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# Guest commentary: This is why I'm suing the federal government over the minimum wage hike

Owner of Arkansas River Adventures says wage structure makes no sense for outfitters





Duke Bradford

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By **DUKE BRADFORD** | Guest Columnist

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When I was growing up in Nebraska, I visited Colorado on a family vacation and was hooked on the state's natural beauty and abundant outdoor opportunities. I would later make Colorado my home, where I would make my living in the great outdoors.

I founded Arkansas River Adventures (AVA) in Buena Vista in 1998. For nearly a quarter century, AVA's experienced wilderness guides have been leading guests in rafting and fishing adventures, zip line tours and other recreational opportunities around the Arkansas River Valley. I'm proud of the business we've built and the jobs we've created. And I'm always delighted to see the joy and excitement in the faces of the families and kids who undertake these adventures. I see in them the same wonder that moved me



But now our small business is threatened by [President Biden's order requiring federal contractors to pay a \\$15 minimum wage](#), which will unquestionably drive up our costs and force us to scale back our outdoor recreational offerings. Here's why I'm fighting back in court to stop this order.

Outdoor outfitters, who operate on federal lands, are included in this order, which stretches the meaning of "federal contractor" beyond all meaning. After all, outfitters like mine aren't paid to provide services to the federal government, as we typically think of contracting. Instead, we hold government-issued special use permits that allow us to conduct our activities on federal lands. So in reality, it's the opposite of contracting: as permit holders, we pay the government for the privilege of working on federal lands.

It also helps to understand that this business isn't a typical 40-hour-a-week enterprise. First, we're a seasonal enterprise, with most of our bookings between May and September. Second, there's no time clock in the woods; since a rafting and camping trip might extend over several days, we don't observe a 9-to-5 work schedule. We pay our experienced guides a flat fee for a trip, rather than hourly wages.

As it happens, guide pay typically amounts to more than \$15 per hour. But if forced to adopt an hourly wage structure, with time-and-a-half overtime, we would have to substantially raise costs for guided trips, as well as cut back on multi-day adventures. The math simply doesn't work: on a three-day trip (72 hours), a guide would be pushed into overtime after the 40th hour.

Since the work is seasonal, guides frequently work more than 40 hours per week in-season when demand is higher, sometimes scheduling back-to-back trips during the busy months. In the off-season, many may choose to migrate to other places to take on different jobs or live off the banked savings from their hard work in the previous months. If you work in a traditional office setting, this kind of work arrangement may be baffling. But for us, it's part of the outdoor way of life, which places a premium on freedom and flexibility. Most guides I've known would sooner die than spend their time sitting in a cubicle sending e-mails and enduring a marathon series of Zoom meetings.

A rigid, one-size-fits-all wage rule simply doesn't work for every business model. In their zeal to impose a top-down minimum wage standard, the



We had hoped to negotiate an exemption from wage requirement for our industry, as we had received in the past, but no such exemption has been forthcoming. So, we're suing in federal court, along with the Colorado River Outfitters Association, which represents the outdoor adventure industry. We're represented by Pacific Legal Foundation, a nonprofit legal organization that defends the individual liberty and constitutional rights of all Americans.

I don't relish the task of suing the federal government. I'd much rather devote my time and energy to building my business and serving our guests. But recognizing the potential impact of the Biden administration's order, I realized that someone needed to step up to challenge a rule that could devastate our industry. A legal victory in our case will go a long way toward ensuring that outdoor opportunities remain affordable and accessible for Americans for years to come.

*Duke Bradford is the founder and owner of Arkansas Valley Adventures, and is a plaintiff in the lawsuit Duke Bradford, et al. v. Secretary Martin J. Walsh, et al.*

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## Duke Bradford

Duke Bradford is the founder and owner of Arkansas Valley Adventures

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