

**NATIONAL PARK SERVICE CONCESSIONS  
MANAGEMENT**

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**HEARINGS**  
BEFORE THE  
SUBCOMMITTEE ON NATIONAL PARKS,  
HISTORIC PRESERVATION, AND RECREATION  
OF THE  
COMMITTEE ON  
ENERGY AND NATURAL RESOURCES  
UNITED STATES SENATE  
ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

TO REVIEW THE NATIONAL PARK SERVICE IMPLEMENTATION OF  
MANAGEMENT POLICIES AND PROCEDURES TO COMPLY WITH THE  
PROVISIONS OF TITLES I, II, III, IV, V, VI, VII, AND VIII OF THE NA-  
TIONAL PARKS OMNIBUS MANAGEMENT ACT OF 1998

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MARCH 22, 2001

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## **NATIONAL PARK SERVICE CONCESSIONS MANAGEMENT**

**THURSDAY, MARCH 22, 2001**

U.S. SENATE,  
SUBCOMMITTEE ON NATIONAL PARKS,  
HISTORIC PRESERVATION, AND RECREATION,  
COMMITTEE ON ENERGY AND NATURAL RESOURCES,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 2:30 p.m. in room SD-192, Dirksen Senate Office Building, Hon. Craig Thomas presiding.

### **OPENING STATEMENT OF HON. CRAIG THOMAS, U.S. SENATOR FROM WYOMING**

Senator THOMAS. It being 2:30, we will start, which is unusual on Senate time, but thank you for being here. I would like to welcome all of you to the subcommittee's oversight hearing on National Park Service implementation of management policies and procedures under the provision of title IV of the public law last year, or 2 years ago past, otherwise known as the concession reform.

When we first introduced the legislation which brought about reform of the National Park Service we had, I think six primary goals or objectives in mind. One was to improve the management program of the National Park Service to become more effective and more efficient, second, to achieve greater competition between parties in bidding and awarding of concession contracts, to improve the quality of visitor services offered by concessionaires, to improve the maintenance of facilities offered by concessionaires, to elevate the operation and administration and management of concession programs on a more business-like basis, taking ideas from the successful private sector practices into consideration and, finally, encouraging investment in park concession and facilities by the private sector.

I was joined at that time by Secretary Babbitt and former Senator Bumpers in crafting the final provisions in a bipartisan effort to achieve meaningful and needed reform. Throughout the negotiations, the original goals and objectives remained generally intact. In reviewing the written testimony from today's witnesses, I am not completely satisfied that we have achieved the goals and the objectives of title IV of this bill. I also realize the enactment of legislation placed a heavy burden on the National Park Service. For years, right or wrong, the administration chose to issue a number

of 1-year extensions to concessionaires whose contracts had expired as a stop-gap measure until reform was attained.

Unfortunately, reform took longer than anyone anticipated. As a result, today we face the backlog of major and minor expired or about-to-expire contracts which require formulation, solicitation, and award.

Formulation and solicitation of new contracts has presented the National Park Service with some major hurdles, which are not easy. With large contracts, the conversion of possessory interests to leasehold surrender value has become an issue which requires more expertise in the appraisal and arbitration techniques than was original envisioned, I believe. Smaller contracts, while the Congress provided the direction to streamline the contract process, we evidently have reduced the response to solicitation to bid on the one hand, but have unintentionally, I think, increased the burden on the other.

There are still other areas in which we can take a lesson from the private sector, as well as other Federal agencies. We need not argue what is a capital expenditure and what is not. Capital investment is well-defined in existing rules and regulations, and used by a wide variety of other Federal agencies. There is no reason that I can see as to the rationale for the Park Service to have their own unique interpretation of this already defined term of art.

There is still much to be learned and to be refined by both the concessionaires and the management of the Park Service if we are going to succeed in accomplishing the goals that were set about. As most of you are aware, I have largely been against the 1-year extension and have spoken on the issue on a number of occasions. It becomes very apparent that the formulation, solicitation, and award of contracts within 1 year's time may be unrealistic given the complexities.

When we created concession reform, we envisioned the existence of contract prospectuses that clearly spelled out the differences and responsibilities of the respondent for the entire term of the contract. If there was to be an increase in franchise fees at certain periods over the term, they were to have been addressed. In addition, costs that a new concessionaire might have to incur in the award of a contract were to be set forth. In other words, the playing field of contracting was to be leveled out so that all potential players were encouraged to participate.

It is extremely difficult to bid on an estimated value of property, especially when the values can change drastically, oftentimes before you can even put the pen to the paper. Estimating certainly can discourage competition, one of the main frames of the concession reform. It does cost a certain amount of money to bid on a proposal, and if you are aware of the entire scope of duties and responsibilities, that expenditure can be justified. If they are unknown or uncertain, the expenditures of funds may not be justified.

The bottom line is, we need additional time to do it right. I am willing to listen and work hard with both the Park Service and concessionaires to address issues and to address the problems facing us in implementing this program. The record will remain open for anyone who wishes to submit testimony, and we are going to hear

from several witnesses today to see how they think we are doing with respect to accomplishing these goals.

We are going to deviate a little bit from the normal process and ask all five witnesses to come to the table at the same time so that we can encourage some exchange as we go on through.

I welcome the ranking member, the Senator from Hawaii.

**STATEMENT OF HON. DANIEL K. AKAKA, U.S. SENATOR  
FROM HAWAII**

Senator AKAKA. Thank you very much, Mr. Chairman. It is a pleasure working with you, and I want to thank you for calling this hearing on title IV of the National Parks Omnibus Management Act. Concessions play an important and supportive role in the overall park experience and the 1998 National Parks Omnibus Management Act calls for a substantial change in the relationship between national parks and concessioners.

Looking back over the years prior to 1998, we all worked hard to reach a compromise on this far-reaching legislation. Senator Thomas, and I mean this, is to be congratulated on his perseverance and leadership on forging consensus on this issue and crafting the legislation which became law. The new law revised one that had been in place for over 33 years, since 1965. As we worked in 1998, we were optimistic that the new law would improve competition for concession contracts, improve the management of concessions, and improve the quality of visitor services. The final rules were issued in May 2000, 2 years after the bill was signed into law.

My point is that major change, and this fits in the category of major change, is not easy and it is not quick. Changing the law and a way of life for concessionaires after 35 years is not easy. Although the road forward may be bumpy, we really need to keep the overall goals in mind, improving competition for new contracts, enhancing concessions and visitor experience at our national parks, and at the same time maintaining the natural and cultural values inherent in our national parklands and sites.

Transition to the new law may not be smooth, and we need to check the implementation along the way. That is what we are doing today, and I look forward to hearing from our distinguished witnesses.

Mr. Chairman, I am interested in the implementation of this legislation. As we move forward, some areas such as leasehold surrender interests and how they work may need to be clarified. I have received questions regarding the assessment of fair market value. I look forward to hearing what steps are being taken to solve problems in determining the possessory interest or leasehold surrender interest of facilities on park lands. I look forward to considering whether there is a way to make the process more objective.

The determination of the value of the concessioner assets is critical to both concessioners and the Government. The one example that we have at Grand Canyon highlights that problem. The great difference between concessioner and Government valuations and the results of arbitration bring into question whether concession contracts will be truly competitive when issued.

Mr. Chairman, unfortunately I have to leave shortly, but I look forward to working with the Park Service on these issues.

Senator THOMAS. Thank you so much.  
Senator Campbell.

**STATEMENT OF HON. BEN NIGHTHORSE CAMPBELL,  
U.S. SENATOR FROM COLORADO**

Senator CAMPBELL. Thanks, Mr. Chairman. I will submit my statement for the record. Let me just say, I have been on this committee 8 years, and was chairman, as you know, before you took the gavel, and I do not think anything in my experience has been more complicated than finding fairness in the parks than dealing with the concessionaires, fairness for the concessionaires, fairness for the taxpayer, getting the appropriate amount from the concessionaires, fairness for the park users that are not paying more than they think is fair, and when you deal with levels of groups, everything from mom and pop stores up to the huge national concerns that are now in the parks, it is not an easy solution.

You have the ones that are in that want to stay in, obviously, the ones that are not in that want to get in, the ones that are right outside the front gate that think there is unfair competition because the other few are in or want to get in, and we have got letters from all of them, as you have.

So I commend you for holding this hearing and look forward to working with you, and I hope we find some solution as we move forward, but I know it is a very difficult question.

Thanks.

[The prepared statement of Senator Campbell follows:]

PREPARED STATEMENT OF HON. BEN NIGHTHORSE CAMPBELL, U.S. SENATOR  
FROM COLORADO

Thank you, Mr. Chairman. I would like to welcome all of the panelists before the committee today and I am looking forward to the testimony that they will be providing us shortly.

Land management is a concern that is heard from all parts of the country and my home state of Colorado. And, concession management is a crucial part of our National Parks. As you all know, the concession operations vary in size from smaller, family owned operations to larger corporate operations. Some of these mom and pop operations have been around for a long time and are a significant part of the park, so we have to ensure that their operations are not harmed.

I am pleased that a major portion of the fees from the contracts are to remain in the park from which the money came. This will help to reduce a portion of the backlog of maintenance which currently exists in our parks. I also hope that during this hearing we can evaluate whether or not this act is being implemented and enforced the way it should be, and if not how we can fix the problems.

I think that we are on the correct path to improve the quality of federal land management. I have a few questions that I will address during the appropriate time.  
Thank you, Mr. Chairman.

Senator THOMAS. Thank you, sir. Okay. If our witnesses will take their seats, please, we will get going. We have Mr. Richard Ring, Associate Director, Park Operations and Education, National Park Service, Mr. Joe Fassler, consultant, National Park Hospitality Association, Phil Voorhees, director of park funding and management programs and member of the National Parks Concessions Advisory Board, Mr. Bill Horn, attorney-at-law, who represents America Outdoors, and Mr. Curt Cornelssen, director of PricewaterhouseCoopers, the group that did the evaluation study.

I think we will go as listed here, and as I said, we are going to do it a little bit differently this time, and I would ask if you can



to hold your presentation to about 5 minutes, or close to that, and then we can have a little bit of exchange, perhaps, and your full statement will be printed in the record.

So Mr. Ring, if you would like to begin, sir.

**STATEMENT OF RICHARD G. RING, ASSOCIATE DIRECTOR,  
PARK OPERATIONS AND EDUCATION, NATIONAL PARK  
SERVICE, DEPARTMENT OF THE INTERIOR**

Mr. RING. Thank you, Mr. Chairman, and thank you for having the opportunity to speak to you today. I am Dick Ring. I am the Associate Director for Operations and Education of the National Park Service. I came into the job this past fall, and previously had been at Everglades National Park for 8½ years as the superintendent, so I am learning a range of programs, concessions included, so I am very pleased to be testifying here today on this issue.

Public Law 105-391 was enacted in November 1998, and it represents a bipartisan effort over 20 years or more to try and find a more fair and effective way to handle concessions within the national parks, and we have been working for the last 2 years to begin to implement that and to try and achieve the objectives of that law.

We are being assisted in implementing that by the National Park Concessions Advisory Board, which was set up through this act, and we believe that that board is a very effective tool. We have worked with it and have, I believe, a good working relationship with that board. We appreciate the outside expertise they bring to us, and we have what I believe is a very good working relationship with them and expect a very productive one over the next few years.

We have also gone outside our organization and contracted with PricewaterhouseCoopers to take a look at the concessions management program of the agency and to make recommendations with regard to our fiduciary responsibilities and how to more effectively recognize them and deal with them, but also to look at our management processes to ascertain whether or not there are ways that we could reengineer those to make them more effective.

Furthermore, we are also aggressively moving towards the use of an increasing number of private consultants to get that third party objective expertise brought into our agency, and we can incorporate that knowledge into the improvement of our program. We are committed to ensuring that all National Park Service employees who have some responsibility for concessions management are properly trained and have the necessary knowledge and skills to perform their duties in a highly effective manner.

Particularly, we are involved in contracting with the Department of Defense to develop certification standards for all concessions contracting personnel which would be comparable to the Federal acquisitions regulation model, and the certification standards are set up in three categories to deal with the different levels of complexity and difficulty of contracting in the concessions program. All levels of certification will require specific training experience and continuing education.

We also anticipate dealing with a great deal more outsourcing to develop protocols in key business processes of contracting and con-

tract oversight, greatly enhancing the administration of high priority and high risk contracts as well.

We are continuing to address our efforts on the critical backlog of expired contracts and anticipate the renewal and award of up to 100 of them in this coming year. We are, however, facing a significant bubble of work over the next several years. It is a workload that is not a normal workload, and it is one that we are struggling to make sure that we are able to come to grips with both effectively and in a timely manner.

We anticipate the use of private sector consultants to assist us in this process, particularly with respect to the smaller number of more complex and larger grossing concessions contracts, where we need that level of expertise in a way that we do not have adequately represented within our own ranks, and we will be anticipating that.

We take very seriously our commitment to implementing title IV of the law, and we believe that the steps that I have outlined will make a significant progress in helping to implement that.

We will be pleased to answer any questions you may have.

[The prepared statement of Mr. Ring follows:]

PREPARED STATEMENT OF RICHARD G. RING, ASSOCIATE DIRECTOR, PARK OPERATIONS AND EDUCATION, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, members of the subcommittee, thank you for the opportunity to discuss the progress of the National Park Service in implementing Title IV of the National Parks Omnibus Management Act of 1998, Public Law 105-391.

Title IV of Public Law 105-391 was enacted on November 13, 1998. This title repealed the Concessions Policy Act of 1965, Public Law 89-249, and established a new process for concessions contracting and the terms and conditions of those contracts. The law also established the Concessions Management Advisory Board and directed other changes in NPS' management of its concessions program. The law is the bipartisan product of over 20 years of work by legislators, Departmental officials, and interested citizens who desired to improve the management of NPS' concession program.

One of the primary goals of the new law is to make the NPS' administration of concession contracts more efficient and businesslike. We are being assisted in implementing the new law in this respect by the National Park Service Concessions Management Advisory Board, established by Section 406 (c) of Title IV.

The law directed the board to make recommendations to the Secretary of the Interior regarding the NPS contracting with the private sector to conduct appropriate elements of concession management; the review and approval of concessioner rates and charges to the public; the nature and scope of products which qualify as Indian, Alaska native, and Native Hawaiian handcrafts; and the allocation of concession fees. Related to the board's mandate is the priority of the National Park Service to develop a business strategy for the concessions management program.

In the advisory board's first annual report to Congress, recommendations focused on organizational realignments, research into non-appropriated funding instrumentalities, and specific programmatic issues such as the rate approval program. We are pleased to tell you that this season we will be implementing a competitive market approach to retail merchandise pricing. We will also implement the board's recommendation to establish a "business champion" within the National Park Service by recruiting a new Associate Director for Partnerships and Business Practices once the new NPS Director is in place. In addition, we are consulting with the private sector to find ways of streamlining our processes further, including our quality standards and evaluation program.

We have also contracted with PricewaterhouseCoopers, from whom you also will be hearing today, to conduct an internal analysis of the management of our program and existing business processes. PricewaterhouseCoopers has provided us with a number of recommendations which will assist us in fulfilling our commitment to addressing our fiduciary responsibility related to concession contracts, in the re-engineering of existing management processes, and in further enhancing staff competencies and training. Furthermore, we are aggressively moving towards the use

of private consultants to assist us in the management of our commercial visitor services.

We are also committed to ensuring that all NPS employees who are responsible for concessions management are properly trained and have the necessary knowledge and skills to perform their duties in a highly professional manner. In this regard, we are contracting with the Department of Defense and developing certification standards for all concession contracting personnel which would be comparable to the Federal Acquisitions Regulations (FAR) model. The certification standards parallel the three categories of concession contracts that are used by the NPS.

Category III contracts are used in situations where no land or buildings are assigned to the concessioner; consequently, the concessioner will not be allowed to construct or install any capital improvements and will not obtain any leasehold surrender interest. Approximately 330 outfitter and guide operations will be authorized by Category III contracts.

Category II contracts are used in situations where a concessioner will operate on assigned land or in an assigned concession facility, but will not be allowed to construct or install capital improvements. An example might be a gift shop operation located in a portion of a park's visitor center.

Category I is the highest level of certification and is generally for concession contracts that require a variety of services at several locations and include the assignment of lands and concession facilities, as well as leasehold surrender interest compensation and capital investment provisions.

All levels of certification require specific training, experience, and continuing education. This program of certification will be augmented with outsourcing of specific contracting functions.

We have also contracted with Northern Arizona University (NAU) to develop a hospitality certification program for all NPS employees with concessions management responsibilities and will again use the private sector as a benchmark to develop an action plan. NAU will deliver hospitality management training from their School of Hotel and Restaurant Management, providing a comprehensive, multi-year course of certification in hospitality management, including business and financial training.

Most importantly, recognizing that we must work smarter in a business sense, we also have outlined a strategy to implement the provisions of the new law that facilitate open competition for concession opportunities in the National Park Service. Through outsourcing, we will develop protocols that focus on the key business processes of contracting and contract oversight, greatly enhancing administration of high-priority and high-risk contracts. In doing so, however, we do not abdicate our responsibilities to resource protection and preservation, but rather we will ensure that the return to the government will be commensurate with the privilege granted by the contract and that the government's interests will be protected.

We are continuing our efforts to address the critical backlog of expired concession contracts, and anticipate the renewal and award of up to one hundred of them this coming year. We are, however, facing a significant "bubble" of work over the next several years, a workload that is beyond the capabilities of our current staffing situation. We anticipate the use of private-sector consultants to assist us in this process, particularly with respect to the relatively small number of complex contracts that require significant professional expertise beyond our in-house capability. Improving the management of the National Park Service's concessions program is one of our very highest priorities, and we know that it is also one of yours. We take seriously the commitment to implementing the changes that are required by Title IV of the National Parks Omnibus Management Act of 1998. We believe that the actions that I have outlined here today are a further step toward the achievement of improved management of our concessions program.

This concludes my testimony. I would be happy to answer any questions you might have.

Senator THOMAS. Thank you very much.  
Mr. Fassler.

**STATEMENT OF JOSEPH K. FASSLER, DIRECTOR,  
NATIONAL PARK HOSPITALITY ASSOCIATION**

Mr. FASSLER. Thank you, Mr. Chairman. I am pleased to have been invited to your important oversight hearing on concession policy in the national parks. I am a member of the board of directors of the National Park Hospitality Association, and represent that

group here today. I am here at your invitation to talk about some of the problems in the implementation of the concessions management portion of the Public Law 105-391, which I will refer to as the 1998 Act.

Today, to make my conversation as brief as possible, I will go right into some of the inconsistencies between the act and the way the act was regulated. The first area—I have six issues to discuss. The first issue is leasehold surrender interest. There are two parts of this. First off, businesses and government agencies rely upon generally accepted accounting practices, better known as GAP, to identify what constitutes a capital improvement for accounting purposes. These standards are used in virtually all audited financial statements, and a company's return on investment is computed off the amount of capital it has.

The National Park Service has, in our opinion, improperly narrowed the definition of capital improvement and other terms that support the determination of what is a capital improvement. For example, the NPS capital improvements made to existing structures must qualify as major rehabilitations, as determined by the Director, before they would be eligible. Very few renovation projects would pass this test.

In addition, the NPS disqualifies certain costs that would normally be capitalized under GAP, but under the 1998 Act, if we are not mistaken, it said all capital improvements are entitled to leasehold surrender interest.

A second area, we believe that the 1998 Act is clear in that a concessionaire cannot be dispossessed before value is paid for its interest. The NPS has attempted, however, to specify that this payment can be delayed for a period of time after we are replaced by a new operator. This is like selling your home and allowing the buyer to take immediate occupancy without having to pay you until it was convenient for them to do so.

It seems incredible that the NPS would think that concessionaires who want and need financing for their businesses will find banks getting in line to make a loan when the collateral for that loan might disappear before they are repaid. Concessionaires, I do not believe, are willing to invest their money under those kinds of circumstances.

Another issue is the standard form contract. The National Park Service standard form contract is as important to this committee's review as the regulations or any other document, since the form contract will be used for individual contracts that govern the relationships between the NPS and each of its concessionaires.

A standard form contract is illegal, because it incorporates many of the illegal provisions I discuss today, as well as in my written testimony. It also is objectionable on its own, because it is a very one-sided document that would never work in a private commercial setting. The NPS has essentially no duties, the compliance by the concessionaire with contract terms is subject to the satisfaction of the Director without objective standards that define compliance, and many important sections of the contract are subject to change at the whim of the Director.

I suspect that many prospective operators will lose interest on bidding on concession opportunities, thereby frustrating one of the

basic purposes of the 1998 Act, which was the desire to generate more bidding interest for contracts. Most private sector contracts define all of the obligations of each party. Those obligations are detailed, and have ascertainable standards, and do not permit either party to change the terms of the contract without the agreement of the other.

We have no problem being judged by the quality of our service and being displaced if we fall short. We should know we should not be displaced if we provided good service just because an unfair and illegal form contract is forced upon us.

The assignment of concession contracts is another issue. The act does not require the National Park Service consent for so-called corporate control transactions where the entity holding the contract does not change, but the transaction takes place at the parent level. That has the effect of transferring direct or indirect ownership of the concessionaire, often within the same corporate family.

By trying to give itself this kind of power over transactions at the parent level, the NPS is creating a significant barrier to free enterprise. Most large companies with multiple business lines would be discouraged from competing for contracts because of the potential loss of a valuable corporate merger, acquisition, sale, or reorganization due to the failure or delay in obtaining NPS approval.

An example. If you were McDonald's, would you put yourself in a position where the sale of your entire corporation required the approval of concession personnel at the National Park Service? But even if you were a smaller company that could enter into a corporate restructuring worth, say, \$10 million, would you risk the possibility that holding a concession contract through a subsidiary would prevent that transaction? Typically, a government agency does not have such far-reaching rights.

Another issue is the incumbency of concession contracts and leasehold surrender interest. The act clearly states that a concessionaire can pledge its leasehold surrender interest as collateral for loans. Nevertheless, the NPS says a concessionaire, once it has a loan, cannot later refinance that loan. This defies common sense. Many contracts, particularly those most in need of financing, offer relatively long periods, certainly longer than the typical commercial loan.

Thus, if a concessionaire cannot refinance the concession, it has no practical means of repayment at the end of the loan. This position also prevents the common business practice of refinancing loans when rates go down, thus improving the return of the business, and making more cash available for reinvestments right in the same park that you are operating.

The second issue is based on the NPS prohibition in the regulations against cross-collateralization of loans, that is, using collateral in more than one park to secure a single loan. The benefits of doing so are obvious. Among other things, the concessionaire can get a larger aggregate loan at a lower cost if the risk is spread over multiple parks, such as a bad year at one park can be offset by a better year at some other parks. Some concessionaires now have such loans, and will be faced with refinancing problems when those loans come due, based on present-day regulations.

Another issue is the failure to provide direction, new direction on rate approvals. The act requested that the rate approval process be based on prompt and unburdensome policies, and shall be based on market conditions, recognizing the unique operating constraints placed on a concession operation.

The advisory board was to make recommendations on how best to do this. Nothing to date has changed, as the board made no positive recommendations for any change. It is our hope that this committee does not consider that the advisory board's work is done on the rate issue. The committee should consider giving additional direction in this area.

The last issue is solicitation, selection, and award procedure. The 1998 Act clearly sets forth four primary criteria to be given the most weight by the NPS in its review of submitted prospectuses. The regulations, however, split the first two criteria set forth in the statute into two and mandate a second criteria that is, in fact duplicative of the one of the first new split criteria. As a consequence, how a concessioner will address the park's environment program has a weighting approximately three times as heavy as what Congress dictated while other criteria was given most emphasis by Congress in its committee report, that being the experience of the operator. It takes a back seat to the first.

