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Testimony



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RECREATION CONCESSIONERS
OPERATING ON FEDERAL LANDS

Statement of
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Before the
Subcommittee on Environment, Energy and Natural Resources
Committee on Government Operations
House of Representatives



Mr. Chairman and Members of the Subcommittee,

I am pleased to discuss the issue of recreation concessions on federal lands and, in particular, the results of our work to date on several specific questions you asked regarding concession operations. Before I get into the specifics about our current work, I would like to highlight the principal concerns we have raised the past several years in reports and testimonies on federal recreation activities.

Over the past 50 years, billions have been spent by the federal government to develop the nation's vast array of recreational resources. For almost as long, concerns have been raised about how these resources have been managed. These concerns focused on such issues as deterioration of the resources and the spiralling costs to maintain them; the quality and types of services being provided to the public by concession operators; the fairness of the charges to the public for these services; the extent of profits being made by the larger concession operators; and the fees paid to the government by these operators.

Since 1975, we have reported on many of these concerns and made recommendations to address them.¹ In reports issued in 1975 and again in 1980, we cited problems in how the Park Service monitors its concessioners; noted that health and safety problems were prevalent in the national parks; concluded that possessory interest--the right to be compensated for improvements on federal lands--and preferential right of contract renewal were not in the government's best interest; and determined that the concession fees paid to the government were too low.

¹Attachment I lists pertinent GAO and Department of the Interior Inspector General reports and testimonies.

The Department of the Interior's Inspector General has also reported on many of these issues. In 1986 and 1990, the Inspector General said that the Park Service needed to make improvements in how it (1) determines and establishes concession fees, (2) implements internal controls over concession contracts, and (3) awards and renews concession contracts.

While the federal investment to develop recreation resources has been sizeable, we have reported that many of these resources are now deteriorating and large amounts of funding will be needed to maintain and reconstruct them. In 1988 we reported that the Park Service had a deferred maintenance funding shortfall of about \$1.9 billion. Similarly, we recently testified that the Forest Service's maintenance and reconstruction backlog of its recreational resources now totals almost \$650 million. Because of this backlog, health and safety hazards exist as do unrepaired resources and damages from vandalism. Also, the backlog means that some special recreation areas are not being developed in accordance with planned objectives. The ultimate result of these backlogs, if not corrected, will be the loss of the recreational resources.

Solving the problems associated with maintaining and reconstructing the nation's recreational resources as well as managing concession operations will be difficult and will only come about through serious and deliberate debate. We believe the time has come to start that debate in order to answer these questions: Where will the funding come from to maintain and preserve these resources? How should concession contracts be awarded in the future? What would be a fair return to the federal government?

CURRENT WORK ON CONCESSION OPERATIONS

I would now like to focus my remarks on our ongoing concessions work. Specifically, we addressed three simple questions--what are the laws and policies guiding concession

operations, what are the numbers and types of concessions being operated, and how much in fees are concessioners paying the federal government?

I will tell you today that the answers to these questions are far from simple because no one single law authorizes concession operations and no agency maintains a complete data base to identify the number and types of concession agreements. Additionally, total compensation to the federal government for the use of its recreational resources cannot be calculated because of incomplete financial data and non-fee considerations, that are not recorded.

Our review involves federal recreation resources managed by six agencies: the Park Service, Bureau of Land Management, Fish and Wildlife Service, and Bureau of Reclamation within the Department of the Interior; the Forest Service within the Department of Agriculture; and the Army Corps of Engineers within the Department of Defense. Most of the visitor accommodations and services are provided by private entrepreneurs under concession agreements authorized by these agencies. Concession-operated services include overnight lodging; restaurants and snack bars; souvenir shops; marinas; ski lifts; sightseeing tours; and guided hunting, fishing, and rafting trips.

CONCESSION LAWS AND POLICIES

No one single law authorizes concession operations for all six agencies. Rather, the agencies identified 11 different laws that affect concession operations, many of which are agency-specific.

With the exception of the Concessions Policy Act of 1965, which prescribes Park Service policy for several key concession agreement terms and conditions, the laws allow the agencies wide discretion in establishing concession policies. As a result, the

six agencies have developed policies that differ greatly and there is little consistency among them regarding the types of concession agreements, terms of the agreements, or the fees associated with these agreements.

For example, under the Concessions Policy Act of 1965, concessioners have the right to be compensated for improvements they construct on federal lands. This right, called "possessory interest," is unique to the Park Service.

