of Cities v. E.P.A.*, 711 F.3d 844, 867–68 (8th Cir. 2013),

enforced sub nom. *Iowa League of Cities v. Env't Prot. Agency*, No. 11-3412, 2021 WL 6102534 (8th Cir. Dec. 22, 2021).

104. The Commercial Use Authorization conditions are requirements created and enforced by the National Park Service that have the effect of law but have not been promulgated by the rulemaking procedures as required by the Administrative Procedure Act.
105. Defendants have not promulgated any regulations concerning the conditions required for all commercial use authorizations.
106. The Commercial Use Authorization scheme, utilized by Voyageurs and the National Park Service, is akin to legislative rulemaking as failure to abide by the specific rules and regulations only found in Voyageurs' or the National Park Service's policy and conditions will result in action taken against the party alleged to be operating a commercial enterprise without authorization.
107. Voyageurs and the National Park Service have set out their interpretation and implementation of 54 U.S.C. § 101925 and how it is applied to entities via its website, communication from staff, guidance documents, and the Commercial Use Authorization conditions, as depicted in Exhibit A and Exhibit B.
108. Defendants' statements, website, guidance documents, and conditions for the Commercial Use Authorizations are applied broadly to all applicants, not on a case-by-case basis.
109. Applying 54 U.S.C. § 101925 to Lake Kabetogama landowners and businesses is a new regulatory requirement for these specific landowners.
110. Defendants' statements, website, guidance documents, and conditions for the Commercial Use Authorizations create new regulatory requirements and obligations without any properly promulgated regulations.

111. On or about November 13, 2002, the Deputy Assistant Secretary, Fish and Wildlife and Parks submitted rulemaking regarding Commercial Use Authorizations for consideration and comment to the Federal Registrar. However, no rule was ever finalized.
112. Thirteen years after publishing the notice of proposed rulemaking on Commercial Use Authorizations, the Office of Inspector General reported that the Park service was managing Commercial Use Authorizations on a haphazard ad hoc and ad hoc basis. The OIG recommended that the Park expeditiously issue permanent guidance for managing Commercial Use Authorizations. The current management represents another example of that ad hoc management of CUA's by Voyager's National Park.
113. It appears that the changes in practices represent an attempt by the outgoing administration to extend dramatically arbitrary administration over small businesses in a manner that the new administration would be unlikely to approve.
114. Since 2002, no rule has been established in accordance with federal rulemaking procedures governing the National Park Service's Commercial Use Authorization permitting scheme or conditions.
115. No rule for Commercial Use Authorizations conditions is enshrined in the Code of Federal Regulations.
116. There are no specific findings from Defendants justifying the application of the Commercial Use Authorization conditions, as depicted in Exhibit A and Exhibit B, to Little House specifically.
117. The Commercial Use Authorization policy, scheme, and conditions, as depicted in Exhibit A and Exhibit B, are akin to inappropriate and procedurally defective rulemaking.
118. There is no basis to substantially justify Defendants' actions as applied to Plaintiff.

119. This violation of the APA results in immediate and irreparable harm to Little House and other similarly situated entities.

Count III

(Against all Defendants)

Arbitrary and Capricious Agency Decision

120. Plaintiff repeats and realleges the allegations set forth in the preceding paragraphs as if fully set forth herein.
121. The APA establishes a “basic presumption of judicial review [for] one ‘suffering legal wrong because of agency action.’” *Abbott Laboratories v. Gardner*, 387 U.S. 136, 140 (1967) (quoting § 702). That presumption can be rebutted by a showing that the relevant statute “preclude[s]” review, § 701(a)(1), or that the “agency action is committed to agency discretion by law,” § 701(a)(2).
122. The APA “sets forth the procedures by which federal agencies are accountable to the public and their actions subject to review by the courts.” *Franklin v. Massachusetts*, 505 U.S. 788, 796 (1992). It requires agencies to engage in “reasoned decisionmaking,” *Michigan v. EPA*, 576 U.S. 743, 750 (2015) (internal quotation marks omitted) and directs that agency actions be “set aside” if they are “arbitrary” or “capricious,” 5 U.S.C. § 706(2)(A).
123. An agency's decision is arbitrary and capricious if it “has relied on factors which Congress had not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007).