Concessioners have no quarrel with being good environmental citizens. In fact, many of our members have received awards from the NPS for our conservation efforts. Nevertheless, the law requires the NPS to focus on each of the two equal mandates that Congress specified when it created the National Park Service in 1916. The first is to protect park resources. The second is to provide for their enjoyment by the public. It is our opinion that the NPS has largely forgotten the second mandate, and it is our hope that the new administration restores its former importance, because that is what we believe the public wants and expects.

Let me conclude. We appreciate the interest of the committee in this matter. All parties have worked too long on this issue to allow the administrative process to frustrate the decisions made by Congress. The National Park Hospitalities Association believes that our recommendations are in the best interests of the parks, the visitors, and the taxpayers, and thank you for your time and your hard work on behalf of our national parks and the American public.

I also want to end by saying we believe that, the National Park Service working with us, we think we can fix these situations, but where it is right now, we do not believe the regulations have been written in the truest sense, or the meaning of the 1998 Act.

Thank you.

[The prepared statement of Mr. Fassler follows:]

PREPARED STATEMENT OF JOSEPH K. FASSLER, DIRECTOR, NATIONAL PARK  
HOSPITALITY ASSOCIATION

Mr. Chairman, I am pleased to have been invited to your important oversight hearing on concessions policy in our national parks. As a member of the Board of Directors of the National Park Hospitality Association ("NPHA"), I represent a membership that is responsible for most of the visitor services provided by the private sector in our National Parks. I was formerly Chairman of Glacier Park, Inc. ("GPI"), which operates the primary visitor services facilities at Glacier National Park. I was also formerly President and CEO of GPI's parent, Restaura, Inc., which operates a variety of commercial hospitality enterprises, and Restaura was a wholly-

owned subsidiary of Viad Corp., which is a large multi-national public company. When Viad recently sold Restaura, it determined to retain ownership of GPI, and I retired from the company but agreed to continue to oversee the GPI operations on a consulting basis for Viad. I have substantial experience in the hospitality industry, and have served as Chairman of the National Restaurant Association and its educational foundation.

You invited us to discuss some of the problems we see in the implementation of the concessions management portion of P.L. 105-391, which is known as the National Park Service Concessions Management Improvement Act of 1998, and which we typically refer to as the "1998 Act". As you know, NPHA has on a number of occasions participated in hearings both during the years that led up to the passage of your legislation, and last year as you conducted oversight hearings on the regulations and form contract that had then just been issued by the National Park Service ("NPS") to implement that legislation.

NPHA raised numerous objections to both documents when they were presented for public comment and still believes that many of their provisions violate both the spirit and letter of the 1998 Act. Copies of those comments were provided to the committee staff in the past and so are not being submitted for the record at this time. We felt so strongly about some of these problems that we regrettably felt compelled to file suit against the NPS and the Department of the Interior to ask for the court's assistance in overturning them. Three concessioners have also filed suit and the judge has consolidated all of these actions into one case.

For obvious reasons, I don't intend today to present our legal case to you. That is for our lawyers to do in court, and I am not a lawyer. Thus my testimony here should not be considered a comprehensive legal argument. Instead, I think that it is most proper for me to point out some of the issues (not all of which are included in our litigation) that we believe constitute illegal detours from the law you passed, also make very little practical sense. Thus, this committee should take an interest in them because these NPS positions stand in the way of the basic direction that this committee was trying to take in 1998. I think it is instructive that in virtually every instance where the NPS chose between drafting provisions that would encourage participation and investment by concessioners and those that would discourage them, it chose the latter path. Obviously, the NPS' goal must not have been a healthy concessions system that can continue to improve service to the public.

#### PASSAGE OF THE 1998 ACT

When the compromises were struck that resulted in the passage of the 1998 Act, we believe that Congress passed a bill that balanced a number of competing interests in a manner that would best benefit the public.

As with all matters worked out through compromise, there are provisions of the 1998 Act that are objectionable to the NPHA. One concerns the discontinuance of renewal preferences that I don't intend to address here. We also know that there were provisions that were objectionable to the NPS, the other interest groups that were participating and even to some of the members of Congress who supported the bill in its final form.

On the whole, however, the NPHA supported the bill because of its innovative approach to the valuation of our investments, its strong statements relating to the ratemaking process and the transfer rights of operators, and its detailed approach to the solicitation process that established criteria that not only recognized the need for concessioners to run their businesses in an environmentally sensitive manner, but also stressed prior experience and the needs of visitors as being superior to both return to the government and criteria that did not directly relate to visitor services. It also stated as a policy matter that it wanted the NPS to make its concessions management function less bureaucratic, more process efficient, timelier and less cumbersome.

The NPS is trying to undo the compromises made in 1998 by issuing regulations and a form contract that implement the policies that Congress chose not to accept when the compromises were made that permitted the bill to pass. Though the NPS is charged with the responsibility to promulgate regulations and policies that support and serve to implement the 1998 Act, those regulations and policies must not distort the language and intent of the law that they are bound to support. To do otherwise is disrespectful both to Congress and the legislative process that is a foundation of our government. Particularly in a case such as the 1998 Act, where Congress went into significant detail in order to make clear its intent on the primary issues presented, it is distressing to find that the regulations and contract terms ignore the express provisions of the new law. And, instead of trying to simplify proc-

esses for the benefit of everyone, they are every bit as cumbersome and bureaucratic as before, if not more so.

#### LEASEHOLD SURRENDER INTEREST

The treatment of Leasehold Surrender Interest and Possessory Interest in the 1998 Act is clear. Congress has mandated that concessioners continue to have the right to compensation for their investments made in park facilities when their contracts terminate. Nevertheless, the regulations and form contract repeatedly attempt to undermine this right.

1. Leasehold Surrender Interest Applies to All Capital Improvements—The NPS has improperly narrowed the definition of “capital improvement” and other terms that support the determination of what is a capital improvement. For example, the NPS has improperly narrowed the definition of “construction cost” in a number of ways. First, it invents a concept of “eligible” and “ineligible” costs, with only eligible costs, as determined by the Director, included in leasehold surrender interest. It then specifies costs that are eligible and ineligible, based on the NPS’ own opinion and without regard to generally accepted accounting practices (“GAAP”) or accepted practices in the appraisal of real estate. The NPS also attempts to disqualify most capital improvements made to existing structures from leasehold surrender interest. For example, capital improvements made to existing structures must qualify as “major rehabilitations” as determined by the Director, before they would be eligible. The 1998 Act, however, is clear that all capital improvements are to be included in leasehold surrender interest.

Any company expects to get its money back plus a return on that money for any investment it makes. Under normal business conditions, it measures its return on investment mathematically based on the amount it has invested, which is based on all of its capital costs calculated in accordance with GAAP. If the government invents its own definitions that don’t comply with common understanding and practice, this leads only to confusion and the need to make adjustments in terms of the return required.

Congress tried to preserve incentives for investment in the 1998 Act. However, the returns attributable to the compensation for the facilities are constrained by the fact that a concessioner can expect only a return of its cost, adjusted for inflation. If the definition of cost is changed so that a concessioner does not get credit for all of its cost, this only means that the return it requires must be generated somewhere else. In a national park concession, the only other place to obtain that return is from the cash generated by the business. This creates a problem in any business, but particularly where the business is heavily regulated. Where any significant investment is required, the need to obtain a higher than normal operating return puts significant upward pressure on rates and downward pressure on the amount that the concessioner will be willing to invest. In addition, obtaining such a return from the business is a more-risky proposition than having it set mathematically by the LSI provisions in the 1998 Act, and thereby would increase the returns otherwise needed to justify the investment. It also makes any market-based analysis of rates meaningless, because the other market players expect to get a full return on the value of their facilities when they sell and thus can price their goods differently. Thus, to further attempt to constrain the returns available to concessioners for their investments, by not giving credit for all costs as the market would do, will only make it harder for the NPS to find investment capital from the private sector, and will frustrate Congress’ intent to rely on concessioners as an investment source.

2. A Concessioner Must Be Compensated For Leasehold Surrender Interest At The Time the Assets Are Surrendered to the Next Operator—We also believe that the 1998 Act is clear that a concessioner cannot be dispossessed before value is paid for its interests. The NPS has attempted, however, to specify that this payment can be made as late as one year (and possibly in two years if the money is to come directly from the government) after the incumbent concessioner is dispossessed. This is analogous to selling your home and allowing the buyer to take immediate occupancy but not pay you for up to two years if it is inconvenient for him to do so. This practice clearly violates current law and must be changed. It seems incredible that the NPS would think that concessioners who want or need to finance their businesses will find banks willing to make loans at reasonable cost, if at all, when the collateral for their loans (both the facilities themselves and the cash flow from the business) might disappear before they get repaid. Concessioners are not willing to invest their own money under those circumstances either.

3. The NPS Expanded the Meaning of the Deduction for Physical Depreciation in the 1998 Act That Will Perpetuate the Problems That Existed Under the 1965 Act Regarding Valuation—The formula for computing the value of leasehold surrender



interest was simplified in the 1998 Act from essentially an appraised amount to actual cost as adjusted by the change (up or down) of the Consumer Price Index (“CPI”), in order to eliminate both the potential upside gain and downside risk to a concessioner’s investment in improvements and to avoid disputes as to value at contract renewal time. Congress, however, chose to preserve language (that also appeared in the former Concessions Policy Act of 1965 (the “1965 Act”)) that could cause the concessioner to realize less than the computed amount if the concessioner did not properly maintain the facilities. This deduction, if any, would be determined by computing the amount it would cost to bring the improvements up to the standard required by the contract. Nevertheless, the NPS has attempted to broaden this language to allow a further deduction from value for “functional obsolescence”. Functional obsolescence, where it exists, requires a deduction from value if a given structure is not designed as efficiently as the ones commonly available in the marketplace at the time of sale.

Though it was part of their proposed regulations, the final regulations did not include this term directly. Instead, the NPS comments that accompanied the final regulations stealthily stated that the NPS believed that all forms of depreciation could be deducted. This is not what the law says. In fact, the committee report that accompanied the bill made it clear that only a deduction for “wear and tear” was contemplated. The NPS’ position again frustrates the desire to obtain investment capital from the private sector. First of all, the concessioner has little control of the design of park facilities, since everything is subject to NPS oversight. Second, many of these facilities are historic and often were designed more for long-term aesthetic appeal than functional efficiency. Thus, park facility construction may not use state of the art design or building techniques, even if those techniques would be cheaper or more efficient. The risk of inappropriate deductions for obsolescence is even more serious for a concessioner than a typical private investor, since the concessioner does not have the right either to cure conditions giving rise to obsolescence, nor achieve a fair market return for its facilities as a starting point. As a consequence, and as mentioned earlier in the context of the amount of cost the concessioner gets credit for, the result will be a lack of willingness to make the investments that the parks need.

4. *Illegal Veto Power Over Possessory Interest Valuations*—The NPS treatment of this issue in the regulations is also seriously flawed. Concessioners have invested large sums in park facilities in reliance on contracts, some over 30 years old, that provide for compensation for possessory interest as described in the 1965 Act. The 1998 Act did not change the right to compensation for this possessory interest upon termination of the contract (nor could it have done so), but only included transitional provisions to convert the existing possessory interest into a leasehold surrender interest as contracts turned over. The NPS has tried, however, to give itself additional negotiating leverage for the determination of possessory interest values by imposing a level of administrative review and appeal that is illegal and constitutes a breach of concessioners’ contractual, statutory and Constitutional rights. The fundamental unfairness to all parties of having the NPS require private parties to negotiate, and possibly arbitrate a value, only to have the NPS void the result after the money has been spent and the work has been done, should be obvious. This provision is clearly intended to benefit newcomers to the detriment of incumbents, by intimidating the incumbents to take less than they deserve under the threat that the government will only veto the higher number anyway. This is not the way that government should work, particularly when it hopes to forge relationships that are based on trust and cooperation in order to serve the public’s needs.

#### THE STANDARD FORM CONTRACT

The NPS’ standard form contract is as important to the Committee’s review of these issues as the regulations or any other document, since the form contract is expected to form the basis for the individual contracts that will govern the relationship between the NPS and each of its concessioners.

The standard form contract is illegal because it incorporates many of the illegal provisions I discuss elsewhere in my written testimony. It is also objectionable on its own because it is a very one-sided document that would never work in a private commercial setting. The NPS has essentially no duties, the compliance by the concessioner with the contract terms is subject to the “satisfaction of the Director” without objective standards that define compliance, and many important sections of the contract are subject to change at the whim of the Director. Each of these characteristics render the standard form contract both unlawful and unwise as a policy matter.

In light of these issues, I suspect that many prospective operators will lose interest in bidding on park concession opportunities, thereby frustrating one of the basic purposes of the 1998 Act—the desire to generate more bidding interest for contracts. Since contract terms are non-negotiable, many operators who have served the parks for many years will be foreclosed from bidding because specific risks and uncertainties will be too great to bear. This could create a vacuum in visitor services and a potentially large government obligation to buy out concessioner investments. Because there may be no viable takers for such contracts, visitor services facilities may be closed indefinitely. Such a result would obviously play into the hands of the groups that want to limit park access but would not be in the public interest. Most private sector contracts define all of the obligations of the parties with reasonable specificity for the duration of the contract, tie those obligations to detailed and ascertainable standards if needed, and do not permit either party to change the terms of the contract without the agreement of the other. All we ask is for similar protections.

Without going into detail on the many problems raised by the standard form contract, and in addition to other issues that I reference in other parts of my testimony, the following is a partial list of particularly troubling features:

- **Vague Standards**—Many requirements of the contract simply have to be performed “to the satisfaction of the Director”, with no guidance whatsoever. In places where standards presumably exist they are subject to modification by the Director at any time.
- **No NPS Responsibilities**—Even where the NPS is supposed to perform, such as by providing utilities or government improvements, it can always back out, leaving the concessioner with few affordable alternatives.
- **Extremely Broad Environmental Requirements**—The NPS can arguably require environmental remediation to standards in excess of those required by law, possibly at great expense to the concessioner. In addition, the concessioner seems to be responsible for the conduct of third parties, such as visitors, former operators, and NPS personnel conducting visitor services activities. In addition, the provisions concerning approvals for use of certain hazardous materials are too bureaucratic. No guidelines are attached to the contract. This also applies to restoration of sites where buildings are demolished.
- **Terms Concerning Interpretation That Could Greatly Narrow the Types of Merchandise That Can Be Sold**—According to the contract, all merchandise must be “consistent” with park themes goals and objectives, and all gift items must have an interpretive component. This gives the NPS a vehicle to divert significant amounts of gift business to cooperating associations and other non-profit groups who may not have such restrictions.
- **Use of Reserves for Capital Replacements, Without Right to Leasehold Surrender Interest**—The reserve provisions clearly violate the 1998 Act by disqualifying certain capital improvement costs from leasehold surrender interest, by giving the NPS discretion as to how funds are spent while still imposing an absolute maintenance requirement on the concessioner in the contract.
- **Very Broad Indemnification Language With Too Much Control Over the Purchase of Insurance**—The indemnity in the contract, not surprisingly, only benefits the NPS, not the concessioner, and arguably covers acts of third parties. The insurance requirements are not fixed, but instead are subject to change at the discretion of the NPS. Insurance standards should be fixed up front so that the concessioner can properly estimate the cost of insurance when bidding on the contract.
- **Broad Rights to Suspend or Partially Terminate the Contract**—Suspension of a contract should only be for limited emergency purposes and termination should be an all-or-nothing proposition, except for services or facilities that are to be permanently discontinued, but the NPS reserves the right to suspend for almost any reason. Also, the concessioner could be forced to continue to provide services even if its contract has terminated or expired.

Imagine a solicitation process for the renewal of a concession contract that you have operated for decades to the satisfaction of the NPS. Imagine then receiving a prospectus with a form contract that is non-negotiable and completely one-sided, but in which the NPS is asking you to invest further in facilities and personnel without any protection whatsoever that the contract cannot be terminated or changed at the whim of the NPS. Imagine further, contract provisions that do not clearly set forth what the NPS wants you to do and that request you to protect the NPS against not only your actions, but those of your predecessors and even the visiting public. Imagine a contract that allows the NPS to constrict the nature of your business or divert your business to non-profit organizations that are not required to pay taxes, invest

in the parks or provide any of the infrastructure that causes your costs to be artificially high. Finally, imagine a contract that depends on the provision of power and water by the NPS, but that still requires you to operate, without any recourse to the government, if those supplies are cut off or if the NPS suddenly decides to raise the rates to levels that are unaffordable. Would you sign such a contract? Well, that is what the NPS is asking us to do. Our only alternative is to lose our businesses, some of which have been built over generations and support families who have been serving the public all their lives.

We expect to be judged by the quality of our service and be displaced if we fall short, but not to be displaced just because an unfair and illegal form contract is forced upon us.

#### SOLICITATION, SELECTION AND AWARD PROCEDURE

Even though the NPHA did not agree with every provision of the 1998 Act in this area, the 1998 Act was reasonably clear and detailed in its requirements. We find it surprising that the NPS developed language that is so far afield from Congress' intent.

For example, the 1998 Act clearly sets forth four primary criteria to be given the most weight by the NPS in its review of submitted prospectuses, with the fourth criteria (the level of franchise fees) being subordinate to the other three. The NPS' regulations, however, establish primary criteria not provided for in the statute. In particular, they split the first criterion set forth in the statute into two and mandates a secondary criteria that is duplicative of one of the new split criteria. As a consequence, how a concessioner will address the park's environmental program has a weighting approximately three times as heavy as Congress dictated, while the criteria that was given most emphasis by Congress in its committee report—the experience of the operator—takes a back seat.

Concessioners have no quarrel with being good environmental citizens. In fact, many of our members have received awards from the NPS for our conservation efforts. Nevertheless, the law requires the NPS to focus on each of the two equal mandates that Congress specified when it created the NPS in 1916. The first is to protect park resources and the second is to provide for their enjoyment by the public. Though our businesses must necessarily be conducted in a manner consistent with the first mandate, we exist primarily to serve the second one. It is our opinion that the NPS has largely forgotten this second mandate and it is our hope that the new administration restores its former importance, because that is what we believe the public wants and expects. In order to properly serve the millions of visitors that come each year, it is critical that concessioners have the experience necessary to serve and have the financial incentives to be able to invest in the facilities necessary to do so. As for the first mandate, we stand ready to assist, but we believe that the thousands of NPS employees who have been hired just for that purpose and are being paid by the taxpayers should pull that laboring oar.

#### ASSIGNMENT OF CONCESSION CONTRACTS

The provisions of the 1998 Act concerning the transferability of contracts are of vital importance to concessioners. Congress recognized that the restrictions imposed on transferability by NPS as it had interpreted the 1965 Act were not needed to protect the public and were being utilized by the NPS to extract better terms from concession contracts for the government as the price for allowing legitimate corporate transactions to proceed. Thus, the 1998 Act presumes that a concessioner may transfer its contract without losing the rights that attach to that contract, and that the NPS must approve such transfer unless the transfer would fail one of three tests set forth in the Act. It also does not require NPS consent for so-called corporate control transactions, where the entity holding the contract does not change but a transaction takes place at the parent level that has the effect of transferring direct or indirect ownership of the concessioner, often within the same corporate family.

When the NPS contracts with a concessioner, that entity holds the contract and is responsible for carrying out its terms. The NPS does not have recourse to anyone else. If the ownership of the entity changes, that does not change the obligations of the entity, nor does it change its capability to perform. Though it is possible in some cases that a change of ownership may cause some persons to leave the employment of the concessioner, this could happen anyway. On the other hand, the new shareholders have no interest in defaulting under the contract because that is where a substantial portion of the value of the enterprise is located. Presumably, they would take all efforts necessary to ensure that the contract is faithfully performed. If not, the NPS has remedies for default that include termination of the contract.

By trying to give itself power over transactions at the parent level, the NPS is creating a significant barrier to free enterprise. Most large companies with multiple business lines would be discouraged from competing for contracts because of the potential loss of a valuable corporate merger, acquisition, sale or reorganization due to failure or delay in obtaining NPS approval. In fact, it might be argued that public companies would not compete solely for this reason, due to potential fiduciary liabilities that directors might fear from the loss of such a transaction. Typically, unless other laws, such as the antitrust laws, are triggered, a government agency does not have such far-reaching rights, and Congress properly decided that they should not exist here. So long as the company obligated on the contract remains intact and does not transfer the contract to another entity, the NPS should not, as a public policy matter have the right to interfere with these transactions.

#### ENCUMBRANCE OF CONCESSION CONTRACTS AND LEASEHOLD SURRENDER INTEREST

The 1998 Act clearly states that a concessioner can pledge its leasehold surrender interest as collateral for loans. I have discussed earlier why the timing of payment for leasehold surrender interest will have a critical impact on the availability of financing. However, two other positions that the NPS has taken in its regulations will also greatly influence whether the rights Congress granted are real or imagined.

The first issue is whether a concessioner, once it has a loan, can refinance that loan later. The NPS says no, even though there is no basis for this in the law. This position defies common sense. The first problem is that many contracts, particularly those most in need of financing, are for relatively long periods, certainly longer than the typical commercial loan. Thus, the concessioner has no means of repayment at the end of the loan, unless the operation would support the repayment of the loan in full over the course of the loan from cash flow. In such event, the leasehold surrender interest is really not the collateral, because the lender is not really looking to it for repayment. In such a case, the cost of the loan would often be prohibitive, both on a cash flow basis due to higher than normal interest and large principal payments and on a return on investment basis to the concessioner. Very few significant commercial properties are held without financing because of the positive impact that leverage has on return on the owner's investment, and such leverage permits the owner to diversify its holdings. If an owner is prohibited from refinancing, as with other examples described above, the returns from its operations will need to be higher because cash must be raised to pay down principal in addition to interest. To accomplish this, either rates must go up or fees must come down, or both. Chances are that there will not be enough free cash flow to provide an adequate return in this situation, and thus many of the investments requested will not be forthcoming. Another issue concerns the common business practice of refinancing loans when rates go down, thus improving the returns of the business and making more cash available for reinvestment. Why the NPS would think it is in its best interest to prohibit these types of cost-saving measures is totally incomprehensible. As a business matter, it makes no sense for the NPS to refuse to permit refinancings if the intent of the 1998 Act is to attract competition for contracts and additional private investments in the parks.

The second financing issue is based on the NPS prohibition in the regulations against cross-collateralization of loans; this is, using collateral in more than one park to secure a single loan. Again, there is nothing in the 1998 Act that would prevent a concessioner from obtaining one loan that covers all of its contracts. The benefits of doing so are obvious. First, the concessioner can get a larger aggregate loan at lower cost if the risk is spread over multiple parks, since a bad year at one park can be offset by better years at others. Second, the risk of default to the NPS is reduced for the same reason. Third, administrative costs for both the NPS and the concessioner are reduced because each party needs only address one transaction, instead of two or more. We again find it curious and frustrating that the NPS has taken the opposite approach without any legislative support.

#### LOSS OF COMMERCIAL BUSINESS TO NOT-FOR-PROFIT ORGANIZATIONS

The NPHA is concerned that through the language set forth in the regulations, the NPS has positioned itself to employ Commercial Use Authorizations (and, most importantly, the somewhat more ambiguous language concerning the use of non-profit organizations to support the NPS' interpretive function) in a manner that would lead to direct competition with concessioners, particularly for gift items. Concessioners have in fact been experiencing this problem in a number of parks. This was not intended by the 1998 Act, and could, if used aggressively, adversely impact the established businesses of concessioners by narrowing the scope of the franchises bargained for in their contracts.

