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FEDERAL LAND

Little Progress Made in Improving Oversight of Concessioners

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Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to summarize our work on the federal government's policies and practices for managing recreation concessioners on federal land. Over the past 3 years, I have appeared before this Subcommittee on several occasions to present our findings on various aspects of this issue. Today I would like to summarize these findings and the agencies' progress in addressing them, as well as how the need for effective management of concessioners is a key component of a much broader issue--that is, sustaining the nation's natural resources for future generations.

When we first appeared before this Subcommittee, we testified that the data needed for managing concessioners were incomplete, the agencies could not ensure that they were receiving a fair return from concessioners for the use of federal land, and some policies that would improve the agencies' management of concessioners had yet to be developed or revised.¹ Today we are here to tell you that very little has changed over the past 3 years. In short Mr. Chairman, the agencies are still not doing a good job of managing concessioners.

Managing concessioners is important because, in many cases, concessioners are the primary operators in national recreation areas that contain some of our greatest natural treasures. However, deterioration in these areas is widespread, and the existing infrastructure--approaching \$200 billion in value--is in a growing state of disrepair. The cost of deferred maintenance in our national parks and forests alone is nearly \$3 billion. Concessioners play a vital role in enhancing the public's enjoyment of our national parks, forests, and other recreation areas. At the same time, the agencies managing concessioners have an obligation to ensure that these concessioners provide healthy and safe services to the public, that the government receives a fair return for the use of its land, and that these natural resources are adequately preserved and protected so they can be enjoyed not only today but also in the future.

I would now like to discuss in greater detail each of the areas in which federal agencies still need to improve their management of concessioners.

DATA ON CONCESSIONERS
ARE NOT COMPLETE

Federal agencies still lack the data needed to effectively manage concessioners. In 1991, we reported that none of the six

¹These reports and other pertinent GAO reports and testimonies are listed in attachment I.

federal agencies managing recreation concessioners maintained complete data on the total number of concessioners, the length and type of contracts, the gross revenues generated, or the fees paid to the government.² In addition, the data that were available were not centrally maintained. In order to collect what we considered to be very basic inventory data, we had to ask each agency to poll its field offices. From this survey, we reported that there were about 9,000 concession agreements.

During our testimony before this Subcommittee in 1991, we also pointed out that, to adequately manage the thousands of concessioners operating on federal recreation lands, the agencies needed reliable data. In our opinion, without such data, management of concessioners would be based on hunch and instinct rather than on fact. In response to our testimony, the agencies formed a task force on concessions. The task force acknowledged, in its April 1992 report, that major improvements were needed to upgrade information resources to improve the overall management of concessioners.³ To date, however, the agencies have taken no actions except to develop initial plans for upgrading information resources.

In reviews since 1991, we have identified several instances in which a lack of data hampered the agencies in their management of concessioners. For example, our recently issued report on Forest Service ski area fees noted that the Forest Service did not have sufficient data to reliably assess what effects a proposed alternative fee system would have on future ski area fees and whether this system would represent the best interest of the taxpayer.

In an ongoing effort for this Subcommittee, we found that a lack of data had also hampered the Park Service in its management of concessioners. We found that the Park Service had virtually no information on about 1,200 concessioners operating under commercial use licenses because it has no requirements for annual overall performance reviews, health and safety inspections, or price reviews. Without such information, the Park Service cannot ensure that the visiting public receives healthy and safe services from these concessioners at a reasonable price.

²These agencies include the National Park Service, Bureau of Land Management, Bureau of Reclamation, and U.S. Fish and Wildlife Service within the Department of the Interior; the U.S. Forest Service within the Department of Agriculture; and the U.S. Army Corps of Engineers within the Department of Defense.

³Report of the Concessions Management Task Force Regarding Commercial Recreational Activities on Federal Lands, U.S. Department of the Interior, April 17, 1992.