124. Voyageurs' and the National Park Service's Commercial Use Authorization requirement and/or conditions, as depicted in Exhibit A and Exhibit B, as applied to Lake Kabetogama, are *ad hoc* or *contra legem* agency decision-making.
125. For decades, Defendants have interpreted 16 U.S.C. § 160a-1(a) to mean that Little House, and other similarly situated Lake Kabetogama landowners, are outside of Park boundaries.
126. Beginning in 2024, Voyageurs has modified its interpretation of 16 U.S.C. § 160a-1(a) to include Little House, and other similarly situated Lake Kabetogama landowners, within Park boundaries.
127. Voyageurs has provided no explanation or rationale for its new interpretation of 16 U.S.C. § 160a-1(a).
128. Defendants are not entitled to deference for either the application of 54 U.S.C. § 101925 to Little House and other similarly situated landowners or the conditions attached to the Commercial Use Authorization because deference is unwarranted when there is reason to suspect that the agency's interpretation does not reflect the agency's fair and considered judgment on the matter in question, including when the agency's interpretation conflicts with a prior interpretation. See *Christopher v. SmithKline Beecham Corp.*, 567 U.S. 142, 155 (2012).
129. Voyageurs' new interpretation of 16 U.S.C. § 160a-1(a) is completely implausible as Little House and other similarly situated Lake Kabetogama landowners are not within the statutorily established boundary of Voyageurs.
130. For decades, Defendants have interpreted 54 U.S.C. § 101925 to not apply to Little House and other similarly situated Lake Kabetogama landowners.
131. The Commercial Use Authorization permitting scheme is only being applied to Lake

- Kabetogama riparian landowners, rather than users of Lake Kabetogama generally.
132. Voyageurs demand that Little House and other Lake Kabetogama landowners obtain Commercial Use Authorization to utilize the water's surface, while other operators who utilize public access points on Lake Kabetogama or access Lake Kabetogama via other connecting waterbodies are not faced with the same demands from Voyageurs, despite the same uses across operators, is arbitrary, capricious, and violates the Administrative Procedures Act.
 133. The general public may utilize the surface of Lake Kabetogama without submitting themselves to Voyageurs' jurisdiction or requiring Voyageurs' permission to do so.
 134. There is nothing distinct about Lake Kabetogama riparian landowners when comparing their use of the water to the general public's use or other operator's use.
 135. By solely targeting riparian landowners and omitting other operators and the general public from its Commercial Use Authorization requirement, Defendants are not protecting any specific resource under the jurisdiction of the Park.
 136. Defendants' conditions, as depicted in Exhibit A and Exhibit B, are arbitrary and capricious in violation of 5 U.S.C. § 706(2)(A).
 137. There is no basis in law to support Defendants' decision-making as to when a Commercial Use Authorization is required for use of Lake Kabetogama.
 138. There is no basis in law to support Defendants' decision-making as to who requires a Commercial Use Authorization to use Lake Kabetogama.
 139. There is no basis in law to support Defendants' decision-making or illegal rulemaking regarding the conditions, as depicted in Exhibit A and Exhibit B, attached to the Commercial Use Authorization.

140. There is no rational explanation, or any explanation, for Defendants' decision-making as to when a Commercial Use Authorization is required for use of Lake Kabetogama.
141. There is no rational explanation, or any explanation, for Defendants' decision-making as to who requires a Commercial Use Authorization to use Lake Kabetogama.
142. There is no rational explanation, or any explanation, for Defendants' decision-making or illegal rulemaking regarding the conditions, as depicted in Exhibit A and Exhibit B, attached to the Commercial Use Authorization.
143. Defendants' policy and decision-making, with regards to Commercial Use Authorization, results in immediate and irreparable harm to Little House and other similarly situated entities.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court:

- A. Declare Defendants' interpretation of Commercial Use Authorization as applied to Lake Kabetogama riparian landowners unconstitutional, in violation of the Fifth Amendment and illegal and invalid under the Administrative Procedures Act.
- B. Declare Defendants' conditions to Commercial Use Authorizations invalid and illegally in violation of the Administrative Procedures Act.
- C. Immediately enjoin Defendants from implementing Defendants' Commercial Use Authorization requirement and conditions as applied to Little House Resorts, LLC and other riparian landowners on Lake Kabetogama.
- D. Preliminarily, then permanently, enjoin Defendants' implementation Commercial Use Authorization requirements and conditions as applied to Little House Resorts, LLC, and other riparian landowners on Lake Kabetogama.

- E. Reasonable costs and fees, including attorney fees, pursuant to 5 U.S.C. § 701, et. seq. or 28 U.S.C. § 2412.
- F. Grant such other relief as the Court deems just and proper.

Dated: September 4, 2025

Respectfully submitted,

/s/ Hannah J. Schacherl Jansen
Hannah J. Schacherl Jansen, #0403739
John C. Kolb, #0268938
1015 West St. Germain Street, Suite 300
P.O. Box 1497
St. Cloud, MN 56302
(320) 251-6700
(320) 656-3500 fax
Hschacherl@RinkeNoonan.com
Jkolb@RinkeNoonan.com

ATTORNEYS FOR PLAINTIFF