It is not in the public interest for the government to enter into contracts with concessioners that induce them to expend significant sums on capital improvements and the development of their businesses, only to siphon off the profitability of those businesses, after the fact, to third parties who do not make such contributions. It should be remembered that not-for-profit organizations do not pay either income taxes or franchise fees, are not significant local employers, and do not for the most part make significant financial contributions to park facilities or programs. We think they are being encouraged to grow, only because what little money they do raise for the parks is totally under the control of park superintendents who do not need to justify its use. Cooperating Associations and other not-for-profit organizations are important partners of both the NPS and concessioners in enhancing the interpretive experience of both visitors and the communities that exist in the parks, but should not be permitted to usurp the commercial benefits the concessioners have bargained for in their contracts. Commercial Use Authorizations are intended to accommodate small, short-term commercial forays into the parks, such as guided hikes into the backcountry, not for the establishment of permanent, competing businesses. By allowing the NPS to divert commercial business to not-for-profit organizations from concessioners, the attractiveness of concessions contracts will certainly decrease and with it the level of investment and service to the public.

#### FAILURE TO PROVIDE DIRECTION ON RATE APPROVALS

The regulations provide no direction on the process to now be used for the approval of rates and charges. A central theme of the 1998 Act was Congress' desire to streamline the administrative functions of the NPS in concessions management, make them less burdensome for concessioners and make them more reflective of business reality. In no area was this more evident than in the provisions dealing with the setting of rates and charges.

A number of different provisions of the 1998 Act suggest that a concessioner's goods and services should be provided at reasonable rates. Section 406 of the Act clarifies what is meant by this. It specifically states that, while rates continue to be subject to the approval of the NPS and should be based on their comparability to prices charged under similar conditions, recognizing the unique operating constraints placed on concession operations, the "approval process utilized by the Secretary shall be as prompt and unburdensome to the concessioner as possible and shall rely on market forces to establish reasonableness of rates and charges to the maximum extent practicable." Thus, a "reasonable rate" is established by the market, as is normally true in our economy.

Section 409 of the Act established the National Park Service Concessions Management Advisory Board, which has a broad mandate to advise the Secretary on concessions management issues. However, the initial focus of the Advisory Board indicated by the Act was to deal with the rates question and to provide its recommendations within one year after its first meeting. As you know, the Advisory Board issued its initial report in November, 2000. We were quite disappointed to see that the Advisory Board's recommendations did little to advance the ball on this important issue. Instead it essentially ratified the past NPS ratemaking practices, which were already recognized by Congress as flawed when the 1998 Act was passed.

Though the Advisory Board conducted public meetings that encouraged different points of view, it was apparent that it did little work outside of those meetings and did not explore any options in depth. This may be because the Advisory Board, is unpaid and its efforts are for the most part unfunded. Thus it has no paid staff to develop facts or conduct research—instead it relies on the Park Service to handle its administrative needs. The Advisory Board is overwhelmed by NPS participation and influence to the point that participation by others is marginalized. In fact, NPS had over 20 participants at the meeting that focused on rates last spring. The Advisory Board would profit from representation by at least one existing concessioner to ensure that the points of view of our industry were represented in the Board's deliberations. After all, who knows more about these issues than we do? But because the NPS has control over board membership, it can influence the ultimate work product through its choice of members. Thus, it is our hope that this Committee does not consider that the Advisory Board's work is done on the rates issue, nor that the NPS is now entitled to continue the same failed practices as before. The Committee should consider giving additional direction in this area.

#### CONCLUSION

We appreciate the interest of the Committee in these matters. All parties have worked too long on these issues to allow the administrative process to frustrate the decisions made by Congress in 1998. The NPHA believes that our recommendations

are in the best interest of the parks, the visitors and the taxpayers. Thank you for your time and your hard work on behalf of our national parks and the American public.

Senator THOMAS. Thank you.  
Mr. Voorhees.

**STATEMENT OF PHILIP H. VOORHEES, SENIOR DIRECTOR,  
PARK FUNDING AND MANAGEMENT, NATIONAL PARKS CON-  
SERVATION ASSOCIATION**

Mr. VOORHEES. Thank you, Mr. Chairman. My name is Phil Voorhees, and I apologize today for my voice. I have a rather bad cold. I am the senior director of park funding and management at the National Parks Conservation Association, but today I am testifying as a member of the National Parks Concessions Management Advisory Board, and I want to try to limit my testimony to the areas we have covered in the past 18 months.

The responsibilities, as we see them, for the advisory board as established by the 1998 Act are for contracting with the private sector to conduct appropriate elements of concessions management, to handle removal and review of concessioner rates and changes to the public, or rather, review them, to cover the nature and scope of products which qualify as Indian, Alaska Native, and Native Hawaiian handicrafts, and the issue of allocation of concession fees.

In the past 18 months we have covered a number of topics, and I will try to bore into some of the issues in concessions management in the park system. We have come up with a variety of recommendations that I believe were sent to the Hill in November. First, the Park Service considered the creation of something called a nonappropriated fund instrumentality to handle concessions revenues. NAFT's, as I think Curt will probably attest to, inasmuch as he is quite an expert on them, provide a great deal of flexibility in terms of management of funds, disbursement of funds, investment of funds, and even the application.

Inasmuch as the Park Service concessions program is facing a variety of difficult management issues, I think that the flexibility would be very welcome. Quite frankly, if the Park Service were to invest itself in looking at the applicability of the concept of NAFT's in the parks in targeted areas, I think we could see whether or not this is a viable proposal both for the concessions program and perhaps for broader use across the park system in a way that allows you more flexibility and leveraging revenues. It is a methodology that is fairly common in the Department of Defense, and is also used in the Departments of Transportation, Veterans Affairs, NASA, and others.

The second recommendation is that the Park Service establish a chief financial officer position, inasmuch as it is clear to us that there needs to be at a very senior level accountability structure, or rather, somebody at a very senior level at the top of the accountability structure to handle concessions and to handle revenue matters in the Park Service.

A third issue is to elevate the management status of the concessions program itself. It is a fairly confusing or at least complex arrangement that the concessions program has now inside the management structure of the Park Service, and it does not allow for as

efficient management as I think we could find if there was some reorganization.

The specific recommendation is that there be established an Associate Director for Concessions, inasmuch as the Park Service concessions are big business, generating nearly \$800 million in total revenue to both concessioners, to all concessioners in the past year. There are some fairly complex financial relationships and contracts that have to move forward. From our perspective, it is critical that the Park Service have the appropriate level of acumen and accountability that allows them to be good partners both to the taxpayers and, frankly, to the concessioners as well. We think that the establishment of an Associate Director of Concessions would probably provide a better level in that regard.

Finally, that the Park Service continue streamlining the rate approval process. I think that a lot of progress has been made recently, but they probably could go a big farther. I think it is purposeless to have an overly burdensome rate of approval process either from the management perspective of the Park Service, accomplishing it, or from the perspective of the concessioner. The issue here is trying to make sure the rates are fair and reasonable across the board.

Finally, I want to open the door to Curt and his testimony in just few minutes to go through some of the recommendations that PricewaterhouseCoopers has come up with and the amount of work they have done with the Park Service in moving through an entire program review of the concessions program. I think they have been doing some extremely diligent and good work.

There is a lot of work that needs to be done, but honestly I think the Park Service is on the right track, and I think that everybody on the board is in agreement that a lot of progress has been made, and that the concessions program has turned a corner, and that with a little bit of patience and with a little bit more effort we could all expect to have strong relationships across the board and better management moving forward.

Thank you very much. I would be happy to entertain any questions, as long as my voice holds out.

[The prepared statement of Mr. Voorhees follows:]

PREPARED STATEMENT OF PHILIP H. VOORHEES, SENIOR DIRECTOR, PARK FUNDING AND MANAGEMENT, NATIONAL PARKS CONSERVATION ASSOCIATION

Mr. Chairman and members of the Subcommittee, my name is Phil Voorhees. I am the Senior Director for Park Funding & Management of the National Parks Conservation Association (NPCA), America's only private, non-profit advocacy organization dedicated solely to protecting, preserving, and enhancing the National Park System. I also serve as a member of the National Park Service Concessions Management Advisory Board, established under Title IV of the National Parks Omnibus Act of 1998. I am testifying today as a member of that Board, on issues relating to the implementation of the 1998 law.

Title IV of the National Parks Omnibus Act directed the Board to provide recommendations to the Secretary of the Interior on a number of different matters including:

- Contracting with the private sector to conduct appropriate elements of concession management;
- Review and approval of concessioner rates and charges to the public;
- The nature and scope of products which qualify as Indian, Alaska native and Native Hawaiian handicrafts;
- Allocation of concession fees.

Since its inception nearly 18 months ago, the Board has adhered to and pursued the mandates stated above. We submitted a report to the Secretary of the Interior in November of 2000 with some specific recommendations for improvement of the National Park Service's Concessions Program. On behalf of the Board, I would like to briefly review some of the more significant recommendations in that report.

#### CREATION OF A NON-APPROPRIATED FUND INSTRUMENTALITY

The first recommendation was to consider the establishment of a Non-Appropriated Fund Instrumentality (NAFI) for the deposit and management of concession franchise fees received by NPS. In our view, this structure would better allow NPS to institute mechanisms and controls to account for receipt, investment, and disbursement of funds. Our objective in making this recommendation was to allow the NPS concessions program to operate in more businesslike environment in their management and oversight of concessions fee proceeds, to maximize the benefit of concessions proceeds, and to target that benefit towards concessions management professionalization programs. Many federal agencies have used NAFIs as an effective tool in funds management, budgeting, accounting, capital reinvestment and procurement. Examples include the Department of Defense, Department of Transportation, Veteran's Affairs, NASA and numerous others. If successful with the concessions program, the NAFI construct may have broader applications within the Service.

#### ESTABLISH A CHIEF FINANCIAL OFFICER POSITION

Another key suggestion was for the Park Service to establish a Chief Financial Officer (CFO) position at the Deputy Director level. Our intent was to ensure that the agency has a management accountability structure for concessions and other fee generating programs, as well as major business related matters within the Agency, that rises to a very senior level. As a result of the 1998 law and the fee demonstration, NPS is now generating close to \$200 million per year in non-appropriated funds. This number is expected to grow over time. These funds demand a new and different management, accounting and oversight structure within the agency. The Board feels that now is the appropriate time for the creation of such a critical role.

#### ELEVATE THE MANAGEMENT STATUS OF THE CONCESSIONS PROGRAM

In our report to the Secretary, we also recommended that the concessions program be elevated within the Park Service. This could be accomplished by the creation of an Associate Director for Concessions. Again, it is important to point out that park concessions is big business. Last year, National Parks Concessions generated close to \$800 million in gross revenues. The large concessions contracts are very complex legal and financial relationships, requiring a high degree of business acumen. We feel that expertise in this area is severely lacking within the agency. The result is an unbalanced relationship between the agency and the concessioner, especially as it relates to the disposal of large contracts. Through the creation of an Associate Director for Concessions, NPS would be making a major commitment to increased emphasis on this business relationship and its importance to the provision of uniformly high quality visitor services. The Board feels that these areas are currently under-emphasized and under-resourced.

#### STREAMLINE THE RATE APPROVAL PROCESS

We also recommended that the Park Service Concessions Program simplify and streamline the rate approval process. Historically, this process has proven to be bureaucratic and cumbersome for all parties concerned. The Board feels that NPS has made progress in improving the rate approval system, but should go even further in streamlining these processes. In addition, we have recommended that the agency develop and train a variety of in-house competency specialists to improve consistency in the monitoring and rate approval process.

#### SUPPORT FOR THE RECOMMENDATIONS MADE IN THE PRICEWATERHOUSECOOPERS PROGRAM REVIEW

Finally, The Board would like to note that at our most recent meeting, we were briefed by the PricewaterhouseCoopers team regarding their program review. I understand that they will be testifying on these findings today. The Board was pleased with the results and has asked the Park Service to move to implement the key recommendations.

In conclusion, the Board has made considerable progress with NPS in working through a variety of management issues. Some changes need to be made to increase



the capacity and expertise of the concessions program and better align the program within the agency. This year, the Board intends to focus in addition on the management of Indian, Native Alaskan and Native Hawaiian handicrafts as that management relates to our charter.

I would be more than happy to answer any questions regarding my testimony or the work of the Concessions Management Advisory Board to date. Again Mr. Chairman, I appreciate the opportunity to testify before you today.

Senator THOMAS. Thank you. We will certainly stop when we cannot hear you any longer.

[Laughter.]

Senator THOMAS. Mr. Horn.

**STATEMENT OF WILLIAM P. HORN, ATTORNEY AT LAW, BIRCH, HORTON, BITTNER, AND CHEROT, ON BEHALF OF AMERICA OUTDOORS**

Mr. HORN. Mr. Chairman, thank you. My name is Bill Horn. I am appearing on behalf of America Outdoors. America Outdoors is an international coalition of outfitter and guides operating across public lands, many of whom operate within national park units, and in contrast to the references ahead of me here, most of these folks fall clearly in the small mom and pop category of river floaters, canoe renters, horsebackers and such.

Let me add, too, that I present the testimony here from two perspectives. One, of course, is from the perspective of the guides and outfitters, and the other is from the perspective as a former Assistant Secretary of the Interior for Fish, Wildlife, and Parks, and had to wrestle with the administrative side of this program, so I appreciate what the Park Service is going through in implementing this new statute.

Let me just add, too, we really greatly appreciate the subcommittee's continuing leadership on this issue and, Mr. Chairman, your commitment to recreational use and access to public lands. When Congress enacted the 1998 Act, one of its primary purposes was to assure management of small concessions in a streamlined and simplified manner. The expectation of the outfitters and guides was that this would translate into less complicated paperwork, including less complex and less burdensome forms, studies, reports, and surveys. Unfortunately, somewhere along the line that vision seems to have gotten a little bit sidetracked, and off-target.

Now, let me say that our operators really greatly appreciate the opportunity and the privilege of providing services to the public within park units, and we are not looking for any form of adversarial relationship with the service, and we are not interested in beating up the agency. Nonetheless, we would like to try to iron out some of the wrinkles and potholes that have cropped up in implementation of the 1998 Act so we can move forward in some unconfused, unfrustrated fashion.

Let me give you just a couple of the specifics that I think highlight the source of some of the confusion and frustration that our folks are wrestling with. The law and the draft regulations promised a, quote, simplified, close quote, contract for outfitters and guides, and in the last few months we have begun to see some of the new contracts appear. A couple of our fellows have received the simplified contract, all 27 pages of it.

One of the recipients of this 27-page contract is an individual who rents 81 canoes. When you add up his 27-page contract, his new 20-page operating plan, his 20-page compendium of regulations, and his environmental management plan that is not yet complete, he has over one page of legal document for each canoe that he rents, and I do not think this is exactly what this committee had in mind, and I know it is not exactly what the guides and outfitters had in mind when we heard the term, simplified contract.

A second issue, and it really does not arise from the statute, is the environmental management plan. Now, this was a Clinton administration initiative that has generated enormous confusion among the small concessioners, and the apparent objective, at least as I heard it explained by the past political leadership in the agency, was to ensure that all concessioners, large and small, employed, quote, best environmental practices, end quote, within the units of the park system.

Unfortunately, this term was never clearly defined. Most of our folks do not really know what this means, and what are the consequences if, notwithstanding the good faith effort, there is some lack of full compliance with this admittedly subjective standard.

Now, the majority of small guides and outfitters find themselves being pushed into hiring consultants to prepare these environmental management plans. Let me add that in the new, simplified, 20-plus page contract, the single section establishing the environmental practices program covers three pages and goes into, I think, rather extraordinary detail about what this plan is supposed to have.

In addition, once you get your contract, you are required to submit to the Park Service your written EMP within 60 days afterwards. Most of the fellows do not have the expertise, or the manpower, or the ability to put something together that quickly. Substantial open-ended costs are foreseen, and frankly, we go to the local concessions officers, most of whom are as much in the dark about this program as are the guides and outfitters, and our people are hearing an enormous amount of off-the-record frustration about this program from local agency personnel.

A third issue is the preference right of renewal. Congress expressly retained the preference right for outfitters and guides, and notwithstanding this clear direction, some operators seeking assurance of their preference right eligibility are continuing to be informed, quote, our agency lawyers are still looking at the issue, close quote.

Now I, as a practicing attorney, and having worked at the subcommittee on that language, I cannot find any ambiguity in the statute regarding the retention of the preference right for small concessioners and guides and outfitters, and it is just a continuing bone of contention and frustration that somehow this issue is under continuing legal review. I do not know what there is to review, and we would sure like to get that one answered.

Let me just close by reiterating that we want a cooperative relationship with the Park Service, and we fully understand that any new program will have bugs to be worked out, and we are clearly prepared to be patient. As I indicated, I am acutely aware of the challenges that the service faces. Nonetheless, we are looking for

clarity, and we look forward to working more closely with the service and this subcommittee on administering the concessions program consistent with the letter and spirit of the 1998 Act.

Thank you.

[The prepared statement of Mr. Horn follows:]

PREPARED STATEMENT OF WILLIAM P. HORN, ATTORNEY AT LAW, BIRCH, HORTON,  
BITTNER AND CHEROT

Mr. Chairman, my name is Bill Horn, Washington Representative for America Outdoors. America Outdoors is an international coalition of outfitter and guides operating across the nation's public lands. Established in 1990, and headquartered in Knoxville, Tennessee, America Outdoors has over 550 members serving the general public from 40 states and 60 foreign countries. America Outdoors' purposes include the conservation and enhancement of quality outdoor experiences on America's lands and waters. Many of its members operate within the National Park System and are committed to the protection and conservation of those lands. America Outdoors greatly appreciates your continuing leadership on this issue and your commitment to recreational use and access to our public lands.

When Congress enacted the National Park Omnibus Management Act of 1998, a primary purpose was to assure management of small concessions in a streamlined and simplified manner. Simpler contracts and simpler administration would enable these small businesses to focus on providing quality recreational services to the public. The expectation of outfitters and guides was the use of less complicated paperwork, including forms, studies, reports, and surveys.

Somewhere along the line that vision has gotten sidetracked. For many operators, the system has gotten more complex. This complexity is generating a combination of bewilderment and frustration.

America Outdoors members with park concessions value their relationship with the National Park Service. The same operators greatly appreciate the opportunity and privilege of providing services to the public within Park units. We do not want an adversarial relationship with the Service and are not interested in beating up the agency. We are concerned, however, that we are facing a concessions system which is confusing, complex, subjective and which makes good faith compliance difficult and costly.

Let me briefly outline some specifics that are giving rise to confusion and frustration. Our hope is that such identification will enable us to work cooperatively with the Service and this Subcommittee to assure a clear, reasonable program for concessions administration.

1. Contracts—The law and draft regulations promised a "simplified" contract for outfitters and guides. Some of our operators have recently been presented their simplified contract all 27 pages of it!

2. Operating Plans—In addition to the contract, most operators must submit a detailed operating plan that can be accompanied by a lengthy compendium of regulations. One America Outdoors member who simply rents 81 canoes has a 20 page operating plan coupled with a 20 page compendium. This is on top of his lengthy new contract. It adds up to almost one page for each canoe!

3. Environmental Management—This Clinton Administration initiative has sown enormous confusion and concern among small concessioners. The apparent objective is to assure that concessioners employ "best environmental practices." However, no one really knows what this means and what are the consequences if notwithstanding a good faith effort, there is some lack of full compliance with this subjective standard.

The majority of small operators find themselves being pushed into being consultants to prepare their environmental management plans. And in the future they will be required to implement the program, monitor it, measure its impact, make corrections to assure compliance, and report to the National Park Service. Substantial open ended costs are foreseen. Local National Park Service personnel know as little about this initiative as we do and are hard pressed to answer our questions. Our members are hearing a lot of off-the-record frustration about this program from local agency personnel.

4. Fee Payment—Most small operators used to make their fee payments on an annual basis. It simplified accounting, and accommodated the cash flow realities of small businesses. Now many are being told to pay on a 30-day schedule. That is necessitating additional accounting (at a cost), estimated payments, and a payment schedule that cuts into cash flow. America Outdoors would like to return to annualized payments.

5. Preference Right of Renewal—Congress expressly retained the preference right of renewal for outfitters and guides. Notwithstanding this clear direction, some operators seeking assurance of their preference right eligibility are being informed “our agency lawyers are still looking at the issue.” As a practicing attorney, I can’t find any ambiguity in the statute and wonder why some of our guides and outfitters can’t get the assurances Congress intended for them.

6. Transfers—The new law was clearly designed to facilitate transfers. It provided for the speedy approval of transfers unless the agency determined that an unqualified entity would get the contract or the transfer would impair park resources. I am persuaded the regulations do not clearly reflect Congressional intent. Moreover, many operators are facing delays of months in getting transfers approved. One concessioner in Utah has just been informed that it could be another six months (on top of six months gone by) before a proposed transfer will be approved—maybe.

I want to reiterate that we want a cooperative relationship with the National Park Service. We understand that any new program will have bugs to be worked out and are prepared to be patient and continue to work with the National Park Service. One fundamental concern is that the present regulatory program reflects the anti-public use philosophy of some previous Administration leadership. We hope that with new leadership at the Department, we will be able to work more closely with the National Park Service on establishing a concessions program consistent with the letter and spirit of the 1998 Act, that facilitates public use and enjoyment of our parks, and conserves park resources. Thank you.

Senator THOMAS. Thank you, Mr. Horn. We are pleased that you brought Victoria with you today. We are glad to have you here.

Mr. Cornelssen.

**STATEMENT OF CURT CORNELSSEN, DIRECTOR, GLOBAL HOSPITALITY AND LEISURE PRACTICE, PRICEWATERHOUSE-COOPERS**

Mr. CORNELSSEN. Thank you, Mr. Chairman and members of the committee. I appreciate the opportunity to testify before you today. My name is Curt Cornelssen. I am a director with PricewaterhouseCoopers in the Global Hospitality and Leisure Practice. I have been asked to testify before you today regarding a program review that we recently completed on the National Park Service concession program. I recognize my time is limited. For the next few minutes I would like to provide you with a brief synopsis of our approach, findings, and recommendations.

Last September, the National Park Service engaged PricewaterhouseCoopers to conduct a high-level review of the program. The scope of this analysis focused on organizational objectives, the structure and reporting relationships, staffing levels and expertise, financial and budget analysis, contracting and capital assets oversight, and technology.

The outcome of this program review was to assist the program in developing a business-based action plan to provide recommendations for revised organizational structure. PwC’s analysis spanned a 90-day period, and included interviews with over 120 personnel directly and indirectly related to the concessions program, including a number of concessioners.

Within each program area, we assessed the concession program’s strengths and weaknesses to better understand how they affected the organization’s overall performance. Following this assessment, PwC benchmarked the National Park Service concession program against other agencies and corporations with similar assets and fiduciary responsibilities. From this analysis, we were able to identify which best industry practices the program should consider for more effective management.

I would like to provide you with our key findings. Obviously, you have my full testimony. I am just going to cover a few of the key issues and key areas.

In terms of mission and objectives, our review of the laws, regulations, and management policies indicate that the mission of the Park Service program is well aligned with the mission of the Park Service. That is not always the case. Furthermore, the staff can articulate and are committed to the mission. However, what we also found was that the program lacks clearly defined objectives and implementation strategies, and that is a problem in terms of consistency in application.

Organizational structure and reporting relationships. The reporting structure from the park to the region is clearly understood by all the staff. The biggest challenge we found facing the program is a lack of what we call appropriate fiduciary checkpoints for contract development and oversight, and I can get into that in the question and answer session.

Contract oversight is one of the most important business functions within the program. The program has over 600 contracts, with 49 what we call high value contracts, that is, over \$3 million a year in gross receipts, and these high value contracts represent about 72 percent of the franchise fees and about 83 percent of the revenue.

However, the program is not well-organized to manage these key contracts. Rather, they are structured to handle the volume versus value of contracts across the regions. As a result, contract oversight is overburdened by contracts of lesser economic value. Additionally, upon review of staff competencies, it appears that the program does not have the appropriate level of financial, hospitality/recreation and legal expertise and experience available for oversight of the key high value contracts.