AGENCIES ARE NOT OBTAINING A
FAIR RETURN FROM CONCESSIONERS

In 1991, we testified that the fees paid by concessioners appeared low. On the basis of available financial data, we reported that concessioners generated about \$1.4 billion in gross revenues and paid the government about \$35 million in concession fees--an average return to the government of about 2 percent. Today, federal agencies managing concessioners remain unable to adequately demonstrate or explain how the fees in any one concession agreement represent a fair return to the government.

The system that the Forest Service uses to calculate ski fees does not ensure that the federal government receives a fair return for the use of its land. In 1991, ski area operators on Forest Service land generated \$737 million in gross revenues and paid the government \$13.5 million in fees--a return of about 2 percent. Legislation was proposed during the 102nd Congress to replace the existing fee system with a new one. While this new system, designed by the ski industry and supported by the Forest Service, would have been simpler to implement, it also did not ensure that the government would receive a fair return. The proposed legislation was not enacted. Currently, the Forest Service is studying another fee system that, it says, will provide for a fair return to the government. However, no date has been established for implementing the new system.

In 1991 and 1992, we testified that it was difficult to determine whether the federal government was receiving a fair return from Park Service concessioners, in part because the Park Service was receiving various types of non-fee compensation from concessioners. While the Park Service has made an effort to identify non-fee compensation in some of its more recent contracts, it has yet to develop the policy guidance needed to manage non-fee compensation.

Non-fee compensation generally involves the concessioner performing repairs, maintenance, improvements, or construction to government-owned facilities--either in lieu of or in addition to paying a franchise fee. The Park Service has a detailed system for calculating franchise fees, but, to date, it has not developed a similar system to determine what types of non-fee compensation are appropriate and how they should be valued. In addition, the Park Service has no guidance on how non-fee compensation should be tracked. For example, at Yellowstone, the major concessioner is required by the contract to, among other things, spend about 20 percent of the previous year's gross revenues for maintenance and capital improvements to upgrade park facilities. However, Interior's Inspector General stated in a 1990 report that the concessioner was using part of these funds to purchase revenue-producing items, such as vending machines and snowmobiles to rent

to visitors, rather than for maintenance or capital improvements.⁴ Without policy guidance on how to track non-fee compensation, the Park Service cannot ensure that the government is receiving a fair return.

The Park Service's concessioner contracts at Mt. Rushmore and Yosemite also provide for non-fee compensation. The Mt. Rushmore concession contract, which became effective in January 1993, requires the concessioner to pay a 5-percent franchise fee and identifies non-fee compensation valued at about 20-percent of gross revenues. This non-fee compensation includes the repair, maintenance and improvement of government-owned facilities. In the new proposed Yosemite contract--the largest concession contract in the federal government--the entire return to the government consists of non-fee compensation. Instead of paying a franchise fee, the new concessioner will contribute to the park in a variety of ways, including participating in a capital improvement fund and a repair and maintenance fund, both of which are intended to benefit government-owned facilities. The Park Service estimates that it will receive about a 20-percent return from this contract.

In 1991, we testified that the Bureau of Reclamation did not seek any return when it entered into two land-use agreements to lease 760 acres of federal land for 75 years to the city of Scottsdale, Arizona. The city of Scottsdale, in turn, leased these lands to private commercial operators that developed two major recreation facilities--a combination equestrian center and theme park as well as a golf complex that includes both a municipal course and a championship course. The city of Scottsdale leased these lands to the private commercial operators in exchange for a percentage of their gross revenues. These operators generated about \$24 million in gross revenues from 1988 through 1990, and the city was entitled to receive about \$1.5 million in compensation. Neither the Bureau of Reclamation nor the federal government will receive any fee or compensation during the 75 years covered by these agreements. Although Bureau headquarters officials were unable to tell us the extent to which the agency has entered into such agreements, we identified three other similar agreements in Arizona that the Bureau had approved. We recommended that no future agreements be negotiated or approved until the Bureau of Reclamation establishes policies and guidance on (1) when and under what conditions the government should be compensated for the use of Bureau lands, (2) what types of recreation are appropriate for Bureau lands, and (3) limitations to public use of the lands and fees charged the public. In response to our July 1991 report, the Bureau stated that it concurred with our recommendations and would include them in its revised policy guidance. The Bureau, however,

⁴Department of the Interior's Office of Inspector General. Followup Review of Concessions Management: National Park Service (Report No. 90-62, Apr. 16, 1990).

is still in the process of revising this guidance. As a result, because there is no new guidance, the government's interests are still not being protected.