The 1965 Act also grants existing Park Service concessioners who perform satisfactorily a preferential right of renewal when their agreements expire. Similarly, the Bureau of Land Management and Bureau of Reclamation grant a preferential right of renewal. However, this right was established in both bureaus by policy, not by legislation. The Corps of Engineers, Forest Service, and Fish and Wildlife Service grant no such preferential right.

Policies also vary for other terms of concession agreements. For example, the Park Service, Bureau of Land Management, Bureau of Reclamation, and Fish and Wildlife Service allow their field office managers to negotiate nearly all the terms of concession agreements, including length of agreement, types of service provided, rates charged to the public, and fee or non-fee compensation paid to the federal government. Generally, the Forest Service and the Corps of Engineers allow their field office managers to negotiate only the length of agreements.

NUMBER AND TYPES OF AGREEMENTS

The total number of concession agreements is not known or documented by any of the six agencies. Only the Park Service maintains a centralized data base on concession agreements; however, its information is not complete. Because data were not

available, we worked with the headquarters staff of each agency to develop an inventory of concession agreements.

At our request, the six agencies asked their field offices to report the number of concession agreements in effect in calendar year 1989, as well as each agreement's type, length, expiration date, gross revenues, and fee paid to the federal government. Based on the information provided by the agencies' field offices, over 9,000 concession agreements were identified.

Our analysis of the data showed that the agencies have no common definitions for concession agreements. Therefore, we grouped them into three categories: short-term agreements, long-term agreements, and land management leases.

Short-term agreements (5 years or less) are for services requiring little or no investment in facilities. Examples include Bureau of Land Management permits for hiking outfitters and Forest Service permits for hunting guides.

Long-term agreements (5 to 50 years) are for services generally requiring large investments in facilities. Examples include Park Service contracts for lodges and Corps of Engineers contracts for marinas.

Land management leases (20 to 50 years) are agreements between federal agencies and nonfederal public entities. Land management leases grant the lessees authority to use the land, including subleasing with third parties for concession operations. An example of a land management lease is the agreement between the Bureau of Reclamation and the City of Scottsdale, Arizona, which led to the development of the Tournament Players Golf Club at Scottsdale.

Using the information provided by the agencies, we identified about 6,000 short-term agreements, 2,000 long-term agreements, and 1,000 land management leases. The Park Service, Forest Service, and Bureau of Land Management account for about 80 percent of all concession agreements. (Attachment II provides the number of concession agreements by each agency.)

RETURN TO THE GOVERNMENT

We cannot tell you the total amount of compensation the federal government received for the use of its recreational resources because either the data are incomplete or the federal government sometimes receives non-fee compensation, such as capital improvements or maintenance of government facilities in lieu of fees. These non-fee compensations are generally not reported.

Complete financial data were available for only about 60 percent of the 9,000 concession agreements reported by the agencies. For the remaining 40 percent of the agreements, the financial data were either not required by the agency or, if required, not reported by the concessioners.

From the available financial data, we estimated that, in calendar year 1989, the six agencies received about \$32 million in fees from gross concession revenues of \$1.5 billion--an average return to the government of about 2 percent. The average agency rate of return ranged from a low of 1.8 percent to a high of 4.0 percent. Park Service and Forest Service concession operations accounted for about 90 percent of the gross revenues and the fees paid to the government. (Attachment III provides details by agency on gross receipts and concession fees. Attachment IV shows the average rate of return by agency based on available financial data.)

Legislation directing the agencies to seek compensation from concessioners also differs. For example, under the National Forest Ski Area Act, the Service is directed to obtain a fee based on fair market value. In contrast, Fish and Wildlife Service legislation is not specific and states that the agency may charge concessioners a reasonable fee for the use of its resources. The Corps of Engineers and the Bureau of Reclamation legislation is silent regarding compensation to the government.

Because the laws do not specify how fees to the government should be calculated, the agencies have developed their own approaches, which vary greatly. They range from sophisticated formulas using extensive financial data to relatively simple fee negotiations between the agency and the concessioner. For example, the Park Service uses Dunn and Bradstreet industry averages to calculate fees for long-term agreements. Under this approach, if a concessioner operates a lodge on Park Service land, the Park Service analyzes nationwide financial data from Dunn and Bradstreet on the revenues and profits for the lodging industry to calculate the fee. On the other hand, the Fish and Wildlife Service simply negotiates a fee that it considers to represent a reasonable return to the federal government with its concessioners operating under long-term agreements.