We conducted a benchmarking in an effort to evaluate the program against industry best practice, and we identified and interviewed agencies and corporations that had similar areas of asset oversight as well as fiduciary responsibilities, and we found that in the area of asset oversight all of these organizations rely on professionals with significant financial and industry expertise.

Additionally staffing and resourcing for contract oversight is focused on contracts with the largest value and risk. Typically, a small cadre of staff will oversee key assets and routinely draw on other internal and external resources for additional assistance.

Finally, all of these organizations and corporations require extensive reporting from their operating partners.

I would like to now cover a few of the program recommendations. There are four of them. The first one is to develop a new visions and objectives implementation strategies, pretty basic business planning 101 type stuff. This includes establishing a working group within the Park Service to define the visions and objectives for the program as well as strategies, secondly, to redefine the management processes to address fiduciary oversight.

We are particularly concerned in this area that higher fiduciary oversight standards and more efficient business processes need to be established for all contracts.

Thirdly, we recommend a new organizational structure to heighten strategic oversight on high value assets. A strategic business oversight solution needs to be developed for ongoing review and quality control for major concessions contracts, and finally, putting this all into a detailed business-based action plan. We are in the process of developing that plan right now for the Park Service, but it is not the PwC plan, it is the Park Service plan, so the National Park Service Working Group will then need to be established and review the plan, and to begin the implementation process.

In concluding my comments, I would like to note that the study is designed to be the baseline from which the Park Service will redesign the program, structure, and operating procedures. We are working diligently with the National Park Service to develop and implement a business-based action plan modeled after commercial best practices.

I will be more than happy to answer any questions that you or the other members have regarding our work. Again, Mr. Chairman, thank you very much.

[The prepared statement of Mr. Cornelssen follows:]

PREPARED STATEMENT OF CURT CORNELSSEN, DIRECTOR, HOSPITALITY AND LEISURE PRACTICE, PRICEWATERHOUSECOOPERS

Mr. Chairman, members of the Subcommittee, thank you for the opportunity to testify before you today. My name is Curt Cornelssen and I am a Director in the Global Hospitality and Leisure Practice of PricewaterhouseCoopers LLP. Our firm is well recognized as a global leader in providing cutting-edge advice to both private and public sector hospitality and recreation organizations.

I have been asked to testify today regarding a program review that we recently completed for the National Park Service Concession Program. I recognize that my time is limited. Over the next few minutes, I'd like to provide you with a brief synopsis of our approach, findings and recommendations.

In September 2000, the National Park Service engaged PricewaterhouseCoopers (PwC) to conduct a high-level program review of the Concession Program. The scope of the analysis focused on the following six areas:

- Organizational Mission and Objectives
- Organizational Structure and Reporting Relationships
- Staffing Levels and Expertise
- Financial and Budget Analysis
- Contracting and Capital Asset Oversight
- Technology Review and Assessment

The outcome of this program review was to assist the NPSCP in developing a business based action plan and to provide recommendations for a revised organizational structure. PwC's analysis spanned a ninety-day period and included interviews with over 120 personnel directly and indirectly related to the Concession Program, including a number of Concessioners.

Within each program area, we assessed the Concession Program's strengths and weaknesses to better understand how they affected the organization's overall performance. Following this assessment, PwC benchmarked the National Park Service Concession Program against other agencies/corporations with similar assets and fiduciary responsibilities. From this analysis, we were able to identify which best industry practices the Concession Program should consider for more effective program management. I'd now like to provide an overview of our key findings. In the interest of time, I will limit my comments to the most critical areas.

**Mission and Objectives:** Our review of the applicable laws, regulations and management policies indicates that the mission of National Park Service Concession Program is well aligned with the mission of the National Park Service. Furthermore, the Concession Program staff can articulate and are committed to the Concession Program mission. The current challenge for the Concession Program is the lack of clearly defined objectives and implementation strategies.

**Organizational Structure and Reporting Relationships:** The reporting structure from the park to the region is clearly understood by all concession staff. The largest

challenge facing the Concession Program is the lack of appropriate “fiduciary” checkpoints for contract development and oversight.

**Core Management/Business Processes:** The three core management processes of the Concession Program are Planning, Contracting and Contract Oversight. Each of these management processes was further broken down into their business processes. We then proceeded to analyze each of the business processes to assess their relevance to the concession program and to determine if any of the processes could be improved or eliminated. Overall, we believe the Concession Program has properly identified their core management and business processes, but the application of their processes is problematic. In the areas of Planning and Contracting, the staff frequently operates in a “reactive” versus a “proactive” mode. Additionally, the Contracting process appears to be too complex for lesser economic value contracts and may not be rigorous enough for contracts of high economic value. Finally, we believe that Contract Oversight needs to be enhanced for these high-value contracts.

**Contract Oversight:** The Concession Program has oversight of over 600 contracts, with 49 “high-value” contracts (over \$3 million in gross receipts per year). These high-value contracts represent approximately 72 percent of the Concession franchise fee revenue and 83 percent of gross concession revenue. However, the Concession Program is not well organized to manage these key contracts. Rather, they are structured to handle the volume versus value of contracts across Regions. As a result, Contract Oversight is overburdened by contracts of lesser economic value. Additionally, upon review of staff competencies, it appears that the Concession Program does not have the appropriate level of financial, hospitality/recreation and legal expertise and experience available for oversight of the key high-value contracts.

**Staffing Levels and Expertise:** The total staff associated with the Concession Program is approximately 249 individuals. Over 53 percent of this staff are collateral duty and 47 percent are full-time. Overall, we are of the opinion that the Concession Program has a sufficient number of staff to meet the Concession Program mission under normal business operations. However, the current staffing levels are not suitable for periods of intense change, such as now. It appears that no clear NPS model exists for Concession Program business-based staffing at the park and the region level.

**Budget/Resources:** Our preliminary review of the “Corporate” (Washington Office and Regions) concession budgets indicated that in FY 2000, the Concession Program had approximately \$6.5 million dollars available for program staffing and operations. Sixty percent of this budget came from appropriated sources while the remaining 40 percent were generated by the 20 percent portion of franchise fees. With the expansion of funding to include the 20 percent fees, the “Corporate” concession function appears to be appropriately resourced on a steady state basis. However, the current budget is not sufficient to deal with the tidal wave of concession contract rollovers that NPS faces over the next 2-3 years.

#### BENCHMARKING ANALYSIS

In an effort to evaluate the Concession Program against industry best practices, PwC identified and interviewed agencies/corporations that had similar areas of asset oversight (e.g. hospitality, retail, and recreation) as well as fiduciary responsibilities on behalf of an owner/landholder (e.g. ensuring service quality and reasonable financial return).

We found that in the area of asset oversight, all of these organizations rely on professionals with significant financial and industry specific expertise. Additionally, staffing and resourcing for contract oversight is focused on contracts with the largest value and risk. Typically, a small cadre of staff will oversee key assets and routinely draw on other internal and external resources for additional assistance. Finally, all of these organizations/corporations require extensive reporting from their operating partners.

#### PROGRAM RECOMMENDATIONS

PwC has developed four key recommendations for the Concession Program based upon our high-level program review. The recommendations are as follows:

##### *1. Develop New Visions, Objectives and Implementation Strategies*

This will include establishing a working group to define visions and objectives for the Concession Program, as well as implementation strategies. This process must be inclusive and efficient.

2. *Redefine Management Processes to Address Fiduciary Oversight*

Higher fiduciary oversight standards and more efficient business processes need to be established for all contracts.

3. *Recommend New Organizational Structure to Heighten Strategic Oversight on High-Value Assets*

A strategic business oversight solution needs to be developed for ongoing review and quality control for major concession contracts. Furthermore, the Concessions Program Washington Office needs to be reorganized and simplified along major management processes.

4. *Develop a Business Based Action Plan*

PwC will develop a business based action plan outline based on study findings. A NPS working group will then need to be established to review the plan and begin implementation. The plan will then need to be briefed to NPS Leadership, Advisory Board and other appropriate stakeholders.

In concluding my remarks, I would like to note that this study is designed to be the baseline from which the Park Service will redesign its Concession Program structure and operating procedures. We are working diligently with the National Park Service to develop and implement a business-based action plan, modeled after commercial best practices.

I would be more than happy to answer any questions that you or the members have regarding our work. Again Mr. Chairman, I sincerely thank you for this opportunity to testify before you.

Senator THOMAS. Thank you. We will split up our time here. There are a lot of questions you could ask, I guess, the Park Service in response to some of the things that have been mentioned. We might start with a little broader aspect, but first of all, when was your study completed?

Mr. CORNELSSEN. About a month ago, sir.

Senator THOMAS. So just a month ago, so there has not been a great deal of time to implement or consider your suggestions.

Mr. CORNELSSEN. That is correct.

Senator THOMAS. And I presume that is true with you, Mr. Ring, that have you had time? Have you put some priorities on the things that Pricewaterhouse has brought to you?

Mr. RING. Mr. Chairman, we have worked with Pricewaterhouse all the way through the study but have just received their final recommendations here within the last month. We were able to have those findings presented to the advisory board and had, I thought, a very productive discussion related to the advisory board's recommendations and Pricewaterhouse's recommendations, but we are also in the process of taking these reports and obtaining review and comments back from our field personnel, and we expect to be convening a work group to come up with an action plan in terms of both the annual report and the Pricewaterhouse recommendations in the next several months.

Senator THOMAS. I would think you would respond pretty positively to the idea of defining visions and objectives, would you not?

Mr. RING. Absolutely.

Senator THOMAS. And you have not done that yet?

Mr. RING. We have not implemented the specific recommendations yet.

Senator THOMAS. And I presume most people would agree with the fiduciary and changing the expertise within the staff.

Mr. RING. I think, as I commented earlier, we recognize the need to strengthen the professional expertise within the staff we have, but we also recognize there is a level of expertise, particularly related to the larger contracts we deal with, that we do not have, and



frankly it is probably not cost-effective for us to try and hire people to maintain that level of expertise, and so we are very much focused on going to outside consultants through contracting.

Senator THOMAS. Have you done any of that?

Mr. RING. Well, we have used Pricewaterhouse, but in the case of the specific contract relationships, no. We are negotiating right now to bring some teams in.

Senator THOMAS. We talked about this, you know, during the development of the bill and, in fact, had really before we came up with the advisory committee had the notion that we would be doing more of that, so that is not a brand new idea.

Mr. RING. The idea of contracting out is not, and to date on the funds that we use for the roughly \$6 million that we use on the corporate level management of the program, we are contracting out for services for about a third of those funds, and we anticipate doing a significant amount more.

Senator THOMAS. Let me try something with all of you. There is a number of things we could do and so on, but given the management program we have today, what would be the most important thing, the most important change that you think you could do to cause to happen in this whole program of managing the concessions?

Mr. FASSLER. I would like to start—there is a number of issues, but let us just take one. I know the advisory board was set up for the purpose of trying to fix the problems, get a better understanding with inside the Park Service as to some of the elements it takes to be a concessionaire in many different areas.

I noticed in the three meetings the advisory board had, there is a tremendous amount of Park Service personnel at these meetings, and I do not think any of the concessionaires—now, we are not supposed to be part of the advisory board, but one of my recommendations to Phil would be that concessionaires should be invited into these meetings for the very purpose of getting input and finding solutions, having suggestions made as to how you could fix the situation, and in other words have an oversight meeting not here but at the advisory board meeting, because most of the problems that we have is in communication, or the lack of it.

In this particular case, we believe the regulations were written improperly. A lot of that could have been avoided if there was input at the advisory board meeting, or even with the National Park Service. Where concessionaires have a very good open and honest communication with their superintendent, many of the problems are not there. It is where you do not have good communication, and that generally happens here at the Washington Office, because they are so far away from the business, and the concessionaires are far way from Washington, except for those that are concessionaires in Washington.

Senator THOMAS. I presume if you had some fiduciary people and so on, that the policies would be made here to be adhered to by each of the parks.

Mr. FASSLER. That is correct.

Senator THOMAS. Mr. Voorhees, what would be the main issue that you think?

Mr. VOORHEES. First, if I can respond to the issue of concessioners being present at the advisory board meetings, I have been present at all the advisory board meetings, and I cannot think of a single meeting in which there has not been quite a strong representation from concessioners there.

Now, we have taken great pains to allow everybody to express their voice and, in fact, usually sequester, if you will, an entire—not sequester, but hold an entire day for discussion and comments back and forth, not so much among the board, but with those who were present.

Senator THOMAS. Let us see if we can scoot on through. What issue do you think—

Mr. VOORHEES. I would say the most important issue at hand here is elevating the professional capacity of the concessions program managers so that you have a closer point of parity when they are going through the contracting process and with all aspects of concessions management.

Senator THOMAS. Mr. Horn.

Mr. HORN. I think it is simply to reiterate that the dominant primary goal of the concessions program is to facilitate public use and enjoyment through the provision of quality services. Part of the problems are that we get mixed signals. Sometimes it is, are we making concessioners the environmental showcases through this environmental program? Are we supposed to be generating a lot of dollars for the Federal Treasury? Are we supposed to be assuring additional competition or protecting the resources?

I think what happens is, when you get the objectives muddled the program just begins to work at cross-currents with itself, and if we went back to that simple, this is to facilitate public use and enjoyment through quality services, I think once the division of the Park Service got that message very clearly, I think the program would run much better.

Senator THOMAS. The definition of vision and objectives, then, would be high on your list?

Mr. HORN. Yes, sir.

Senator THOMAS. Mr. Cornelssen.

Mr. CORNELSSEN. I think the way the program is set up today is one size fits all for all contracts, and that is a problem. If you take the top 30 to 50 contracts, and these are complex financial legal instruments that require a lot of expertise, they require a different management infrastructure to deal with that, and then if you take the remaining contract and say, frankly, maybe these could be simplified, and maybe streamlined—

Senator THOMAS. If we said that. I understand what you are saying, and I am sure that is exactly right. So you are talking about the 27 pages perhaps could be simpler, and spend more time on the huge ones.

Mr. CORNELSSEN. Yes, sir.

Senator THOMAS. Mr. Ring, where would you put your priority? I mean, you are, but tell us.

Mr. RING. Mr. Chairman, I have not heard a comment yet from the other speakers with regards to things that need attention I disagree with. It is hard to distinguish which one is the single most important. Unless they are all working we do not have a program.

I agree that communications is a key here. We are making huge changes, and maybe through all of it we have got a long process to go through and a new law to implement and lots of people to train and lots of devils in the details to work out to get it done, and if I had to give the edge to any of them, I would give the edge to communication and making sure we are talking to each other as we work our way through it, because there will undoubtedly be lots of, and there are lots of misunderstandings, good faith attempts to do things that do not work out, and we need to be able to have enough trust in each other to know we are all headed for the same goal.

Senator THOMAS. Some of us—I might just share there has been an awful lot of talk about partnerships and listening and talking, but you also have to be willing to accept some of those things and cause them to happen.

The idea that you meet with everybody does not do it. You also have to do some of the things that are recommended. I am not saying you do not, but I am saying, with all the talk that goes on about public land management, let us get together and so on, and have cooperating agencies, but then the agency has to listen.

Mr. RING. Mr. Chairman, I could not agree with you more. Talk is something that can happen a lot. Communications is not necessarily something that always happens when you are talking, but I very much am focused on communication.

Senator THOMAS. Senator Campbell.

Senator CAMPBELL. Thanks, Mr. Chairman. It will be interesting to come back in another year, year-and-a-half, and see what part of the Pricewaterhouse action plan has been implemented.

I only have a couple of questions, although I might say to Mr. Horn, do not feel too bad about park regs that define canoes that are being a page long, as I understood you to say. I heard one time the Defense Department has over 100 pages dedicated to defining hamburger. That just happens to be Government, so do not feel too bad about that.

You did say something that made me think about the mission of the concessionaires, and I know we have to understand they are supposed to provide a service and some quality experience and a product, but clearly they have been put in a position in some places where they also have to be the enforcers, and I am not sure that should be their mission.

Let me ask Mr. Ring a question here. We have 640 concessionaires, as I understand it. When we implemented this situation where incumbent concessionaires would not get a preferential right to renew their contracts, do you know off-hand how many contracts did not get renewed, how many were lost or changed, or new concessionaires?

Mr. RING. Senator Campbell, I do not know the answer to that specifically. I will find out and provide it.

Senator CAMPBELL. I was just interested, because some of those are moms and pops, and some of them are big chains, and I am kind of interested in knowing whether the big chains had better opportunity, because they can buy cheaper because they buy larger amounts of goods than a small independent, and if you could get that information I think we would be interested.

Mr. RING. I certainly will. I suspect at this stage we have a number of contracts that are expired and under extensions, and we are still early in the process of getting many of those, the bulk of those contracts out for new contract award, and so I rather suspect the actual number is low, but I will get that information for you.

Senator CAMPBELL. I appreciate that. Mr. Fassler, you made some really interesting comments, and I would like you just to elaborate, or just to restate them, because I am not sure I was writing fast enough to get it down right. Did I understand you to say if I have a big chain like McDonald's, and I have got them all over the place, all over the country, and I have one in a national park somewhere, that I cannot sell the whole chain without some approval from that park, because one of them is in the park?

Mr. FASSLER. The conclusion you came to is correct, but it is not the way you said it. What we are saying is, if a major company like McDonald's happened to own a subsidiary that has a concession contract in a national park, based on the way their regulations have just recently been written, the Park Service will dictate if McDonald's could sell one of their subsidiaries, and that is not what the law intended it to be.

Senator CAMPBELL. Something sounds wrong with that. I think that might be what we call the law of unintended consequences.

Let me also ask you, if I have a business in a park and I want to expand that business, what can I use in that business to use as collateral for a loan? You alluded to that.

Mr. FASSLER. We understand the law, which would allow us cross-collateralization, which means you could put up assets in a number of your facilities to gather a loan, a big loan that you could be using to finance investments in the park. The law allows it. The Park Service regulations wrote it and said you cannot do it. That is one of our problems.

Senator CAMPBELL. That sounds like something that needs to be defined or changed, too. And Mr. Voorhees, I do not want to tax that bad voice of yours, I apologize, but I was interested, you are speaking here on behalf of the Concessions Advisory Board?

Mr. VOORHEES. Yes, that is correct.

Senator CAMPBELL. Did the Concessions Advisory Board advise these parks on handicrafts like Native American handicrafts?

Mr. VOORHEES. We are going to be spending this year focusing on the handicrafts issues, so we are just getting into it.

Senator CAMPBELL. Then I can tell you, you have got your work cut out for you. It is a mess.

Mr. VOORHEES. I am aware of that.

Senator CAMPBELL. They say now it is about a \$1 billion industry. Over half is plagiarized, i.e., Chinese beadwork, whatever, plastic in place of turquoise, Kuchinas carved in Mexico, all that kind of stuff. Whoever has to do the defining and the tracking, what is authentic, what is not, that is a major job, and I know some concessionaires in the Park Service that are trying to comply with the Indian Arts and Crafts Act of 1988, which updated the old one, and the Indian Arts and Crafts Board guidelines about what is and what is not. They kind of say what is and what is not, where the 1988 Act says who is and who is not.

It is just a complicated mess, and since some of those crafts they call traditional but they are not, if you go back far enough in time. Silverwork is an example. Before 1730 no Indians did that in the United States. Weaving was basically—rug weaving, which is now considered a traditional Navajo craft was taught to the Navajos, as you know, and a lot of these things were not—pottery was, of course, traditional, but slip pottery, the hand painting on slip pottery was not traditional, and yet it is hand-painted.

So the question can be asked, if you paint on that as a medium, why doesn't that qualify? If you paint on a canvas using a brush you bought down at the five and dime and a canvas you bought at the hardware store and acrylic paints, and yet if you are Native American you sell that, it qualifies as Native American Art, but slip pottery does not, and you painted on that.

So it is a real complicated thing, and I am not asking you to try to figure it all out here, because I cannot figure it out, and I have been an Indian my whole life, and you are just not going to find it easy, particularly with all these different definitions of who and what.

But I would encourage you to do the best you can. It is just kind of a mess to try to find what the Park Service should be accepting and what they should not, and they above all people should be the ones that try and keep it as honest and above-board as they can.

Mr. VOORHEES. Well, Senator, the issue for us at the moment is to try to find a way which is most constructive for us to engage in this issue within the confines of the charter. It is going to take a lot of thought to figure out exactly what is the most targeted way to participate here.

Senator CAMPBELL. Well, you may have to work with some of the agencies that are already in place, such as the Indian Arts and Crafts Board, the Indian Arts and Crafts Association, which is a private association of collectors, craftsmen, and museums and so on, but I wish you well.

I have no further questions. I think with or without the chairman's permission I will just call a recess for a few minutes until he gets back so I can go over and vote myself. Thank you. We appreciate you being here.

[Recess.]

Senator THOMAS. Thank you very much. I am sorry, we get interrupted by votes all the time.

Mr. Ring, how do you react to the simplified contract versus the 27 pages?

Mr. RING. Mr. Chairman, I know that there is, with the guides and outfitters particularly there is a range. There are some 300 of the 630, or 330 of the some 630 concessions operations that are in that guide and outfitter category, but they range in scope and scale dramatically, and while many of them are small, we have, I believe it is 21 that have values over \$500,000 gross a year.

I believe the rules were, and the contract was put in place to be able to do several things. One is to cover a range of situations and leave some flexibility when we put the prospectuses out to go with the greater or lesser requirements based upon the scale of the particular operation we are soliciting, certainly to gain enough information to make sure that if there are resource or safety resource

impact or safety implications related to the operation we can assess those, and also to create a competitive climate where we can solicit from people who are submitting proposals an opportunity for them to provide something very straightforward or something well-developed in terms of their offer so that we can actually judge and make distinctions between them when we are doing a competitive evaluation, and so I know that is the objective.

I know that the rules set these in place to provide for the wide range, and beyond that, I am interested in talking more with Mr. Horn over some of the specific concerns and applications, because we are very early on in making use of these.

Senator THOMAS. If they are over the \$500,000, then they are in a different category.

Mr. RING. They are with regards to the guides and outfitters, but the level of contracting we have, we have got to make some determinations within each category in terms of the range.

Senator THOMAS. Is simplicity a part of your vision?

Mr. RING. Yes, it is, sir.

Senator THOMAS. Would you care to respond?

Mr. HORN. We look forward to working with the Service. As I said, I think Curt probably hit the nail on the head before that part of the problem is that we have ended up with a little bit of a one-size-fits-all approach, and I think to the degree that the agency can in essence stratify the system so that you have got appropriate expertise directed at the 30 or 40 of the big multimillion operations, and then focus a different level of expertise and a greater degree of simplicity at the 300-plus smaller guides and outfitters, dominantly the moms and pops, I think that is a reasonable bifurcation in the system, that I hope we can go in that direction. I think it will solve a lot of the problems.

Senator THOMAS. Mr. Voorhees, I have heard from a number of the members of the advisory board that they are unpaid and so on, and they do not have staff, and this and that, and they really are not set up to accomplish as much as they should. Why is that? Why don't you have staff?

Mr. VOORHEES. I do not think that I have an answer for that question. There is a lot of work ahead of us, and I am not going to argue that it would not be helpful.

Senator THOMAS. Is it not potentially possible to do that? I believe it is authorized.

Mr. VOORHEES. Honestly, I would have to ask you. I imagine that it is. I do not have a response for you on that.

Senator THOMAS. Well, I was just surprised when I heard someone say, well, we don't get paid, this is a voluntary thing, and we are not going to do very much, or words to that effect.

Mr. VOORHEES. You did not hear that from me.

Senator THOMAS. I know, but I mean, this was the alternative to having more professional input into the agency, so I think the expectation there is that people with this expertise that are on this board would work pretty hard to cause things to happen.

Mr. VOORHEES. Well, Mr. Chairman, in this regard I can speak, I think, probably only for myself about how I feel about this, and I take the responsibility very seriously, and am willing to apply whatever amount of effort is required. Certainly, it would be help-

ful, I think, if there was additional support. That would probably enable us to move farther faster.