SOME CONCESSION POLICIES
NEED REVISION

Our work for this Subcommittee has shown the need for developing more effective concession policies. Some concession policies are simply antiquated and need revision. Still others, which could guide the agencies toward more effective concession management, have yet to be developed. Revising outdated policies and developing new ones would give the agencies a better opportunity both to promote competition in the awarding of contracts and to achieve a fair return to the government.

Since 1975, we have concluded that possessory interest--the right of concessioners to be compensated for improvements they make on federal land--and the preferential right of contract renewal were not in the government's best interest. The Park Service is trying to reduce possessory interest by setting requirements in some recent contracts to write off part or all of the concessioner's possessory interest during the term of the contract. Once the possessory interest is written off, ownership of the concession-owned improvements will eventually revert to the government.

The preferential right of contract renewal grants existing concessioners the right to match any better offer for a new contract. As a result, it puts a chilling effect on attempts to add more competition to the contract award process. The Park Service is currently trying to redefine what type of preferential right, if any, is appropriate for existing concessioners.

The Department of the Interior has tried to address these issues administratively. However, the changes that it has implemented have proved cumbersome and have led to only minor changes in policy. Possessory interest and preferential right of renewal remain part of the Concessions Policy Act of 1965. Therefore, a permanent solution to these problems can only come through legislation.

As previously stated, policies remain to be developed in the areas of Park Service non-fee compensation and the terms and conditions of Bureau of Reclamation's land-use agreements. Developing policies and guidelines in these areas will not only help provide for a fair return, but will also create an opportunity for improving the management of these agencies' recreation areas.

OTHER ISSUES FACE RECREATION
RESOURCE MANAGERS

Now I would like to talk more broadly about issues facing our nation's natural resources. Our December 1992 Transition Series report to the new Congress and administration on Natural Resources Management Issues states that the management of these resources is at a crossroads. Significant shortfalls in staffing and funding are requiring the six agencies primarily responsible for managing and protecting the nation's natural resources to compromise existing maintenance and reconstruction standards and to make trade-offs among important yet competing work priorities. One alternative to further compromises in services or maintenance standards is to obtain a better return for the sale or use of natural resources on federal land. However, our work for this Subcommittee indicates that recreation concessioners on federal land may not be paying their fair share of the cost to stop the decline in the condition of the nation's recreation resources and related infrastructure.

Although annual appropriations for managing natural resources have increased in recent years, these increases have not been large enough to make a dent in the needs for repairing the infrastructure and increasing staff. Moreover, budgetary constraints will require substantial cuts to discretionary spending in future fiscal years and will not allow funding for new or deferred needs. As a result, the Congress and administration now face a difficult choice: they must find new sources of funding for the agencies responsible for managing natural resources, find ways for these agencies to operate more efficiently, or they must make further cutbacks in the agencies' services or standards for maintaining facilities and land.

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Mr. Chairman, when I first appeared before this Subcommittee in 1991 to discuss concessioner issues, I reported that a lack of data and inconsistent policies had hampered the agencies' decision-making and that it was questionable whether the federal government was receiving a fair return for the use of its land. Our subsequent reports and testimonies have echoed this theme. I wish I could bring you a different message today, but I cannot. The agencies still do not have sufficient data to adequately manage concession operations, they still cannot demonstrate that they are receiving a fair return, and they still have to revise or develop some policies that would improve their management of concessioners. Over the past 3 years, we have made eight specific recommendations to improve the agencies' management of concessioners. With few exceptions, these recommendations have not been implemented. The federal government has a huge investment in its recreation resources, and we believe that the agencies need to improve their management of concessioners to ensure that the government is fairly

compensated for the use of its land, the visiting public is provided with healthy and safe services, and the nation's recreation resources are adequately protected so they will be available for future generations.