Our analysis of reported fee data also shows that these various fee approaches result in different fees being paid by concessioners operating similar activities. For example, short-term outfitters and guides operating on Forest Service lands are charged a fee of 3 percent of their gross revenues, which, in calendar year 1989, resulted in fees ranging from \$16 to \$64,000. In contrast, short-term outfitters and guides operating on Park Service lands are not charged a fee based on gross revenues but a minimum flat fee of \$50, which is based on the costs to administer the agreement. Because the fees are not based on gross revenues, the Park Service does not require these short-term outfitters and

guides to report gross revenues which means the Park Service does not know the volume of revenues which these outfitters and guides generate. Without gross revenue data the Park Service does not know whether any of these short-term concessioners are generating the volume of revenues which would justify higher fees.

Fees are not the only compensation the federal government receives under the terms of the agreements. Park Service field office managers sometimes offset fees in return for other forms of compensation provided by concessioners. These other forms of compensation, or non-fee considerations, may include capital improvements or maintenance of government-owned facilities used by the concessioners.

For example, at Yellowstone National Park, the major concessioner is required by the contract to spend 22 percent of the previous year's gross revenues for maintenance and capital improvements to upgrade park facilities. However, the Department of the Interior's Inspector General stated in a 1990 report that the concessioner was dedicating part of this 22 percent to revenue-producing items such as vending machines and snowmobiles rather than to maintenance or capital improvements.

Park Service field office managers stated that they prefer non-fee compensation arrangements because the benefits remain in the park, whereas fees are normally required to be returned to the U.S. Treasury's general fund. While these non-fee considerations are contained in individual concession agreements, they are generally not reported to Park Service headquarters. As a result, the extent of such considerations and, therefore, their impact on the total return to the government is not known.

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In summary, I cannot provide you with straightforward answers to your questions asking for simple baseline information about concession agreements. I cannot answer these questions because the agencies have not done a particularly good job of managing their concession programs. No agency is maintaining a data base that provides complete information on the number and types of concession agreements, terms of the agreements, or financial data.

In order to more effectively manage their concession programs, the responsible agencies need to develop and analyze complete data on their concession agreements, including financial data and the financial worth of non-fee compensations. With such data both the agencies and the Congress would have the information needed to determine whether more consistency and coordination among agencies on concession agreements is needed and whether the federal government is obtaining a fair return for the use of its recreational resources. Our report, which we expect to issue in late spring 1991, will provide recommendations to the agencies to address the shortcomings we found.

In closing, I would like to bring the discussion back to the overall debate on the future of the nation's recreational resources, which I believe has been started here today. Many concerns have been expressed over the years about the condition of these recreational resources and the federal government's management of concession operations. The results of our current work, which I have described today, have added to the list.

The Secretary of the Interior has also expressed his concerns and directed the Park Service to modify its concessions policies. In a July 1990 memorandum, the Secretary directed the Park Service to, among other things, set concessioner fees and other returns to the government so that they are approximately equal to the average fees paid by private companies in applicable industries; modify the preferential right of renewal to make concession contracts more

competitive; modify possessory interest so that, at a minimum, no possessory interest is associated with improvements made for non-fee considerations; and require that contracts for more than 5 years be approved by the Park Service Director.

The debate must continue on these concerns so that our recreational resources are not only available to the American people today but are also preserved for future generations.

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

RELATED REPORTS AND TESTIMONY

U.S. General Accounting Office

Testimony: Changes Needed in the Forest Service's Recreation Program GAO/T-RCED-91-10, February 27, 1991

Parks and Recreation: Resources Limitations Affect Condition of Forest Service Recreation Sites. GAO/RCED-91-48, January 1991.

National Forests: Special Recreation Areas Not Meeting Established Objectives. GAO/RCED-90-27, February 1990.

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

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

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

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

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

Testimony: Maintenance Needs of the National Park Service GAO/T-RCED-88-27, March 23, 1988.

Corps of Engineer's and Bureau of Reclamation's Recreation and Construction Backlogs. RCED-84-54, November 1984.

The National Park Service Has Improved Facilities at 12 Park Service Areas. RCED-83-65, December 1983.

Information Regarding U.S. Army Corps of Engineer's Management of Recreation Areas. RCED-83-63, December 1983.

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

Increasing Entrance Fees -- National Park Service. RCED-82-84, August 1982.

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

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

U.S. Department of Interior

Office of Inspector General. Followup Review of Concessions Management: National Park Service. Report No. 90-62, April 1990.

National Park Service. Report of the Task Force on National Park Service Concessions. April 9, 1990.

Office of Inspector General. Audit of Concessions Management: National Park Service. March 1986.