Senator THOMAS. It is pretty hard for a volunteer group to do something without some continuity. Maybe I misunderstood. I thought one of the areas you did not address was the concession fees, and the process for setting those. Was that right?

Mr. VOORHEES. In the last year, we covered the issue of streamlining the rate approval process.

Senator THOMAS. Is that in place?

Mr. VOORHEES. I think it is in process.

Mr. FASSLER. In our testimony, the National Park Hospitality Association testimony, we are disappointed that the advisory board did not advance any new direction on creating a less burdensome position to come up with new rates. They did not make any new recommendations. They kept it the way it is at this point in time.

Senator THOMAS. The policy of payment within 2 years, is that a troublesome thing? I guess the explanation of that is, if the Government buys the resource it takes the Congress a long time to move, but my guess is that there is very seldom that that is the case. Why does it take so long for an exchange of property among owners to get the money?

Mr. RING. Mr. Chairman, I am not aware of any of those transactions that have actually occurred to date.

Senator THOMAS. That is a possibility, though. It is in the rules, right?

Mr. RING. It is in the rules, and the provision for that is in the law as well, that the 2-year payment, because—and I think what has driven that is the issue associated with having transference associated with the operation of the park to have an orderly transference with the association of the operation of the park and provision of service for the visitor.

Senator THOMAS. I would have to check. I do not think that is spelled out in the law. Does anyone have any better insight into that?

Mr. FASSLER. The way I read the law, it says upon termination, if you are not the successor, you get your money immediately.

Senator THOMAS. That is what the law says, I believe. Time to approve proposed transfer of operation. Mr. Horn, is that a problem?

Mr. HORN. It is. That is one of the areas that, when we filed our comments on the regulations, it was our understanding what Congress wanted was essentially less discretion with the agency, and putting the burden on the agency to disapprove. In other words, that if a proposed transfer is brought to the agency's attention, once they make a determination that the transferee is a qualified entity and that there are no apparent major financial problems and/or resource complications, that the transfer process should move very, very rapidly. That has not been the experience so far for a couple of the small operators under the new system, and some of these people are looking at delays of 6, 8, and 10 months.

Again, part of that, I guess, we can attribute to the changeover that Mr. Ring and others talked about. Again, some of the folks understand that we are in this transition period, that there is probably a need for some patience, but there is just a concern that this

sort of strung-out process not just become normal, not just become accepted by everybody, not be the ordinary course of event by the agency.

Given the fact that we thought that what you all intended was that transfers be facilitated unless something jumped up, particularly in the small ones, that said, gee, this is not worth going ahead, that transfers should be approved as a more matter of course than maybe has been the experience in the past.

Senator THOMAS. This bill was passed in 1998, and it is soon going to be 3 years. What is your prediction in terms of implementation? I suppose you can always think of something more, but the general themes that are there that you now have before you, when do you think you would say, well, we have implemented these into the regulations, or the regulations reflect the intent of the legislation?

Mr. RING. Mr. Chairman, The regulations were issued this past year in 2000, and so there was a significant process of getting to those. Certainly we are beginning to implement under them and train our people in the use of them, and learn the effect of them in practice. They have also been challenged in court, and so we are working through those issues as well.

This is a process where, when you ask—we feel the regs are effective, or we would not have put them out and finalized them. We are going to be in a process over several years to get our personnel trained and familiar with them, comfortable with them, and to get our practices settled in, and I would be loath to predict right now that it is going to happen in a year, or in 2 years.

Senator THOMAS. Of course, the issue is that you may think they reflect the law, but a lot of us do not. That is part of the reason for having this hearing, and we have heard a great deal about it. For instance, defining the environmental aspect in a contract, was that a policy in the law?

Mr. RING. As I understand it, it was a provision that was provided for as a criterion to evaluate.

Senator THOMAS. Sure, it was provided for. The idea, for example, that the Park Service Director can change the contract during the course of the contract, was that there in the law?

Mr. RING. There are many specifics in the regulations that are not written into the law. The implementing regulations, by their very nature, have to get into more specifics within the discretion provided by the law.

Senator THOMAS. They also have to be in keeping with the intent.

Mr. RING. That is correct, sir.

Senator THOMAS. So I guess my point is, I do not think people would agree that yes, we have issued regulations and so that is all over. I do not think it is all over. I do not think that the regulations, in the view of many of us, are in keeping with the intent of the legislation, and we are going to have to keep working at this, apparently, and I assume that you are willing to consider that.

Mr. RING. Sir, we are entirely open.

Senator THOMAS. Who is the person that is on contract that generally does this sort of stuff for you, the Park Service?

Mr. RING. That generally does?



Senator THOMAS. The development of regulations.

Mr. RING. We have our Solicitor's Office and our Concessions Program Branch, and we have under contract an individual who was a long-time employee of the National Park Service, Lars Hanson.

Senator THOMAS. Is he still there, and will he continue to be there?

Mr. RING. He is still under contract at this point, sir.

Senator THOMAS. He is the gentleman that basically put the regulation together, is that right?

Mr. RING. He was very instrumental in the development of them, yes.

Senator THOMAS. He never shows up here to talk about them.

Mr. RING. He is not the witness for the Department, no, sir.

Senator THOMAS. But we hear about him a lot, and I think he is part of the issue here. Would you define a little more how you would set up, Mr. Cornelssen, this fiduciary checkpoint idea?

Mr. CORNELSSEN. There are a lot of analogies in other organizations within the Federal Government. One of the things I think we realized when we finished our work, or we were doing our work was, we are not going to reorganize the Park Service for concessions.

I mean, if you were to do this the way a company would do it, you would say, we are going to stovepipe this whole thing, and it is going to have a corporate—one person at the top, clear directions, clear decisions, but that would require a significant organizational change, so the idea behind the fiduciary checkpoints is kind of like a way of—I mean, for example, for contract size, if you have contracts in excess of \$3 million per year in gross revenues, or a possessory interest in excess of \$5 million, whatever may be the case, that cannot be a local decision. That cannot just be a regional decision. It requires significant review and approval at a corporate level, not to add bureaucracy, but to ensure that it is a business-like function, and that it is done effectively.

Senator THOMAS. However, you did recommend, did you not, that there be some additional people placed in the Park Service to deal with these things, additional or different people?

Mr. CORNELSSEN. I think both insourcing and outsourcing of the appropriate kinds of business functions that you need for this sort of thing.

Senator THOMAS. But did you not suggest a CFO kind of a person?

Mr. CORNELSSEN. We did not make that recommendation.

Mr. VOORHEES. That was a recommendation of the board.

Senator THOMAS. In other words, you mentioned two people that would be basically financial folks.

Mr. VOORHEES. That is essentially correct.

Senator THOMAS. How do you react to that?

Mr. RING. Sir, we are evaluating the recommendations of the advisory board very carefully in discussion within the agency. I think the proposal to establish a new associate is one that has been supported, and we will be discussing pursuant to the new director.

Senator THOMAS. When do you expect to have a new director?

Mr. RING. We hope very soon, sir, but we do not know.

Senator THOMAS. I guess nobody knows at this point. That is, I suppose, part of moving forward, however, is to get some new people in place, the Secretary and Director and so on.

Do you think—I guess, Mr. Fassler, your statement would indicate that the regulations you think are not consistent with the intent of the law.

Mr. FASSLER. That is my position. That is our position, and that is basically why there is a lawsuit going on right now. With your permission, I would like to ask Dick Ring a question that might help answer a lot of questions.

Senator THOMAS. Okay.

Mr. FASSLER. Dick, there are two questions I would ask you. The first one is, if we reverse roles, if you were the concessionaire and I was you, would you sign that standard form contract that your agency had sent out, and if the answer is yes, where would you do it?

Mr. RING. Mr. Chairman and Joe, I look forward to working on the program and trying to make as many improvements as we can, but I am not at liberty to get into speculation on matters that are in litigation right now. I am really constrained, and the Justice Department really is the spokesperson for us in those matters.

Senator THOMAS. Mr. Horn, would you sign it?

Mr. HORN. I just worked on a contract, the reexecution with one of my clients, and after some negotiation we finally signed, after we wrote a three-page letter in which we outlined our understanding of a half-a-dozen or more of the contract provisions which we thought were ambiguous, and because we were told by the agency that they could not negotiate with us, we said, well, great, well, here is what we mean by affixing our signature to this provision, so I think the contract in its current form does need some appreciable amending, and some of its more ambiguous provisions do need to be verified fairly significantly before I would advise anybody just to simply sign it as is.

Senator THOMAS. We kind of set this up so there could be some informal exchange. Why, Mr. Ring, did we get—you talked about a bubble in the course of the testimony. Why did we get that sort of backlog to the extent we did?

Mr. RING. Sir, my understanding is that while the new law was being promulgated, that we were extending contracts in anticipation of the new statute, so we have a lot of contracts that are expired and are operating under extensions, and we have limited authority under the new law to grant further extensions. We have some authority, but there are time limits on those, and so we are looking at a significant workload effort as opposed to just a normal turnover effort.

Senator THOMAS. This bubble started long before the law was put in place.

Mr. RING. Yes, sir. I understand that, and until last fall I spent 30 years in parks and the last 19 as a park superintendent, and I am well aware of the difficulty in terms of the timeliness of dealing with turnover in contracts.

One of the other issues, though, you mentioned, sir, is the issue of resolving the possessory interest rollover, particularly on the larger contracts, adds a significant workload, particularly with the

larger contracts, that has to be incorporated into the process of bringing all of the existing concessions contracts in under the new law.

Senator THOMAS. If I were going to buy a motel, which I have done, where do you suppose I would get the assessment of the value?

Mr. RING. I assume, sir, you would retain your own appraisers in that regard.

Senator THOMAS. From the private sector?

Mr. RING. Yes.

Senator THOMAS. Do you do that?

Mr. RING. We have appraisers that we use that are both in-house, as well as contract.

Senator THOMAS. But if you were going to go outside and out-source it, why, it should not be such a stumbling block, should it? You could hire people to do that.

Mr. RING. Yes, sir, we can. I do not believe that is the issue with regards to—that is part of the workload, certainly, but in most negotiations like that, unless there are absolutely precise guidelines with regards to how an appraisal is done and how value is established, then you often get different appraisals coming in.

Senator THOMAS. Like the Grand Canyon.

Mr. RING. Certainly the Grand Canyon.

Senator THOMAS. What was the difference there between your appraisal and the professional appraisal?

Mr. RING. The difference, as I understand it, was between, I believe, the Government view on the possessory interest value as \$85 million, and the view on the part of the concessioner was \$195 million.

Senator THOMAS. Quite a difference.

Mr. RING. Yes, sir, and when we are operating under determining what the value is under the rules set forth in the previous law.

Senator THOMAS. It was not the previous law, though. What we are trying to do is suggest that you go into the private sector and have this done.

Mr. RING. Sir, we do bring in folks from the private sector to do those appraisals.

Senator THOMAS. You did on that one? That was the private sector, the 45?

Mr. RING. Yes, I believe we did.

Senator THOMAS. Where did you find that assessor? Anyway, that is interesting. The whole point is, we need to be moving towards that, and how long do you think it is going to take you to transform this into doing more private sector work, which is the entire intent of this section of the law?

Mr. RING. Well, in the case of those appraisals, we were using private sector folks to come in. You can get different appraisals, appraisers coming in with different appraised values regardless of whether you use in-house or private sector folks.

I think that the bubble issue is a very significant one, and that is, there is a significant amount of workload associated with doing those appraisals and then reconciling them between the concessioner and the United States, and it is one that is going to take

a significant amount of time and a significant amount of resources to accomplish.

Senator THOMAS. What is your view, Mr. Voorhees, of trying to speed up this idea of appraisals, if that is the problem?

Mr. VOORHEES. Well, I would say, as quickly as they can reasonably be done with the appropriate expertise in hand. I mean, with the Park Service especially on this issue, it has been I think an issue of application of the resources in order to get yourself through the process. It is not so much an issue of—it is an issue of applying skills to get you across the threshold, if you will.

Now, in terms of the bubble of the number of standing contracts that are on extension that need to be dealt with, many of which have substantial possessory interests, I think it is more important that the Park Service enable itself to execute or review those contracts, negotiate those contracts, and value the possessory interest with the level of skill that is required to do it. It is more important to do that, than it is to do it right now.

In terms of how quickly does that need to be, I am not sure to me there is a clear answer. I would have to look and see what is reasonable case-by-case, how long is this likely to take.

The Grand Canyon issue is a substantial issue. The difference in the valuations was absolutely tremendous, and I think it has sweeping implications. There are a lot of smaller issues that are part and parcel to how that happened that I think have to be worked through, and they ought to be worked through before the Park Service moves ahead.

Senator THOMAS. I am sure that is true. On the other hand, there are a relatively smaller number of major contracts, and if you are letting yourself get all wrapped up in 600 instead of 40, it seems like that is a little out of tune.

Mr. RING. Mr. Chairman, we are trying to move ahead on all of them.

Senator THOMAS. Well, why? Why don't you move ahead on the ones that are most important?

Mr. RING. We are attempting to move on the ones that are most important, but we have limited authority in terms of how far we can extend.

Senator THOMAS. You have been doing that for years. You have been extending it in Teton Park for at least 6 or 8 years, 1 year at a time. You did not have any authority to do that, or less than you do now, and my point is, it looks like you have to set some priorities.

Mr. RING. I agree with that, sir.

Senator THOMAS. And move ahead with the things that have the most impact on the overall picture, and put your emphasis there instead of, well, we have got a big bubble, and we are way back there. I know that is true. We all have bubbles, and everybody has to make decisions, and everybody has to set priorities and move on those things, and I guess I have the feeling that that may not be happening.

In any event, you say you cannot do it until you get some other problems resolved, but you know, we are soon going to be 3 years into this baby, so we are hopeful we can move forward.

We have kept you about long enough. Do you have any final comments?

Mr. HORN. We just look forward to working with you, and appreciate your continued interest and attention to this issue.

Mr. VOORHEES. I guess I would say that, understanding and accepting your frustration, nonetheless, from the perspective of sitting on the board, and the conversations we have had, there is real progress. There is real progress that perhaps was not there before, and we are pretty encouraged that some of the frustration, although understandable, should not be felt in the future, because I think the process is going to move quite quickly from here on.

Senator THOMAS. I hope so, and I hope that happens.

Mr. Fassler.

Mr. FASSLER. I would say that number 1, the National Park Hospitality Association appreciates the fact that we have had an oversight meeting on the regulations at this point, and I extend our wish to the Park Service that together, if we could sit down and go over the differences, the differences between the law and the regulations, level-minded, level-headed people can fix this, and we offer you our hand in doing that.

Senator THOMAS. Well, let me say that I realize it is not easy, and I realize it is difficult to change some things, but I do think now for some time we have been focusing on the fact that the park has these two purposes. One is to protect the resource, and the other is to provide a visit. It is big business.

I have to tell you that I am not persuaded that the management structure is there, particularly. I am not sure you are able to utilize fully the regional offices. I am not sure you have really contracted with some people here at the top level that are financially, you know, experienced. I do not expect someone who has been in the Park Service doing the whole natural resource thing all their lives to be able to step in and do this, and neither should anyone else, and I am sure you are moving in the right direction.

In your statement you talk about you are committed to this and you are going to do that and you accept this, but we have got to get it done here pretty soon, as a matter of fact, and so we are here to help you.

One of the things that we should talk about some more, I suppose, and maybe perhaps in our next meeting are things that are in the law that are a hindrance. Should we be looking at some revising of the things, and sometimes that is the case, and certainly we ought to look at that, so any time you have those ideas I think we are all committed to strengthening this national resource of ours.

I think we are all knowledgeable that there is going to be more visitation than there has been in the past, and that we are going to have to do a better job of management. I hope the business plans are being developed for the whole parks. The ones I have seen deal also with concessions. That is a good idea, and we need to do that. They need to really be business plans, and I am pleased with the help we are getting on that in some places, so in any event, this is the first of several oversights we will have, because I think we are very interested, number 1, in implementing to the best we can the law to result in the better operation.

We are interested in knowing if the law needs to be changed. We could also take a look at that, if that is the case, but most of all I think we are interested in working together to make the National Park System an even more effective and efficient operation, and that is what we would like to do.

So thank all of you very much for being here. There will be, I suspect, some additional questions for the record. Thank you very much.

[Whereupon, at 4:05 p.m., the hearing was recessed, to be reconvened on March 29, 2001.]

## **NATIONAL PARK SERVICE CONCESSIONS MANAGEMENT**

**THURSDAY, MARCH 29, 2001**

U.S. SENATE,  
SUBCOMMITTEE ON NATIONAL PARKS,  
HISTORIC PRESERVATION, AND RECREATION,  
COMMITTEE ON ENERGY AND NATURAL RESOURCES,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 10:15 a.m., in room SD-628, Dirksen Senate Office Building, Hon. Craig Thomas presiding.

### **OPENING STATEMENT OF HON. CRAIG THOMAS, U.S. SENATOR FROM WYOMING**

Senator THOMAS. The committee will come to order. Sorry we are late. We had a vote that came at the very same time.

I welcome you all to the subcommittee's oversight hearing on the National Park Service's implementation of the management policies and the procedures provided in a number of titles on the Parks Omnibus Act. Last week we dealt, as many of you know, with the concession title, and this week we would like to look at the remaining titles.

Title I sought to create and maintain a highly professional organization and workforce. This was a recommendation that was put forth in the Vail Agenda in the 1990's. We wanted to ensure that both the employees and the supervisors have the essential skills to do their jobs. Specifically, we directed the Secretary to develop a comprehensive program for National Park Service employees that would address essential training skills.

Title II directs the Secretary to establish a scientific program for the National Park Service to ensure that park managers have solid natural resource and scientific information. There are a variety of ways, obviously, to meet this need. I am anxious to hear what the agency has accomplished, and also hear any suggestions that you might have that may make it easier to accomplish these goals.

As you know, there are 384 units, containing natural and cultural resources. In making additions to the system, I think we have to ensure that the potential candidates are appropriate for inclusion. Title III establishes a procedure for studying those potential additions, and directs the agency to develop a prioritized list of areas for possible inclusion. This is an issue, by the way, that I would like to talk about further at a later time to see if there is any way to identify where we will be in the next 20 years with re-

gard to the park system, and which resources should be considered as the highest priority for us, and so on.

Title V authorizes the Secretary to collect fees to recover transportation costs, and the sale of Golden Eagle Passports by private vendors. We will see how that is going. I certainly think there is a success story in the partnership between the foundation and the Park Service.

As you know, the foundation was created in 1967 to cultivate support from corporations, foundations, and individuals. In the past 5 years, the Park Foundation has raised over \$78 million. Title VII amended the Park Foundation's enabling legislation, to allow them to work with local nonprofits and so forth.

The last title, title VIII, addresses law enforcement, cooperative agreements, and the leasing of building structures and lands within the park system.

The Park Service provides law enforcement across 384 park units for over 400 million visitors annually, across the entire range of landscapes and settings in the United States. There have been three "in the line of duty" shooting deaths of park rangers over the past 10 years. Certainly park rangers, and U.S. Park Police who perform law enforcement duties, are at the same risk level as any other law enforcement agency, and we are proud of the work they do.

This record will remain open after the hearing so if there are questions or other testimony, they will be able to be put in the record.

So, that is why we are here, and we are anxious to get on with it. We are going to ask all the witnesses to come to the table at the same time, if you will please. Of course, as usual, anything you can do to keep your testimony relatively short will be appreciated. Your entire statements will be included.

Denis Galvin, Deputy Director, National Park Service. Denny, nice to have you here. Mr. Peter Ward, chairman, Fraternal Order of Police, U.S. Park Police Labor Committee; Mr. Greg Jackson, vice chairman, Fraternal Order of Police; Mr. Scot McElveen, board member for special concerns, Association of National Park Rangers; and Mr. Jay Vestal, vice president, Field Department, National Park Foundation. Nice to have you here. The order will proceed as listed, if there is no objection. So, Mr. Galvin, if you would like to begin, sir.

**STATEMENT OF DENIS P. GALVIN, DEPUTY DIRECTOR,  
NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR**

Mr. GALVIN. Thank you, Senator Thomas. I have a prepared statement I will submit for the record. It covers all of the titles. I will simply summarize the information provided to update the committee.

Senator THOMAS. Thank you.

Mr. GALVIN. The omnibus bill of 1998, Public Law 105-391, really was a landmark piece of legislation. We thank you for your efforts in organizing it and your leadership in providing for its passage.

In little more than 2 years since its enactment, we have made considerable progress and, as you mentioned, a separate hearing



developed the concessions title. I will briefly summarize the progress in the other titles in the act.

As you mentioned in your opening statement, title I deals with the training and development program. Our training program focuses both on specific skills and on the broader area of management and supervision. Examples of specific skills are maintenance skills for preserving historic buildings and law enforcement skills. In addition, our training program is organized to see that employees get the professional and technical competencies required for given career fields, and we have developed a group of competencies for each career field.

We are in the process of developing a measurement system to monitor the effectiveness of our training efforts.

We have also been working to revise and update our supervisory training courses, with curriculum focusing on skills and knowledge needed to be an effective National Park Service manager, but we have also been working with the Office of Personnel Management to identify skills that any manager needs on a government-wide basis. Obviously, some of our managerial skills must be done in the context of our resource management responsibility.

We have begun efforts to expand our management base by advertising key vacancies in multiple job series. This allows more candidates to compete. New supervisors are required to attend 80 hours of supervisory training during their first year. All other supervisors are required to attend 40 hours of supervisory training per year. We have supplied all supervisors with a desk reference on aspects of supervisory responsibility, and shortly we will launch our mid-level management development program designed to prepare employees to assume management responsibilities throughout the National Park Service. That was advertised to all sources, and the advertisement closes on Friday. So, we expect to be bringing in people as part of the mid-level management program. We already have a good intake management program.

Another section of this title, building on the Government Performance and Results Act of 1992, required each park to develop a 5-year strategic plan and annual performance plans to make the information available to the public. All of those things have been done. Each park each year does make available to the public its annual performance plan and its annual performance report. Each park does a press release, letting the public know that that plan is available and also outlining its major budget categories in accordance with the specifications set forward in the bill.

Title II of the bill sets forth a scheme for natural resource management in the national parks. It greatly benefits the National Park Service by clarifying and emphasizing that it is important to encourage science in parks and that effective resource stewardship requires sound, high quality science. The National Park Service has developed the Natural Resource Challenge, a comprehensive strategy. Funding for the third year of the Natural Resource Challenge is included in the President's fiscal year 2002 budget. The first 2 years have been nearly fully funded by the Congress.

As a result of the Natural Resource Challenge, we have significantly accelerated the acquisition of inventories. We have initiated monitoring in the first 5 of 32 monitoring networks encompassing

the 270 park management units that have significant natural resources. Together, these will provide a large piece of the information needed for science-based decision making.

Title II also encourages us to reach out to partners and the need to ensure that science is welcomed in parks. We have set up a system of cooperative ecosystem study units. We are beginning to set up a series of learning centers. We have a Sabbatical in the Parks program that encourages academics on their sabbaticals to do work in parks. And we have simplified the research permit and reporting system—in fact, it is up on the Internet—to respond to the spirit of Title II of the act.

Learning Centers focus on providing a place for researchers and students from academia, government, and other science groups to gather, exchange ideas, and advance the frontiers of their scientific knowledge. These provide dormitory and office space in existing buildings to make use of parks by outside scientists more practical and encouraging.

The Cooperative Ecological Study Units provide a key means by which parks actively reach into the academic and governmental research communities to obtain scientific information and to encourage the use of parks as places in which to conduct research, research that is often funded by organizations other than the National Park Service. These units are interagency in nature. There will be 10 in place by the end of 2001 that incorporate 70 partner organizations, some of those historically minority colleges and universities. These are selected, incidentally, as a result of requests for proposals, so they are competitively evaluated. Universities that have been successful in the first go-round include Northern Arizona University, University of Montana, University of Tennessee, University of Rhode Island, each concentrating on one of the 32 monitoring networks set up in the National Park System.