Mr. Chairman, this concludes my statement. We will be happy to answer any questions that you or other Members of the Subcommittee may have.

PERTINENT GAO
REPORTS AND TESTIMONIES

Forest Service: Little Assurance That Fair Market Value Fees Are Collected From Ski Areas (GAO/RCED-93-107, Apr. 16, 1993).

Natural Resources Management Issues (GAO/OCG-93-17TR, Dec. 1992).

National Park Service: Policies and Practices for Determining Concessioners' Building Use Fees (GAO/T-RCED-92-66, May 21, 1992).

Federal Lands: Oversight of Long-Term Concessioners (GAO/RCED-92-128BR, Mar. 20, 1992).

Bureau of Reclamation: Land-Use Agreements With the City of Scottsdale, Arizona (GAO/T-RCED-91-74, July 11, 1991).

Bureau of Reclamation: Federal Interests Not Adequately Protected in Land-Use Agreements (GAO/RCED-91-174, July 11, 1991).

Federal Lands: Improvements Needed in Managing Concessioners (GAO/RCED-91-163, June 11, 1991).

Forest Service: Difficult Choices Face the Future of the Recreation Program (GAO/RCED-91-115, Apr. 15, 1991).

Recreation Concessioners Operating on Federal Lands (GAO/T-RCED-91-16, Mar. 21, 1991).

Changes Needed in the Forest Service's Recreation Program (GAO/T-RCED-91-10, Feb. 27, 1991).

Parks and Recreation: Resource Limitations Affect Condition of Forest Service Recreation Sites (GAO/RCED-91-48, Jan. 15, 1991).

National Forests: Special Recreation Areas Not Meeting Established Objectives (GAO/RCED-90-27, Feb. 5, 1990).

Management of Public Lands by the Bureau of Land Management and the U.S. Forest Service (GAO/T-RCED-90-24, Feb. 6, 1990).

Parks and Recreation: Maintenance and Reconstruction Backlog on National Forest Trails (GAO/RCED-89-182, Sept. 22, 1989).

Parks and Recreation: Problems with Fee System for Resorts Operating on Forest Service Lands (GAO/RCED-88-94, May 16, 1988).

Parks and Recreation: Interior Did Not Comply With Legal Requirements for the Outdoors Commission (GAO/RCED-88-65, Mar. 25, 1988).

Parks and Recreation: Park Service Managers Report Shortfalls in Maintenance Funding (GAO/RCED-88-91BR, Mar. 21, 1988).

Maintenance Needs of the National Park Service (GAO/T-RCED-88-27, Mar. 23, 1988).

Parks and Recreation: Limited Progress Made in Documenting and Mitigating Threats to the Parks (GAO/RCED-87-36, Feb. 9, 1987).

Parks and Recreation: Recreational Fee Authorizations, Prohibitions, and Limitations (GAO/RCED-86-149, May 8, 1986).

Corps of Engineer's and Bureau of Reclamation's Recreation and Construction Backlogs (RCED-84-54, Nov. 25, 1984).

The National Park Service Has Improved Facilities at 12 Park Service Areas (RCED-83-65, Dec. 17, 1983).

Information Regarding U.S. Army Corps of Engineers' Management of Recreation Areas (RCED-83-63, Dec. 15, 1983).

National Parks' Health and Safety Problems Given Priority: Cost Estimates and Safety Management Could Be Improved (RCED-83-59, Apr. 25, 1983).

Increasing Entrance Fees -- National Park Service (RCED-82-84, Aug. 4, 1982).

Facilities in Many National Parks and Forests Do Not Meet Health and Safety Standards (CED-80-115, Oct. 10, 1980).

Better Management of National Park Concessions Can Improve Services Provided to the Public (CED-80-102, July 31, 1980).

Concession Operations in the National Parks -- Improvements Needed in Administration (RED-76-1, July 21, 1975).

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