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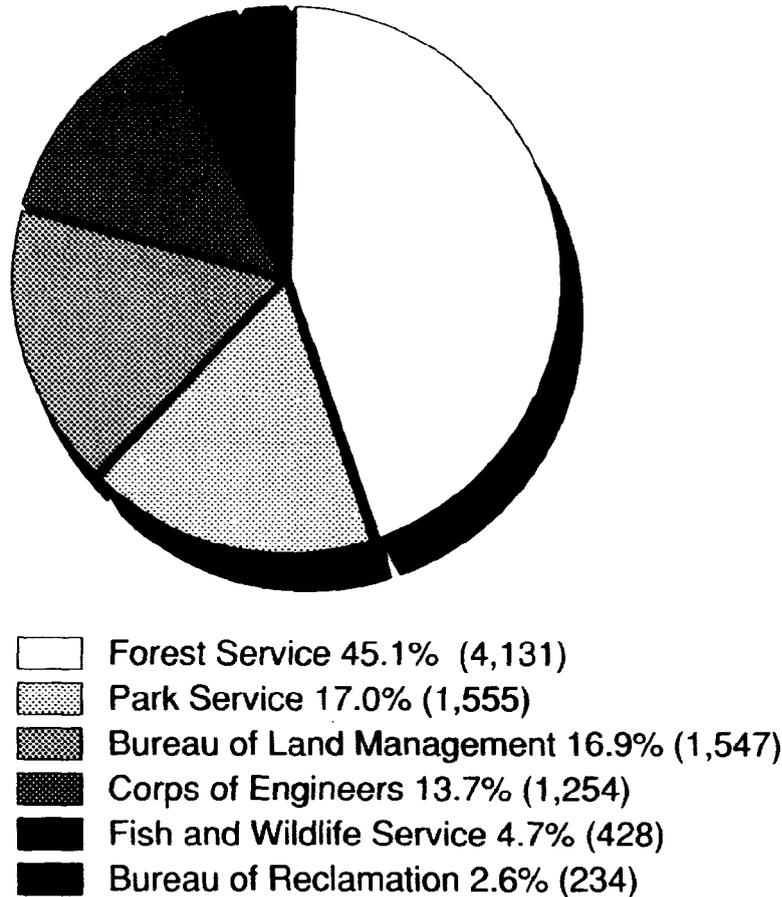
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GAO Total Concession Agreements by Agency – 1989



Data provided by the agencies.

GAO Total Concession Revenues and Concession Fees by Agency – 1989

ATTACHMENT III

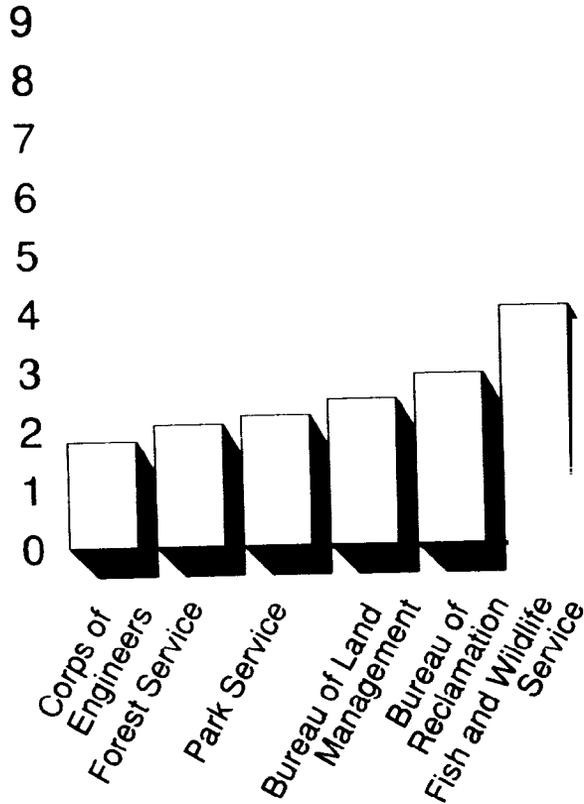
Agency	Total Concession Revenues (millions)	Total Concession Fees (millions)
Forest Service	\$ 834.2	\$ 17.7
Park Service	\$ 531.5	\$ 11.5
Corps of Engineers	\$ 102.2	\$ 1.9
Bureau of Land Management	\$ 33.8	\$ 0.8
Bureau of Reclamation	\$ 8.9	\$ 0.3
Fish and Wildlife Service	\$ 4.5	\$ 0.2
Total	\$1,515.2	\$32.4

Data provided by the agencies.

ATTACHMENT III

GAO Percentage Fees to Gross Revenues by Agency – 1989

10 Percentage of Fees to Revenues



Percentages do not include land management leases.
Data provided by the agencies.