Title III codifies a system for adding new National Park System areas. The 106th Congress authorized a total of 23 studies. These studies consider potential heritage areas and broad themes and sites, in addition to looking at new units of the National Park System.

In fiscal year 2001, the appropriation for studies was \$1.3 million. We have funding available to begin all of the authorized studies to date. These studies are proceeding, applying the criteria that have been in place and clearly identified in the omnibus bill. Currently, Mr. Chairman, we have 41 studies ongoing. 33 of those ask us to consider potential national park units. The historical experience is about one-quarter of those will become national park units. I know in passing this bill that one of the reasons for encapsulating this in law was so that the Congress would have better control over what is studied. I believe that the 2-year experience has been that that has indeed been the case.

Title V of the bill authorizes transportation fees to be charged and transportation solutions that will preserve resources in our care, while providing a high quality experience for all of our visitors. Four parks have established transportation fees under this authority: Bryce Canyon, Zion, Lyndon B. Johnson National Historical Park, and Rocky Mountain National Park. Each of these do this in a slightly different way, but it is seamless to the visitor.

Transportation fee proceeds are retained by the parks and expended for costs associated with providing transportation services. In fiscal year 2001, these proceeds are estimated to be \$3.2 million.

We have found that fees alone cannot fully underwrite and sustain transportation systems. However, the fees that visitors pay for these systems do go a considerable way towards offsetting operating costs associated with these systems.

The second part of this title asked us to complete an agreement to apportion the revenue generated by the vendor sales of Golden Eagle Passports. We have not completed that agreement. Generally the reason we have not is that the Park Pass has considerably deflated the number of Golden Eagle Passports that we sell. The sales of Golden Eagle Passports in national park units have dropped from about \$9.9 million to \$3 million, and our estimate is that this year the revenue will drop to \$1.5 million. In the next title, I will talk about the National Park Passport program.

But one of the things we are doing, Mr. Chairman, with the cooperation of the Foundation is engaging a private organization to study the entire fee structure as it has been implemented under the fee demonstration program and under the provisions of this act. We hope to get recommendations out of that that will make the fee program more consistent, more seamless to the public, and still generate the same amount of revenues that the very successful fee program and title VI of this bill have encouraged.

Title VI of the bill authorized the National Park Pass. It went on sale for the first time on April 18, 2000 at more than 224 National Park System areas, 164 sites of 29 cooperating associations, on-line, on an 800 number, and with seven on-line retail partners, including the American Automobile Association, L.L. Bean, REI, Kampgrounds of America, and Rand McNally. Eight additional on-line partners have joined these original retailers. As of January 31, about a 9-month period, 245,000 passes have been sold, generating more than \$12 million in revenue.

I know, Mr. Chairman, you have one of these of your own, but this is the Park Pass package. It includes a map of the National Park System and it does incorporate the art, in this instance photography, required in the bill.

The introduction of the pass began with *Today Show* coverage on April 18. Other major media outlets have contributed advertising for the pass. We are working with the National Park Foundation to expand the media attention for the National Park Pass.

The new pass, the 2001 pass, was unveiled in December. It features Acadia National Park. The first National Parks Pass "Experience Your America" photo contest, sponsored by the Park Service, the National Park Foundation, and Kodak, was announced in December. This initial contest, which ended March 15, generated more than 4,500 entries. The winning image will be on the 2002 passport. That was also encouraged by the Omnibus Act.

This year, we will increase the retail sales offerings of the pass. Many of these retail outlets, because of the April introduction, did not have time to put the pass into their holiday catalogs. This year they will be able to put it into their holiday catalogs. Most of these catalog sales companies generate 75 percent of their sales through that catalog and in the last quarter of the year. So, we anticipate

increasing sales. We are pretty close to the business plan done by a private organization with the Foundation on the sales of the National Park Pass.

I will not testify on title VII. Mr. Vestal will testify with respect to the follow-up by the National Park Foundation. I will simply say that our relationship with the Foundation continues to expand. Revenues from donations to the Foundation continue to grow. Many of the projects and initiatives that we implement, including some in this act, would not be possible without them.

Finally, title VIII is a series of miscellaneous provisions, Mr. Chairman. The first one, to evaluate National Park Service law enforcement programs; the second, to establish leases for use of buildings and associated property that are part of the park system; and the third gives us authority to establish agreements for cooperative management of the National Park System.

Section 801 directed the Secretary to conduct a study of National Park Service law enforcement programs. A study team of national park rangers and U.S. Park Police officers was assembled in February 1999. A draft report was submitted to the Secretary's office in October 1999. The final report was transmitted to the committees on March 8, 2000. This is the Park Police portion of the report. A separate report was done for the park rangers.

U.S. Park Police have jurisdiction in three urban centers of the National Park System: Washington, D.C., San Francisco, and several areas in New York City. Park rangers are responsible for performing law enforcement and other services in all other areas of the National Park System. A ranger force of approximately 1,600 and a Park Police force of 650 manage the law enforcement, resource protection, and emergency needs of both people and parks.

Since submission of the study, the U.S. Park Police have made some progress in a number of areas. Pay schedule simplification, external administrative pension costs, and funding for a study of a comprehensive radio system for the National Capitol Region have been accomplished.

As directed in the fiscal year 2001 appropriations act, the Park Police are preparing a comprehensive financial plan. The National Academy of Public Administration is currently reviewing the mission, staffing, and spending patterns of the U.S. Park Police. Its report will be completed by July 2001.

Section 802 of the act authorizes the Park Service to grant leases for the use of buildings and associated properties. In effect, this expanded the lease authority of the National Park Service from simply historic structures to other types of non-historic property. This new authority makes all qualified NPS buildings and associated property subject to lease under certain conditions. We have received an estimated \$1 million in lease receipts in 2001, and we estimate that that amount will increase in future years.

The proposed regulations for our leasing were published on December 12, 2000. The public comment period closed on February 12 of this year. All comments received were supportive of the proposed regulations. Revised regulations are being processed by the NPS for submission to the Office of Management and Budget for final review.

Finally, the miscellaneous provisions section authorizes cooperative management. This is an area that began at Redwoods National Park and adjacent State parks in California. Under the new authority, the Intermountain Region and the Texas State parks have signed a cooperative management agreement that serves as an umbrella and guide for local agreements between National Park Service units in Texas and Texas State Parks.

Specific agreements are in draft for Amistad National Recreation Area and Seminole Canyon State Park. The agreement focuses on seeking ways for both areas to work together to protect and manage cultural and natural resources.

Another local agreement is expected to be completed between Lyndon Johnson National Historical Park and Lyndon Johnson State Historical Park. An example of the fruits of that cooperation include a joint publication of the LBJ Newsletter, collection and allocation of fees from bus tours, and a revision to the folder produced by Harpers Ferry Center to reflect the history, activities, and opportunities for both State and national park areas.

This authority can also be used in natural resource management activities, Mr. Chairman. The South Florida Exotic Plant Management Team already exists as a partnership with the State of Florida. The Lake Mead National Recreation Area exotic plant management program includes a partnership with Clark County, Nevada.

We believe the efforts outlined here today are a significant start in implementing the provisions of the Omnibus Act of 1998, Public Law 105-391. As I said in my opening statement, we believe this is a significant addition to the landmark legislation of the National Park System and materially improves our ability to manage the system in a logical and thoughtful manner.

That concludes my statement, Mr. Chairman. I will be happy to answer any questions.

[The prepared statement of Mr. Galvin follows:]

PREPARED STATEMENT OF DENIS P. GALVIN, ACTING DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to update you on the National Park Service's accomplishments relating to P.L. 105-391, the National Parks Omnibus Act of 1998. Last week we testified before this subcommittee on our implementation of management policies and procedures to comply with the provisions of Title IV of the Act, National Park Service Concessions Management. At this hearing we will update you on the remaining seven titles of the Act.

The National Park Service (NPS) is working to make progress in each of the areas outlined in the Act. In the little more than two years since enactment we have initiated programs and studies called for in some titles and undertaken actions to address many of the other provisions. Let me briefly summarize the progress we have made in implementing each title of the Act.

TITLE I: NATIONAL PARK SERVICE CAREER DEVELOPMENT, TRAINING, AND MANAGEMENT

The NPS has an active training and development program. Each of our training facilities focuses on developing specific skills, such as maintenance skills for preserving historic buildings and law enforcement skills. Training opportunities are available to all NPS employees in all career fields throughout the organization. The training we provide our employees is based on the professional and technical competencies required for given career fields.

We are expanding our employee development efforts by reworking our training and development organization into a more flexible unit responsive to NPS leadership and mission goals. We will be developing a measurement system to monitor the effectiveness of our training efforts. We will also focus on using more interdisciplinary teams that are capable of responding to the changing needs of the NPS.

We have also been working to revise and update our supervisory training courses with curriculum focusing on the skills and knowledge needed to be an effective NPS manager. The courses offered in supervision, management, and leadership are developed to provide enhancement in competencies (basic skills and abilities) that the Office of Personnel Management has identified for employees government-wide. Some of these courses are NPS specific in order to enhance managerial skills in the context of our resource management responsibilities. Other courses focus on general management and supervision principles and are open to applicants from other federal agencies as they seek to improve their fundamental supervisory, management, and leadership skills.

We have begun efforts to expand our management base by advertising key vacancies, including superintendent positions, in multiple job series, including the general management series. This allows more candidates to compete and qualify for available positions and emphasizes the management skills necessary to perform the job duties. We are coupling that effort with expanded supervisory training. New supervisors are required to attend 80 hours of supervisory training during their first year. All other supervisors and managers are required to attend 40 hours of supervisory training per year. We have supplied all supervisors and managers with a desk reference on the aspects of supervisor responsibilities. In Spring 2001, we are launching our mid-level management development program, designed to prepare a cadre of employees ready to assume management responsibilities throughout the NPS. We also are beginning a best practices program to identify ideas and actions in other organizations, inside and outside government, that could be transferable to the NPS.

Each park is required to develop a five-year strategic plan and annual performance plans consistent with the servicewide strategic plan. We also require parks to report annual performance based on those plans and to track performance information during the year. All of the parks developed strategic plans in FY 2001, submitted results showing FY 2000 actual performance and are updating FY 2002 annual performance plans. The performance information provided by the parks is incorporated into the NPS strategic plan, annual performance plans and annual performance reports.

#### TITLE II: NATIONAL PARK SYSTEM RESOURCE INVENTORY AND MANAGEMENT

This title greatly benefits the NPS by clarifying and emphasizing that it is important to encourage science in parks and that effective resource stewardship requires sound, high-quality science. NPS has developed the Natural Resource Challenge, a comprehensive strategy that actively implements the purposes and vision of Title II through a wide range of activities designed to increase the emphasis on science in the use, management, and protection of parks. Funding for the third year of the Natural Resource Challenge is included in the President's FY 2002 budget.

Other activities that have been undertaken include development and application of a benefits-sharing policy with respect to research in parks that may lead to commercial applications and development of a strategy to protect sensitive park resource information in compliance with Section 207 of the Act.

To expand on the Natural Resource Challenge components designed to implement this title, we are significantly accelerating the acquisition of inventories servicewide and initiating monitoring in the first five of 32 monitoring networks encompassing 270 park units. Together, these will provide a large piece of the information needed for science-based decision-making. Two other key tenets of Title II are also reflected in the challenge—the need to reach out to partners and the need to ensure that science is welcomed in parks. Learning Centers, Cooperative Ecosystem Studies Units (CESUs), the Sabbatical in the Parks Program, and the Research Permit and Reporting System together respond to these tenets.

The Learning Centers focus on providing a place for researchers and students from academia, government, and other science groups to gather, exchange ideas, and advance the frontiers of their scientific knowledge. Providing temporary dormitory and office space also makes use of parks by outside scientists more practical and encouraging.

The CESUs provide a key means by which parks actively reach into the academic and governmental research communities to obtain scientific information and to encourage the use of parks as places in which to conduct research—research that is often funded by many organizations other than the NPS. The interagency nature of the CESUs also facilitates more cooperative approaches to shared research needs.

The Sabbatical in the Parks Program reaches out to university scientists through the Internet, encouraging them to consider using parks as research and learning places during their university sabbaticals and providing parks with technical assistance during their stays.

The Research Permit and Reporting System now provides an easily accessed, Internet-based place for research scientists, resource management scientists, interpreters, and others to obtain information about park research needs and to learn about past results and current research activities being conducted in parks. This system informs research scientists about conditions associated with conducting research in parks and provides these researchers a paperless opportunity to both apply for specific park research and collecting permits and also submit their required annual research progress reports.

#### TITLE III: STUDY REGARDING ADDITION OF NEW NATIONAL PARK SYSTEM AREAS

The 106th Congress authorized a total of 23 special resource studies. Several of these studies consider potential heritage areas or broad themes and sites that involve potential national historic landmark designations rather than new units of the National Park System.

In FY 1999, the appropriation for Special Studies was \$825,000. In FY 2000, this amount was increased by \$500,000, but this increase was identified for a study of the Vicksburg Campaign Trail that was not authorized until November 2000. In FY 2001, the appropriation for studies was \$1,325,000 but committee reports specifically directed that certain projects be included within the available funds, and earmarked \$300,000 to one specific study.

We have funding available to begin all of the authorized studies to date. These studies are proceeding, applying the criteria that have been in place for many years and are now clearly identified in P.L. 105-391. We also will be examining the full life cycle operation and maintenance costs that would result from a newly created or expanded park unit or an additional NPS funding responsibility. We have not yet had adequate experience with the process of identifying candidates for study in advance to evaluate what impact it is having on decisions about what action to take on the completed studies and future directions for the National Park System.

#### TITLE V: FEES FOR USE OF NATIONAL PARK SYSTEM

The NPS continues to find better transportation solutions that will preserve the resources in our care while providing a high quality experience for all our visitors. We currently have four parks that have established transportation fees under the new transportation fee authority: Bryce Canyon National Park, Zion National Park, Lyndon B. Johnson National Historical Park and Rocky Mountain National Park. Three parks are collecting transportation fees with their entrance fees. Lyndon B. Johnson National Historical Park is collecting a separate transportation fee. Transportation fee proceeds are retained by the parks and expended for costs associated with providing transportation services. In FY 2001 these proceeds are estimated to be \$3,200,000. We have discovered that transportation systems are costly to operate and maintain. We do believe that the expense is worthwhile but have found that user fees alone cannot fully underwrite and sustain transportation systems. In many parks, in order to adequately operate and maintain transportation systems and shuttles, we must rely on multiple funding sources.

At this time we have not completed an agreement to apportion the revenue generated by vendor sales of Golden Eagle Passports. Historically, most Golden Eagle Passport sales have occurred in National Parks (FY 1999 NPS Golden Eagle Sales: \$9,954,794; USFS Golden Eagle Sales \$603,900). The new National Parks Pass addresses this need and for many of our visitors has served as a replacement for the Golden Eagle Passport. As part of our efforts to plan and implement the National Parks Pass we developed a business plan and determined that it would not be prudent or post effective to promote vendor sales of two similar, competing passes. It was also anticipated, and sales data has since confirmed, that availability of the National Parks Pass would lead to a large decrease in sales of Golden Eagle Passports. We will continue to determine the roles each of the passes play in our overall fee program. Also, we will work with the other land management agencies to market the passes in ways that will avoid confusion as much as possible, provide the maximum flexibility to visitors, and result in the highest level of benefits to the agencies.

#### TITLE VI: NATIONAL PARK PASSPORT PROGRAM

The inaugural National Parks Pass, featuring Yellowstone National Park, went on sale on April 18, 2000, at more than 224 National Park System gates, at 164 sites of 29 cooperating associations, on-line at [www.nationalparks.org](http://www.nationalparks.org), through 1-888-GOPARKS, and through seven online retail partners including AAA, L L Bean, REI, KOA, and Rand McNally. Since the initial release, eight additional online partners have joined these original retailers. As of January 31, 2001, 245,000 passes have been sold, generating more than \$12 million in revenue.

The design of the pass, particularly the map communicating the depth and breadth of our National Park System, immediately garnered visitor and employee praise. The introduction of the pass began with Today Show coverage on April 18. USA Weekend, Time Magazine, The New York Times, and other media partners have contributed advertising for the pass. Many National Parks generated stories within their local media markets with activities introducing the pass to their communities and region.

Travel and family interest stories about the pass continued throughout the year. In the autumn and early winter, these efforts focused on promoting the pass as a holiday gift, and resulted in more than 100 stories.

In December, the NPS unveiled the 2001 pass, featuring Acadia National Park. As directed by P.L. 105-391, the first National Parks Pass "Experience Your America" Photo Contest, sponsored by the NPS, National Park Foundation, and Kodak, was announced in December. This initial contest, which ended March 15, generated more than 4,500 entries. The winning image for the 2002 pass will be announced in May, and the 2003 Photo Contest will be launched at the end of May.

This year, we will increase the retail sales offerings of the pass. Our retail partners' holiday catalogues were set prior to the April 2000 kick-off of the pass but we look forward to having the pass featured this year. The NPS Reservation Service offered the pass for sale beginning in March. In May we are planning the coordination of pass renewals online, by mail, or by phone. We are examining expanding retail and consignment sales for the pass. In order for such sales of the pass to the public to be successful we must resolve issues concerning validation, inventory, expiration, and personalization of the pass. We have begun to investigate these issues.

In addition, our partner in managing the pass program, the National Park Foundation, has secured commitments from its top corporate donors to develop an array of advertising and promotional support for the National Parks Pass, beginning this spring and continuing for the next three years. Through these promotional efforts we will reach a significantly larger number of American families this year than last.

#### TITLE VII: NATIONAL PARK FOUNDATION SUPPORT

We defer to the National Park Foundation regarding this title but we continue to recognize and deeply appreciate the support that we have received from the Foundation in the past and look forward to continued support in the future. Many of the projects and initiatives that we implement, including some in this act, would not be possible without them.

#### TITLE VIII: MISCELLANEOUS PROVISIONS

This title includes three parts, a requirement to evaluate NPS law enforcement programs, to establish leases for use of buildings and associated property administered as part of the National Park System, and to establish agreements for cooperative management of National Park System units that are adjacent to State or local park areas.

Section 801 directs the Secretary, utilizing a multidisciplinary analysis, to conduct a study to fully evaluate the needs, shortfalls, and requirements of NPS law enforcement programs. A study team of national park rangers and U.S. Park Police officers was assembled in February 1999, and a draft report was submitted to the Secretary's Office in October 1999. The final report was transmitted to the committees specified in the act on March 8, 2000. Included in the study are suggestions to address shortfalls; justifications for all suggestions, and a statement of adverse impacts should identified needs remain unmet.

The *National Park Service Law Enforcement Programs Study* was presented to Congress in two volumes: one addressing the U.S. Park Police program and the other addressing the field protection rangers. The U.S. Park Police have jurisdiction in three urban centers of the National Park System: Washington, D.C., Golden Gate National Recreation Area in San Francisco, and Gateway National Recreation Area in New York. Park rangers are responsible for performing law enforcement, along with fire fighting, search and rescue, emergency medical care, resource management, and other services in all other areas of the National Park System. A ranger force of approximately 1,600 and Park Police force of 650 manage the law enforcement, resource protection and emergency needs of both people and parks.

Since submission of the study, the U.S. Park Police have made progress in a number of areas: pay schedule simplification, external administrative pension costs, and funding for a study for a comprehensive radio system for the National Capitol Region. As directed in the FY 2001 Appropriations Act, the U.S. Park Police are preparing a comprehensive financial plan. The National Academy of Public Administra-



tion is currently reviewing the mission, staffing requirements, and spending patterns of the U.S. Park Police. Its report will be completed by July 2001.

Over the last few years, land management agencies have institutionalized fire-fighter and public safety as the paramount concern in every fire situation. We now plan to establish the same priorities for our law enforcement workforce and the visiting public. We will continue to update Congress on actions taken to address these issues and progress made towards reaching the goals outlined in the reports.

Section 802 of the act authorizes the NPS to grant leases for the use of buildings and associated property located within areas of the National Park System and retain the receipts without further appropriation for infrastructure needs in park units. This new authority supplements prior NPS authority that permitted the leasing of only historic property and limited types of non-historic property. The new authority makes all qualified NPS buildings and associated property subject to lease under certain conditions. We estimate receiving about \$1,000,000 in lease receipts in 2001 with that amount increasing in future years as the leasing program is further implemented. NPS leasing activities will be handled by a new Associate Director for Partnerships and Business Practices, a position that will be established once the new NPS Director is in place.

On December 12, 2000, the NPS published for public comment proposed regulations that would implement the new leasing authority. The public comment period closed on February 12, 2001. All comments received were supportive of the proposed regulations. A number of technical improvements were suggested.

On March 14, 2001, the NPS Task Force that drafted the proposed regulations met to review the public comments and recommend final regulations. Revised regulations are presently being processed by NPS for submission to the Office of Management and Budget for final review. We believe that the new regulations will provide the means for NPS to expand its leasing activities and take greater economic advantage of extraneous park buildings without impairing park resources.

The NPS has successfully implemented the cooperative management authority under Section 802 in a limited number of park areas. In December 2000, the Intermountain Region and the Texas State Parks signed a cooperative management agreement that serves as an umbrella and guide for local agreements between NPS units in Texas and Texas State Parks (TPW). The agreement calls on NPS and TPW staff to work together to develop agreements regarding collaborative opportunities for cooperative management, training, visitor protection and public safety, public information, resource management, and other areas. NPS and TPW will cooperate in the operation of sites when feasible by sharing resources, including but not limited to, vehicles, equipment and staff.

At this time a draft agreement has been prepared between Amistad National Recreation Area and Seminole Canyon State Park. The agreement focuses on seeking ways for both areas to work together to protect and manage cultural and natural resources. Panther Cave is a well-known and valuable cultural resource that includes hundreds of petroglyphs but can be accessed by the lake, and has been subject to periodic vandalism. Working together, the two areas hope to use remote sensing to enhance protection and provide for better law enforcement response time in an effort to reduce and ultimately eliminate vandalism, especially when accessed by boaters.

Another local agreement is expected to be completed in April between Lyndon Johnson National Historical Park and Lyndon Johnson State Historical Park that will ensure the continuation of the spirit in which both parks were established, and further the wishes and expectations of President Johnson and his family. Areas of cooperation will include, but not be limited to, joint publication of the LBJ newsletter, collection and allocation of fees from bus tours, and a revision to the minifolder produced by Harpers Ferry Center to reflect the history, activities and opportunities for both the state and national park areas.

Another place where NPS has used cooperative management authority is Redwoods National Park. Redwoods National Park is contiguous to three California state parks, Del Norte State Park, Jedediah Smith Redwoods State Park, and Prairie Creek Redwoods State Park. Because both managing entities work so closely together, there is often a need to share resources. Critical services, such as trash pick up and road paving, are shared between the state of California and the NPS in a manner that is both cost-effective and protective of park resources.

In natural resource management activities, NPS is engaged in several cooperative activities that can utilize this authority. The South Florida Exotic Plant Management Team already exists as a partnership with the State of Florida, currently focused on NPS lands. Over time this partnership could expand to include state and local parklands in ways that will benefit all parks. The Lake Mead National Recreation Area exotic plant management program includes a partnership with Clark

County, Nevada. Through this partnership county funds and the Lake Mead management team are employed in cooperative eradication and restorations activities in a county nature preserve, a county wetlands park, a Las Vegas city preserve, and with planning for cooperation with a nearby state park.

Mr. Chairman, we have taken many steps to implement the provisions of P.L. 105-391. We are always striving for ways to improve our ability to manage the resources entrusted to us. We believe that the efforts we have outlined here today will help us improve the overall management of the National Park System.

This completes my statement. I will be pleased to answer any questions you or other members of the subcommittee may have.

Senator THOMAS. Thank you very much. Your responsibility is more broad than the others, and I appreciate your overview of the issues.

Mr. Ward.

**STATEMENT OF PETER J. WARD, CHAIRMAN, FRATERNAL ORDER OF POLICE, U.S. PARK POLICE LABOR COMMITTEE**

Mr. WARD. Good morning, Mr. Chairman. I am Peter Ward, Chairman of the Fraternal Order of Police, U.S. Park Police Labor Committee. Our organization represents officers, investigators, and detectives of the U.S. Park Police. I have been a U.S. Park Police officer for 15 years. Our organization is grateful to you for the opportunity to testify today about title VIII of the Omnibus Act.

The leadership provided by you, Mr. Chairman, and the members of this committee has laid the foundation upon which a more professional law enforcement program can be built. The preparation of the report, commonly referred to in the Park Service as the Thomas Report, required by the act has forced the Park Service to confront some long-ignored problems with its law enforcement program. As a result, there is a consensus building within the Park Service that the problems with the program must be fixed.

In addition to the Thomas Report, two independent reports have been published detailing problems with the law enforcement program. One of them is titled "The National Park Service Strategic Counter Terrorism Report," prepared by Booz, Allen and Hamilton, and "Policing the National Parks—21st Century Requirements" prepared by the International Association of Chiefs of Police.

Last year our organization and the Fraternal Order of Police, U.S. Park Rangers Lodge, issued a joint statement regarding the law enforcement program. In this statement, we listed the problems and proposed some solutions to the things going on in the law enforcement program. We came together because we concluded that the problems confronting front-line rangers and Park Police officers were virtually identical and that something had to be done.

These reports come from a variety of perspectives, but they all in one way or another identify the same problems and propose similar remedies. Our organization supports the conclusions and recommendations of these reports. I respectfully request that our joint statement that the Rangers Lodge and the Park Police Labor Committee issued be included in the record.

Senator THOMAS. Without objection.

[The joint statement of the U.S. Park Police Labor Committee and the U.S. Park Rangers Lodge follows:]

PREPARED JOINT STATEMENT OF THE FRATERNAL ORDER OF POLICE (UNITED STATES PARK POLICE LABOR COMMITTEE) AND THE FRATERNAL ORDER OF POLICE (UNITED STATES PARK RANGERS LODGE)

On February 5, 2000 the Fraternal Order of Police, United States Park Rangers Lodge and the Fraternal Order of Police, United States Park Police Labor Committee in the interest of the safety and the welfare of our memberships Law Enforcement Rangers and United States Park Police Officers of the National Park Service represented by our respective organizations, as well as the millions of visitors to our National Parks, do hereby make the following joint declarations and statements, regarding—"The National Park Service Law Enforcement Rangers and the United States Park Police—The Two Components of the National Park Service Law Enforcement Program."

EXECUTIVE SUMMARY

The National Park Service Law Enforcement Program consists of two distinct law enforcement resources, which are: (1) The National Park Service Law Enforcement Rangers and (2) The United States Park Police. The National Park Service benefits from having a law enforcement program consisting of two entities whose distinct missions and specialties complement each other. The organizational benefit of having these two distinct law enforcement resources is the operational flexibility to provide law enforcement services in a park system that has diverse operational requirements.

The National Park Service Law Enforcement Program needs to be improved in order to provide adequate protection for the 286 million yearly visitors, employees and the priceless cultural and natural resources under the care of the NPS. Given the low level of operational resources available to commissioned law enforcement rangers and United States Park Police officers they do an outstanding job. However, the lack of law enforcement operational resources is a formidable obstacle that prevents frontline officers and rangers from being able to provide an adequate level of protection. The National Park Service law enforcement program suffers from the following operational resource deficiencies:

- Staffing shortages
- Disjointed command structure
- Inadequate communications systems
- Inadequate Information Technology
- Inadequate security and surveillance systems
- Inadequate training
- Inadequate rules and regulations
- Inadequate facilities
- Inadequate vehicles and equipment

Generally to address these operational resource deficiencies it will be necessary to:

- Provide the resources required to correct operational resource deficiencies
- Modify the command structure of the National Park Service Law Enforcement Program
- Require that the two components of National Park Service law enforcement attain and maintain accreditation from the Commission on Accreditation for Law Enforcement Agencies, Inc, no later than September 30, 2001.
- Establish a new office entitled, "National Park Service Law Enforcement Program Compliance Authority"
- Modify the National Park Service budget structure
- Increase ability to recruit and retain highly qualified personnel for each law enforcement component

We hope that you take the time to review our detailed recommendations that follow.

STATEMENT OF PRINCIPLES

The mission of the National Park Service is to preserve "unimpaired the natural and cultural resources and values of the national park system for the enjoyment, education, and inspiration of this and future generations. The Park Service cooperates with partners to extend the benefits of natural and cultural resource conservation and outdoor recreation throughout this country and the world." (Source: IFY 2000, National Park Service, Strategic Plan) To accomplish this mission, since its establishment in 1916, the National Park Service has employed two distinct law enforcement resources, which are:

1. The National Park Service Law Enforcement Rangers.
2. The United States Park Police.

Although each of these law enforcement entities within the National Park Service functions independently, with distinct missions, they have similar goals and objectives.

The law enforcement program of the National Park Service should be guided by the following three principles:

Principle #1: The National Park Service should maintain an effective and efficient professional law enforcement program with a primary responsibility to protect the visitors to, and resources of, the National Park system.

To achieve this principle the Service should employ only highly trained and professional law enforcement officers. These officers should have (a) the mission of preventing, investigating, and detecting criminal activity; (b) the responsibility, when appropriate, to apprehend violators of rules, regulations and laws; and (c) the obligation to provide assistance of a non-enforcement nature to our visitors and employees. All these actions should be undertaken in an efficient and professional manner.

Principle #2: The Service should entrust law enforcement authority only to law enforcement professionals possessing appropriate aptitude and moral character.

To achieve this principle the Service should recruit the best possible candidates, train these candidates appropriately, and provide them with appropriate written guidelines and policy to effectively perform their duties.

Principle #3: The professional law enforcement program of the National Park Service should maintain the highest standards of honesty, integrity, and conduct.

To achieve this principle the Service should establish and maintain a continuous evaluation process of its law enforcement programs and officers.

The National Park Service benefits from having a law enforcement program consisting of two entities whose distinct missions and specialties complement each other. The organizational benefit of this system gives the National Park Service the operational flexibility to provide law enforcement services in a park system that has diverse operational requirements—from wilderness areas to urban areas. Having two separate and equal components each with distinct specialties and missions is the foundation upon which the future success of the National Park Service Law Enforcement Program will be built.

The National Park Service's dual law enforcement component, with their distinct missions reflects the organizational structure of state and local law enforcement. State and local law enforcement have organized themselves in numerous ways to provide professional law enforcement services in the wide variety of geographic and demographic areas that make up our country (i.e. sheriffs, county police, municipal police, town police, city police, state troopers, highway patrols, constables, state bureaus of investigation, Texas Rangers, etc.). There is no state that has only one law enforcement agency. States have seen the benefit of having different types of agencies organize operations based on the needs of the communities they serve. Given the diversity of the National Parks the mission of the National Park Service and the citizens of the United States would not be well served by a one-size fits all approach to law enforcement.

Nothing in this declaration should in any way be construed as support for a melding of the two components of National Park Service Law Enforcement constituted by the National Park Service Law Enforcement Rangers and the United States Park Police. Additionally, nothing in this declaration indicates support for the alteration of the current geographic areas of responsibility of either of the two components of NPS law enforcement. The current geographic areas of responsibility of the two components of National Park Service Law Enforcement fulfill the needs of the National Park Service, are reasonable and should not be altered.

New park areas should be assigned to the law enforcement component whose organizational structure and mission best suits the needs of the National Park Service. Any change to the current areas of responsibility or any decision regarding new park areas should be based upon an evaluation system jointly developed by the National Park Service Law Enforcement Rangers and the United States Park Police. This evaluation system should be based on the historical missions of the two components of National Park Service Law Enforcement, solicitation of public comments and consideration of the following factors: acreage, location in relationship to other park resources, geography, demography, staffing requirements, criminal incident trends, number of large national events, number of "First Amendment" events, level of political and media activity, dignitary security mission requirements, crowd control mission requirements, visitation—(numbers & patterns), emergency medical/rescue/fire service structure, traffic control requirements, terrorist threat levels, resource types and specialized unit services required.

## COMMON PROBLEMS

The safety of our respective memberships, visitors and some of our Nation's most treasured natural and cultural resources are in peril because the National Park Service does not administer its law enforcement program professionally. The lack of operational resources and inadequate administration has degraded the ability of frontline National Park Service Law Enforcement Rangers and United States Park Police Officers to perform their vital mission. There are critical workplace safety issues. The situation requires immediate attention.

The following operational readiness issues degrade the National Park Service Law Enforcement Program:

*Staffing (Recruitment and Retention)*

The National Park Service has insufficient personnel to perform its law enforcement mission safely. Law enforcement personnel are routinely required to operate with fewer personnel than is safe. National Park Service law enforcement operations do not have sufficient personnel to:

- Provide backup for patrol operations
- Safely police large events
- Respond effectively to emergencies
- Adequately patrol all park areas

The National Park Service must develop standards for staffing and then hire the personnel needed to perform its law enforcement mission safely.

*Communication Systems*

Many of the communications systems used by National Park Service law enforcement personnel are not adequate for law enforcement use and, in general, do not meet federally established mandates. Far too many communications systems are not reliable enough or designed for law enforcement use. Some law enforcement operations are not conducted using a central dispatch operation which, is a dangerous practice. The National Park Service must correct these problems to provide an adequate level of safety for visitors and employees.

*Information Technology*

The National Park Service does not have a modern law enforcement information technology system necessary to run a professional law enforcement program. The first step should be to develop a servicewide standardized incident dispatch and reporting system. This system must be designed to generate real time statistics (based on a common collection method). This type of data is necessary to administer a professional law enforcement program. This system should be designed to allow seamless reporting of criminal incidents to the United States Justice Departments, National Incident Based Reporting System. The National Park Service has identified the lack of integrated and accessible databases as a general problem in the FY 2000, National Park Service, Strategic Plan (Page 42). Integrated accessible law enforcement (visitor safety) databases have the potential of saving lives and preventing injuries.

*Security Systems*

The National Park has numerous cultural resources that are potential targets for terrorists and deranged individuals. However, in many instances these cultural resources are not protected by modern security and surveillance systems that are routinely used by retailers to protect far less valuable property. In addition, the National Park Service does not make appropriate use of security barrier systems to deny vehicular access to cultural facilities. In order to provide a safe level of security in modern society the installation and effective use of these security systems is a baseline protective measure. The National Park Service must correct this problem expeditiously.

*Training*

The National Park Service needs to devote more resources to training its law enforcement personnel. National Park Service Law Enforcement Rangers need a more formal Basic Training Program that includes a formal Field Training Program. Both components need additional funds to upgrade the yearly training provided to experienced law enforcement personnel. During a recent fiscal year, the United States Park Police had a training budget of approximately \$300.00 per officer. Funding training at this low level is a recipe for disaster and an increased tort claim budget.

*Professional Standards (Rules and Regulations)*

The National Park Service must establish mission specific directives for all of its law enforcement operations. They must establish consistent policies for complaint processing for law enforcement personnel. The two components should have separate complaint processing policies and procedures. Currently, complaints lodged against National Park Service Law Enforcement Rangers are not handled in a consistent manner. Both components of National Park Service Law Enforcement should have mission specific policies and procedures that cannot be violated by a local decision/directive. Currently, there are many instances where generally accepted law enforcement policies and procedures are ignored, do not exist or are forbidden by local directives/orders.

*Facilities*

National Park Service law enforcement personnel frequently do not have facilities designed for law enforcement operations. The result is that law enforcement personnel do not, in many cases, have a safe and healthful workplace.

*Vehicles and Equipment*

National Park Service law enforcement personnel should be required to wear and have access to required equipment in order to perform their law enforcement mission while on-duty. The equipment and vehicles that are used should be maintained properly to ensure safety. There are many instances where law enforcement officers do not have necessary equipment and are compelled to operate vehicles, which require replacement or repair. The National Park Service should ensure that this problem is addressed.

## SOLUTIONS

We hereby declare the following:

The National Park Service should establish the position and office of Chief, National Park Service Law Enforcement Rangers. That the National Park Service Law Enforcement Rangers should have a separate ranked chain of command for National Park Service Law Enforcement Rangers starting at line Rangers and ending with the Chief of National Park Service Law Enforcement Rangers. The Chief of the National Park Service Law Enforcement Rangers shall be the equal of the Chief of the United States Park Police. The Office and Position of Chief of National Park Service Law Enforcement Rangers, should come from the ranks of commissioned law enforcement rangers and have the authority to enact servicewide mandatory standards for Ranger Law Enforcement that reflect current "best practices" as well as, applicable laws, rules and regulations. The Chief of National Park Service Law Enforcement Rangers shall have power and authority over the ranger force similar to that which the Chief of the United States Park Police enjoys over the United States Park Police. The Chief of National Park Service Law Enforcement Rangers shall report directly to the Director of the National Park Service.

That the United States Park Police does have and should maintain a separate ranked chain of command for the United States Park Police starting at line Officers and ending with the Chief of the United States Park Police. The Chief of the United States Park Police shall be the equal of the Chief of National Park Service Law Enforcement Rangers. The Chief of the United States Park Police shall report directly to the Director of the National Park Service. The Office of the Chief of the United States Park Police should retain the authority for maintaining and establishing mandatory standards for the United States Park Police that reflect current "best practices" as well as applicable laws, rules and regulations.

The Chief of the United States Park Police and the Chief of the National Park Service Law Enforcement Rangers should be responsible for ensuring that each program attains accreditation from the Commission on Accreditation for Law Enforcement Agencies, Inc, no later than September 30, 2001. Thereafter, they should be required to maintain that accreditation.

In each National Park Service Region there shall be a Regional Chief of National Park Service Law Enforcement Rangers. In each region where the United States Park Police conduct law enforcement operations the United States Park Police should have a separate and equal position. In regions where there are Regional Chiefs for Rangers and Regional Chiefs for United States Park Police each shall be responsible for their respective areas. These Regional Chiefs of Law Enforcement shall report to and be responsive to the Regional Director. However, these positions shall be responsible for insuring that the regional law enforcement programs are consistent with the mandatory standards established by the Chiefs of their respective service.

Budget authority for the law enforcement programs shall be retained at the regional level. However, in order to be authorized to conduct a law enforcement program the regions must maintain established National Standards. Furthermore, within each region the National Park Service shall establish a separate line item budget for law enforcement under the control of the Regional Director and the law enforcement chain of command. In areas where there are United States Park Police each Regional Chief of Law Enforcement shall have separate and equal control over the budgets of their respective programs.

Under the authority of the Director of the National Park Service a National Park Service Law Enforcement Program Compliance Authority shall be formed and co-chaired by the Chief of National Park Service Law Enforcement Rangers and the Chief of the United States Park Police. The committee shall have a staff comprised of equal representation from the National Park Service Law Enforcement Rangers and the United States Park Police (Numbers determined by workload). This entity will be responsible for:

- Establishing an inspection regimen and to work in conjunction with Regional Law Enforcement Specialists to periodically inspect every National Park Service Law Enforcement Operation in order to ensure compliance with National Standards.
- Establishing policies and procedures for joint law enforcement operations.
- Establishing one standard for the National Park Service incident dispatch and reporting system.
- Establishing budgeting policies and procedures that ensure safe and healthful working conditions for all law enforcement operations.
- Coordinating and ensuring the availability, reliability and safety of law enforcement communications systems.
- Ensuring that centralized dispatching systems are used in all law enforcement operations.
- Ensuring required training is budgeted for and is, in fact, provided.
- Ensuring the dual components maintain their separate organizational focuses and specialties that give the National Park Service the flexible law enforcement response mechanisms required to protect a diverse system of parks.
- Developing standards for staffing each components operations in a manner that will ensure safe working conditions.
- Developing a standardized method to evaluate and recommend which component will be best suited to conduct law enforcement operations in any new park areas.

Each region shall have two Regional Law Enforcement Specialists, including one United States Park Police Officer and one National Park Service Law Enforcement Ranger as representatives from the National Park Service Law Enforcement Program Compliance Authority and advisors to the Regional Director on law enforcement matters.

That each component of National Park Service Law Enforcement be required to:

- Have separate and mission-specific basic training for its officers/rangers to include a mandated Field Training Program.
- Have separate and mission specific yearly advanced training for its rangers/officers.
- That no law enforcement operations are permitted unless there is a central law enforcement-specific dispatch system.
- That no law enforcement operations are permitted without staffing levels that will permit safe law enforcement operations.
- Permit only full time permanent or subject to furlough agency trained and qualified professional officers/rangers to perform agency law enforcement operations. Seasonal Commissioned Rangers will be hired as full time permanent positions subject to furlough.
- Do not assign law enforcement officers to duties which impact law enforcement program effectiveness or workplace safety.
- Maintain safe reliable modern encrypted communications systems with radio identifiers and alarms.
- Provide all equipment and uniforms necessary to safely conduct law enforcement operations.
- Establish separate supervisory and command level training programs.

That modern Security/Surveillance Systems and Security Barriers be installed and maintained to ensure the maximum level of protection for all the priceless cultural resources under the control of the National Park Service.

That the National Park Service work to establish and gain the authority to administer a pay band for National Park Service Ranger Law Enforcement and a pay band for the United States Park Police. These pay bands will mandate periodic adjustment of the pay rate to an average of the 3-5 largest uniformed police and/or sheriffs departments in each geographic area where National Park Service Law Enforcement Rangers or United States Park Police Officers work. These pay bands would establish a National Base Pay equaling the rate established for Washington, DC. This system would ensure the ability to recruit and retain high quality individuals over the long term. Furthermore, it would facilitate the transferring of personnel for promotion or other mission requirements.

These program changes are not radical. They reflect standards and practices well established in state law enforcement programs. Many states have law enforcement standards boards that establish minimum standards for law enforcement training and operations. Localities in these states can organize their law enforcement operations in a variety of ways. However, local jurisdictions cannot just give anyone a badge and a gun; and allow them to operate as a law enforcement officer. Localities can conduct law enforcement operations based on their local priorities but they must operate within the boundaries of established mandatory law enforcement standards, practices and procedures. States have seen the benefits of having restrictions on what local elected or appointed officials can do regarding the law enforcement agencies under their political control. States that have established this hierarchy have found that it ensures the safety, consistency and effectiveness of their law enforcement programs.

The National Park Service Law Enforcement Program would greatly benefit from mirroring this hierarchy by enacting the changes outlined in this document. Additionally, the National Park Service must realize that more funding for law enforcement operations will be needed to correct the dangerous operational readiness conditions that currently exist and do what is necessary to provide that funding.

We hereby respectfully request Congress to convene oversight hearings for the National Park Service Law Enforcement Program and pass legislation that will compel these common sense solutions to the problems degrading the National Park Service Law Enforcement Program.

Mr. WARD. The six problems identified in the internal report, the Thomas Report, and these other reports are a severe staffing shortage, unsafe communications systems, poor use of information technology, inadequate training, inadequate equipment, and an inadequate organizational structure. I respectfully submit that these problems require immediate action because they are endangering the safety of visitors, priceless resources, and employees.

Some examples of the impacts of these problems on U.S. Park Police operational readiness are that we are 170 or more officers short of the number needed to safely conduct operations. This number is established at 806 by the Park Police management and by 820 from the Booz, Allen and Hamilton consulting group. We currently have 630 officers as of this month, and that is 20 less than we had in 1999.

Our concerns in this area are based on we have 20 less than we had in 1999 and we are now hearing rumors that the region and the Park Police managers are going to write a reprogramming letter to Congress because they do not feel they have enough money to make it until the end of the year, which goes back to the financial problems that are facing the Park Police and that are being studied by the NAPA people.

We look forward to the report that NAPA will issue for years, every time we would go to Park Police management as the Labor Committee of the union for Park Police officers, we would say we have problems with radio systems, we have unsafe vehicles because not enough are bought, we have problems with information technology. Their answer was always the Park Service does not give us enough money.



When we would go to the region, to summarize, their response was, well, the Park Police do not get enough money, but they do not spend it right either.

Then when we would go up to the Park Service leadership at the very top, their general response was the Park Police do not spend their money right.

I submit that it is clear that not all three of those things can be true, which is why our Labor Committee advocated that some sort of audit of this type be done so that we could get to the facts because I think the facts have been somewhat clouded, at least to us, over the years.

Some of the other problems that the Park Police has is that we do not make use of information technology. We hand-compile statistics. Many officers in the Washington, D.C. area do not have e-mail. In this day and age, the backbone of the reporting system is still carbon copies that are hand-transmitted from stations down to the records section.

I do not think the Park Police has a uniform method of handling reporting or analyzing law enforcement data. We feel that this is a significant obstacle to make reasoned decisions about law enforcement operations.

The most important problem I think the Park Service has is one of organizational structure. We think we need to have strong, experienced leadership at the top of the Park Service that has experience in law enforcement. We believe that this person should have the authority to start a law enforcement board, similar to the law enforcement standards boards started in many States, and they should have the ability to administer the program in a way similar to the States.

This concludes my prepared testimony. I thank the committee for the generous support you have shown the U.S. Park Police in the past and for the opportunity to testify today. I will be happy to answer any questions you may have.

[The prepared statement of Mr. Ward follows:]

PREPARED STATEMENT OF PETER J. WARD, CHAIRMAN, FRATERNAL ORDER OF POLICE,  
U.S. PARK POLICE LABOR COMMITTEE

Good morning, Mr. Chairman and Members of the Committee. I am Peter J. Ward, Chairman of the Fraternal Order of Police, United States Park Police Labor Committee, representing the officers, investigators, and detectives of the United States Park Police. I have been a United States Park Police Officer for 15 years. Prior to that, I served for four years in the United States Air Force as a security police officer. The membership of our organization is grateful for the opportunity to testify today regarding Title VIII of the National Parks Omnibus Management Act of 1998 and discuss the National Park Service Law Enforcement Program.

The leadership provided by the Chairman and members of this Committee has laid the foundation upon which a more professional National Park Service Law Enforcement Program can be built. The preparation of the report commonly referred to as "The Thomas Report", that was required by the Omnibus Management Act forced, the Park Service to confront some long-ignored problems with its law enforcement program.

As a result, there is a consensus building inside and outside the National Park Service that the problems with the Law Enforcement Program must be fixed. In addition to "The Thomas Report", two independent reports have been published detailing the problems with the National Park Service Law Enforcement Program. These are the "National Park Service Strategic Counter Terrorism Report" prepared by Booz, Allen and Hamilton in 1999, that studied the United States Park Police; and "Policing the National Parks—21st Century Requirements" prepared by the Inter-

national Association of Chiefs of Police in October 2000, that studied National Park Service Ranger Law Enforcement.

On February 5, 2000, our organization and the Fraternal Order of Police-United States Park Rangers Lodge issued a joint statement regarding the National Park Service Law Enforcement Program. In this statement, we listed the problems with the Law Enforcement Program and proposed solutions. We produced this statement because we concluded that the problems confronting frontline rangers and United States Park Police officers were virtually identical.

These reports come from a variety of perspectives but they all, in one way or another, identify the same problems and propose similar remedies. Our organization supports the conclusions and recommendations of these reports. I respectfully request that our joint statement be included in the record.

There are six problem areas that are identified by every one of these reports and they are: (1) a severe staffing shortage, (2) unsafe communications systems, (3) poor use of information technology, (4) inadequate training, (5) inadequate equipment and (6) an inadequate organizational structure. I respectfully submit that these problems require immediate action because they are endangering the safety of visitors, national resources and employees.

The first problem I will discuss is staffing shortages. The United States Park Police has a severe staffing shortage. As of March 20, 2001, the United States Park Police has 630 serving officers. This total is more than 170 officers short of the estimated 806 to 820 officers that the United States Park Police needs to safely perform its mission. The staffing shortage hampers patrol operations, which will increase the incidence of crime in our parks. In addition, the staffing shortage decreases the security and safety of priceless cultural resources such as: Lafayette Park, The Washington Monument, The Lincoln Memorial and The Statue of Liberty.

Independent experts from the firm of Booz, Allen and Hamilton concluded in a 1999 report that, "Though the personnel of the National Park Service do a highly professional job of preserving, protecting, and maintaining the parks and memorials to the extent of their ability and available resources, they do not have sufficient numbers, nor are they adequately equipped and trained to prevent a determined terrorist attack." Booz, Allen and Hamilton went on to say that, "According to the USPP analysis, the current force strength of 650 officers is 150 officers below the number needed to adequately meet all of their requirements. Our analysis indicates that the Force is 170 officers below the number needed." As previously stated, the current force strength is 630 officers. We believe that additional officers are a critical need that needs to be addressed to provide an adequate level of safety for park visitors and resources.

The concern among our membership about staffing is increasing because there are rumors circulating that the United States Park Police may not have the funds needed to hire a second recruit class mandated by the this year's appropriations bill. This concern is also driven by the expectation that the retirement rate of officers will significantly increase after July 2002.

The shortage of United States Park Police officers is affecting the safety of large events on the National Mall. This was made clear during last year's Millennium Celebration. This was the first time, in my memory, that the operational plan had to be drastically revised to maintain public safety because there weren't enough officers. The shortage of officers for crowd control operations is particularly troubling when you consider the demeanor of recent protests that have occurred in Washington, DC concerning the International Monetary Fund and the World Bank. On a day with these kind of protests 170 officers would make a critical difference. What is particularly troubling is the strong probability that protests like this will occur in response to unexpected world events. In this type of situation 170 more officers will be critical, as we will not have the luxury of time to make arrangements for outside assistance.

I will now address the issue of unsafe communications systems. In general, the communications systems used by the United States Park Police are antiquated and unreliable. None are encrypted or narrow-banded. The radio system in Washington, DC was installed in the 1970's and some of equipment is solid-state tube technology; which is becoming difficult and expensive to maintain. Far too often officers in the Washington, DC and San Francisco, CA areas are not able to clearly transmit or receive vital information because of the poor quality of the systems. Due to their age and design, United States Park Police systems frequently do not interoperate with the systems of other law enforcement and emergency service agencies. This makes coordinating joint responses to critical incidents difficult. There seems to be little doubt that the communications systems used by the United States Park Police cause serious safety issues. In a 1999 study concerning the United States Park Police by Booz, Allen and Hamilton concluded that, "A significant deficiency of the Na-

tional Park Service is inadequate communications capability to call for a response if a terrorist attack should occur, coordinate management of such an event, and effectively integrate with other Law Enforcement Agencies and responders”.

We now come to the issue of Information Technology. The National Park Service does not have a standardized computerized dispatch and reporting system. In fact, the United States Park Police still hand compiles some statistics to prepare the force's yearly report to the Federal Bureau of Investigation. Most officers in the Washington, DC area still do not have e-mail access, and the backbone of the United States Park Police reporting system remains multiple copy carbon pressure forms that are transmitted by hand from stations to the records section.

Law enforcement operations in many parks classify and report incidents using different criteria. There is no uniform method of handling, reporting or analyzing data. This is significant obstacle for anyone responsible for making reasoned decisions regarding law enforcement operations, resources and priorities. We respectfully submit that the fact that there are no nationally enforced reporting standards supports the premise that the management of the National Park Service has not paid sufficient attention to its law enforcement function.

The fourth problem is inadequate training. The United States Park Police has outstanding entry-level training, but has not provided adequate training for senior officers or supervisors. For example, when an officer graduates from United States Park Police Basic Training, they very rarely, if ever, receive comparable emergency response or pursuit driver training. In order to maintain professional standards it will be important to provide more resources for training.

The fifth problem area regards inadequate equipment. The United States Park Police frequently has trouble maintaining a safe vehicle fleet. In the Washington, DC area, it is not uncommon for police cruisers to have mileage in excess of 100,000 miles, far more than the standard 65,000-mile mark when they should be replaced. United States Park Police management has stated that to maintain a safe fleet they need to purchase approximately 50 cruisers each year. In recent years, the force has not purchased anywhere near 50 cruisers. It is vital that police cruisers be reliable and safe because they are used for emergency responses. In addition, the United States Park Police frequently has problems procuring other types of equipment such as ammunition and equipment for training, computers and chemical and biological protective gear.

The last and perhaps the most important problem facing the United States Park Police and the Rangers is the organizational structure of the National Park Service. We believe that addressing the problems with organizational structure will be the key to solving the other problems plaguing the National Park Service Law Enforcement Program.

The current organizational structure has given rise to an agency culture that has ignored the law enforcement program. This situation has needlessly placed visitors, priceless resources and employees in jeopardy. Currently, there is no position near the top of the command structure of the Park Service that is solely dedicated to law enforcement. Without strong, experienced law enforcement leadership, positioned at the top echelons of the Park Service, the law enforcement program will continue to drift without direction.

We strongly believe a central authority at the top of the National Park Service possessing the power to establish and enforce law enforcement program standards is a must. The law enforcement portion of the Park Service mission is too important to allow it to continue to be neglected. We agree with the recommendation of the National Commission on the Advancement of Federal Law Enforcement that, “Annual budgets should provide a line item for each law enforcement agency, and the President and Congress should ensure that each such agency is led by an experienced public manager, preferably with experience in law enforcement.”

We strongly recommend that the National Park Service should create a position for law enforcement that reports to the Director of the National Park Service. This new position should have the authority to create a “Law Enforcement Program Standards Board” modeled after police standards boards established in many states. This proposed structure would correct the current agency culture that has failed to address law enforcement problems.

These standards boards work well for the states. They address the problems of professionally administering numerous separate law enforcement operations over large areas. This model should enable the National Park Service to resolve long-standing problems and insure safe, consistent, and effective operations.

We suggest that the board consist of equal numbers of managers from the ranks of Law Enforcement Rangers and the United States Park Police. The board should not have direct command or control of daily law enforcement operations, but rather, should exist to create a structure where park managers retain some authority over

law enforcement, but would be prevented from running programs that do not meet professional standards.

In accordance with laws, rules and regulations; taking full consideration of the differing missions of the United States Park Police and Law Enforcement Rangers; and having authority over all positions and operations, this board should have the authority to:

1. Set minimum selection standards
2. Set minimum training standards
3. Set minimum staffing levels & safety procedures
4. Set minimum standards for the security of park resources
5. Set minimum standards for law enforcement operations
6. Control certification of law enforcement officers/rangers and programs
7. Conduct research relating to NPS Law Enforcement
8. Enforce compliance by conducting unannounced yearly inspections of NPS law enforcement operations and have the authority to enforce corrective action based on those inspections.
9. Set budgetary standards, policies and procedures for NPS law enforcement
10. Establish a service wide standardized computer based reporting system
11. Establish dispatching and communications systems minimum standards
12. Establish law enforcement program priorities
13. Establish policies and procedures for ensuring all NPS law enforcement programs attain and maintain accreditation by the "Commission on Accreditation for Law Enforcement Agencies, Inc."

This concludes my prepared testimony. I would like to thank the committee for the generous support they have given to the United States Park Police, and for the opportunity to testify before you today. I will be happy to answer any questions you may have.

Senator THOMAS. Thank you, Mr. Ward.

Mr. Jackson, Mr. Ward represents the Park Police. You represent the rangers that do Park Police functions.

Mr. JACKSON. Yes, Mr. Chairman, that is correct.

Senator THOMAS. Please.

**STATEMENT OF GREG JACKSON, VICE PRESIDENT,  
FRATERNAL ORDER OF POLICE, RANGER LODGE #60**

Mr. JACKSON. Thank you. Thank you for the opportunity to testify in front of you today. I am Greg Jackson, currently a District Ranger at Santa Monica Mountains National Recreation Area. I am coming today not as a representative of the Park Service, but from our lodge, the National Park Rangers Lodge of Fraternal Order of Police, to testify today regarding title VIII of the National Parks Omnibus Management Act.

Specifically, I wish to offer the support of our lodge and endorse the Park Service's report to you and your committee. The document that the Park Service refers to as the Law Enforcement Program Study, or as Mr. Ward said, the Thomas Report.

Over 650 National Park Service law enforcement rangers are members of our lodge, making us the largest such organization in the country. We were founded 13 years ago in Yosemite National Park when we rangers were becoming increasingly concerned about issues affecting our safety. At that time we were concerned because there were only 10 of us working a night shift in Yosemite Valley, which was down from 20 several years before, down to 12 the year before that. Last night I called to check and there was one ranger working the night shift in Yosemite Valley.

The problems regarding staffing are not unique to Yosemite. They are all too common in Yosemite National Park. While Park Service budgets have increased, the commitment to front-line resources and visitor protection has not.

For the millions of people visiting these parks, National Park Service rangers have made them among the safest places in the country, but they are not so safe for the rangers. As reported in *USA Today*, National Park Service rangers are more likely to be assaulted than any other Federal law enforcement officer.

In the history of the Park Service, park rangers have been involved in more than 100 separate incidents involving gunfire with suspects. Thirty rangers have died performing law enforcement. Seven rangers have been shot and killed. Eight other rangers have been shot and survived. The murders of the rangers in Hawaii, Florida, and North Carolina in the last 10 years are tragic symbols of the problems facing law enforcement in the National Park Service.

The cutbacks in the number of rangers also affect our ability to do our job the best of protecting park resources. We are too often forced to respond to the urgent, while neglecting or sacrificing the time-intensive activities of anti-poaching patrol, monitoring archaeological sites and preventing vandalism, and educating the public that make up our core mission of resource protection.

A recent study by the International Association of Chiefs of Police endorsed the Thomas Report staffing recommendations as the bare minimum to achieve a safe and effective level of staffing in our parks. We agree. The recommendations the Park Service has made to you are minimum. While they do not fully provide for an effective level for backup to assure the safety of the workforce, they are certainly better than what we have now.

Today, over 30 management positions are assigned to permanently oversee wildland fire in the Park Service. There are only two positions assigned to manage the law enforcement program. This is a formula for disaster and for a program out of control.

The IACP report called for the Park Service to hard wire law enforcement into its upper management so it is not abandoned. Our lodge recommends several ways to do this.

First, we recommend that the National Park Service law enforcement program be accredited through CALEA, the Commission on Accreditation for Law Enforcement Agencies.

Second, we agree with the IACP recommendations for the creation of an associate director to oversee law enforcement in the NPS. We agree with this approach and with the recommendations by our colleagues in the U.S. Park Police to create a permanent committee on law enforcement standards to assure that the law enforcement function is being performed safely and effectively.

Third, we recommend the creation of an internal affairs department within the ranger services to ensure integrity of the law enforcement program.

Fourth, we recommend that this subcommittee oversee implementation of the IACP's recommendations to improve the NPS law enforcement program. It would be a tragedy if the Park Service were given additional personnel and funding which could then be wasted by the same poor management practices that the IACP identified.

We urge you to continue to seek the opinions of field rangers as the subcommittee moves forward to improve the law enforcement program.

Our lodge has prepared a joint statement with our brethren in the U.S. Park Police that offers solutions to many of these common problems. I urge the subcommittee to take this statement in hand, along with the Thomas Report and the IACP report, as you move forward to improving the National Park Service law enforcement program.

I thank you for your time this morning, for having me in front of you, and would be happy to answer any questions you have.

[The prepared statement of Mr. Jackson follows:]

PREPARED STATEMENT OF GREG JACKSON, VICE PRESIDENT, FRATERNAL ORDER OF POLICE, RANGER LODGE #60

Mr. Chairman, members of the subcommittee, I'd like to thank you for the opportunity to testify in front of you today. I am Greg Jackson, currently a District Ranger at Santa Monica Mountains National Recreation Area, with prior service at Lake Mead, Yosemite, Olympic and Bryce Canyon National Parks.

I am coming to you today not as a representative of the National Park Service, but as a member of the National Park Rangers Lodge of the Fraternal Order of Police, to testify regarding Title VIII of the National Parks Omnibus Management Act of 1998.

Specifically, I wish to offer the support of our Lodge and endorse the Park Service's report to Congress in response to this section—a document that the Park Service refers to as the Law Enforcement Program Study, or the Thomas Report.

Over 650 National Park Service law enforcement rangers are members of our Lodge, making us the largest such organization in the country. We were founded 13 years ago in Yosemite National Park, when rangers were becoming increasingly concerned about issues affecting their safety.

At that time, eight rangers patrolled Yosemite Valley on a typical night shift, and we were concerned that the number had dropped from twenty, to twelve, to ten the year before.

Last night, there was one ranger working in Yosemite Valley. This same staffing crisis exists in all too many parks. While Park Service budgets have increased, the commitment to frontline visitor and resource protection has not.

Much the same as the Capitol Police are responsible for protecting these hallowed halls of Congress, the law enforcement Rangers of the National Park Service are responsible for protecting millions of visitors from around the world, in nearly 400 parks across our nation. For the millions of people visiting these parks, the National Park Service Rangers have made them among the safest places in the country.

But it's not so safe for the rangers.

As reported in *USA Today*, National Park Service Rangers are more likely to be assaulted than officers of any other federal law enforcement agency; often ten times more likely. This includes the DEA, ATF, Border Patrol, FBI, and the U.S. Marshals Service.

In the history of the park service, park rangers have been involved in more than a hundred separate incidents involving gunfire with suspects. Thirty rangers have died performing law enforcement duties. In addition to seven rangers who have been shot and killed by suspects, at least eight other rangers have been shot and survived.

The murders of law enforcement rangers in Hawaii, Florida and North Carolina in the last 10 years are tragic symbols of the problems facing law enforcement in the National Park Service.

In 1990, when Ranger Robert McGhee was murdered in Florida, he was the only ranger on patrol. He had no backup. His body was found by park visitors. Every law enforcement agency in the country knows that you never send people to work without backup. But there he was.

Nine years later, staffing levels had been cut even more, when Ranger Steve Makuakane-Jarrell contacted a man with a dog off leash who would turn out to be his murderer. He too, was the only ranger working. No backup, no communications. His body, too, was found hours later by park visitors.

As rangers, we tell park visitors that for safety, its best not to hike alone. Yet each summer day, dozens of NPS rangers hike alone, patrolling our nation's wilderness in remote areas with inadequate communications. The cost? In 1996, Ranger Randy Morgenson, patrolling alone in an area of poor radio communications, in a remote and rugged area of Kings Canyon National Park disappeared. He is still missing, and presumed dead.

In spite of these deaths, and of everything we know about safety, I can tell you that today, tonight, there will be rangers working alone, without backup, in our national parks.

The cutbacks in the number of rangers also affect our ability to do our best job of protecting park resources. We are too often forced to respond to the urgent—the emergency law enforcement, search and rescue, and firefighting needs of the moment as a matter of priority—while sacrificing the time-intensive activities such as anti-poaching patrol, monitoring archaeological sites to prevent vandalism, and educating the public, that make up our core mission of resource protection.

For example, from 1991 to 1997 poachers removed over 15,000 cactuses from federal land including Mojave National Preserve. In the same time period, others stole hundreds of sponges from Biscayne National park, looted Native American graves in Channel Islands, desecrated graves in National Battlefields, and killed hundreds of black bear just for their gall bladders in parks across America.

Staking out and monitoring remote resources take time. And because rangers must deal with issues of public safety first, there is often little time for stakeouts and surveillance. This has led to a slow but steady depredation of our nation's treasures, and a growing number of rangers who are paying the ultimate price in the defense of these treasures.

Our Lodge fully endorses the recommendations of the NPS in the Thomas Report. We are not the only organization to endorse these recommendations.

A recent study by the International Association of Chiefs of Police (IACP) endorsed these recommendations as the bare minimum to achieve a safe and effective level of staffing in our parks. We agree. The recommendations the park service has made to you are a minimum. They don't fully provide for an effective level for backup to assure the safety of the workforce, but they are better than what we have now.

Backup at night often comes in the form of rangers being awakened at home to respond to a call. But as the IACP noted, park housing is not properly assigned or made available to assure a timely response to assure the safety of rangers and the public. More rangers are a start, but other changes are needed to achieve the critical goal of safety.

Our Lodge is also concerned that even if these staffing levels are increased, the park service will repeat the costly mistakes of the past. If Congress provides for 615 new ranger positions, they should also assure that the park service doesn't take 615 other positions out of law enforcement through attrition.

The IACP identified a lack of support for law enforcement within the park service in its first report on the agency in 1970. Thirty years later, the IACP identified many of the same problems.

Today, over 30 management positions are assigned to permanently oversee wildland fire in the park service. There are only two positions in Washington assigned to manage the law enforcement program in parks across the country. This is a formula for disaster, and for a program out of control.

The IACP has called on the park service to "hard wire" law enforcement into its upper management, so it is not abandoned. Our Lodge recommends several ways to do this.

First, we recommend that the National Park Service law enforcement program be accredited through CALEA, the Commission on Accreditation for Law Enforcement Agencies. They are the national benchmark, which law enforcement agencies use to show the public that they meet accepted practices in law enforcement. Agencies from the U.S. Marshals Service to even the National Institute of Standards and Technology have used CALEA as a standard for maintaining a quality law enforcement program. We believe that frequent external review is essential to create and maintain a quality law enforcement program.

Second, we agree with the IACP's recommendation for the creation of an associate director to oversee law enforcement in the NPS. We agree with this approach, or with recommendations by our colleagues in the U.S. Park Police to create a permanent committee on law enforcement standards to assure that the law enforcement function is being performed safely and effectively. The IACP states that decentralization has severely damaged the law enforcement function in the park service. We agree.

They further state that, "NPS law enforcement can justly be described as a profusion of conditions and practices in search of a system."

There needs to be more than two people in Washington managing a law enforcement program that reaches across the country. They need to have a voice at the very top of the service, to make sure that ranger safety, and the safety of the public and of park resources is heard. And they need authority to see that their policies are being carried out.

Third, we recommend the creation of an internal affairs department within the Ranger services to ensure integrity of the law enforcement program, and to prevent situations like that of Ranger Freddie Aledo, at San Juan National Historic site. Aledo called for backup while being sniped at by a suspect with an AK-47. Aledo's supervisor, and closest backup, failed to come to his aid because the supervisor was in a meeting. No action was taken against this supervisor. This is unacceptable for any agency, and combined with other such incidents, demonstrates a clear need for an internal affairs program that reports to the Director.

Fourth, we recommend that this subcommittee oversee implementation of the IACP's recommendations to improve the NPS law enforcement program. It would be a tragedy if the park service were given additional personnel and funding for law enforcement, that would be wasted by the same poor management practices that the IACP identified.

The IACP identifies major discrepancies between the observations of NPS management and the observations of field rangers concerning the quality of the law enforcement program. On virtually every issue, the IACP agrees with field rangers as to how these problems should be fixed.

We urge you to continue to seek the opinions of field rangers as the subcommittee moves forward to improve the law enforcement program in the National Park Service. Our Lodge has prepared a joint statement with our brethren in the U.S. Park Police that offers solutions to many of our common problems. I urge the subcommittee to take this statement in hand with the IACP report and the Thomas Report as a blueprint for improving the National Park Service Law Enforcement Program.

This concludes my prepared testimony. I would be more than happy to answer any questions that you or the members have. I sincerely thank you for this opportunity to testify before you.

Senator THOMAS. Thank you very much.

Mr. McElveen.

**STATEMENT OF SCOT McELVEEN, BOARD MEMBER FOR SPECIAL CONCERNS, ASSOCIATION OF NATIONAL PARK RANGERS**

Mr. McELVEEN. My name is Scot McElveen, and I am here as a board member for the Association of National Park Rangers on my own time and travel expenses. My testimony here is as an association member and not as an employee of the National Park Service.

The Association of National Park Rangers was formed in 1977 and is a professional, nonprofit organization comprised of approximately 1,100 individuals who are entrusted with and committed to the care, study, and explanation and/or protection of those natural, cultural, and recreational resources included in the National Park System, and persons who support these efforts. Among our members are NPS rangers and other employees from all regions, grade levels, and specialties. ANPR is neither a union nor a bargaining unit, but rather is an association created to advance the park ranger profession and to support and perpetuate the National Park Service and the National Park System.

Thank you for inviting ANPR to share our thoughts with you on the National Park Service's implementation of management policies and procedures to comply with provisions of title VIII of the National Parks Omnibus Management Act of 1998.

We would also like to thank you, Mr. Chairman, in particular, for developing and sponsoring the act itself, and in particular for the inventorying, monitoring, and research mandate in title II and the law enforcement program study requirement in title VIII. These provisions demonstrate the committee's care for National Park Service employees and for National Park System resources.



While most of our comments pertain to title VIII, with your permission, Mr. Chairman, we would like to just touch on a few of the other titles because they tie together so well.

We believe that for preservation of park resources and park values of any type to be successful a triangle of resource education functions, resource management functions, and resource protection functions must occur. All three of these functions must be proportionately represented to adequately preserve park resources and values in an unimpaired state for the enjoyment of present and future generations, the NPS mission. No one function can prevent derogation of park resources and values from all the external and internal threats they face.

This triangle must be applied when implementing National Park Service career development, training, and management. Some training has been developed to implement the act's intent. However, many parks cannot afford the associated travel costs or allow the operational staff to be away from the park long enough to attend the training. And that is a problem.

Web-based training is one answer, and the Park Service is doing some of that. But this training instruction method is not adequate for all subjects.

Missing from the NPS training program is an intake training program specifically for the ranger workforce. As the NPS seeks to hire a diverse group of the best and brightest rangers in the future, a well developed ranger intake training program is a must.

The lack of a field training program is another shortfall of the current NPS training system.

In addition to the Law Enforcement Program Study, written pursuant to the Omnibus Act of 1998, the National Park Service also commissioned an independent study of the agency's law enforcement program by the International Association of Chiefs of Police. This study came to the same basic conclusions that the Law Enforcement Program Study did, notably that the function is understaffed to meet the responsibilities given to the NPS by Congress in this area.

In the 20 years between 1978 and 1998, the National Park Service grew by 84 units, 28 percent. It expanded from 31.3 million acres to 83.4 million acres, an expansion of 166 percent. They experienced a rise in visitation from 283 million visits to 435 million visits, a rise of 53 percent in total visitation. During the same period, the number of permanent protection rangers increased from 1,168 to 1,483, only a 27 percent increase.

This shortfall of commissioned rangers and the associated shortfalls of higher quality radio systems and dispatch services, adequate training in law enforcement, and resource knowledge, adequate quantity and qualities of vehicles, vessels, aircraft, computers, surveillance and other specialty equipment, reporting systems, law enforcement databases, offices and storage areas, fitness facilities and equipment, administrative and managerial support, and planned intake and field training programs have put park employees, resources, and visitors at risk.

The Law Enforcement Program Study estimates that approximately \$162 million for a one-time cost and \$73 million for reoccurring costs would correct these deficiencies. Without new appropria-

tions from Congress or congressional direction to the National Park Service to redirect portions of current appropriations, it is doubtful that these deficiencies will receive much attention.

So, what happens if these shortfalls are not addressed?

Protection rangers are resource protectors, as well as protectors of human life, health, and property. They utilize law enforcement, resource education, and other tools to achieve resource stewardship and visitor enjoyment outcomes. Without an adequate number of protection rangers to prevent resource derogation from criminal activity, there may not be enough intact resources left in parks to provide enjoyment for visitors. Response-based law enforcement will never be adequate to preserve resources because resources cannot call for help when they are being damaged, disturbed, or removed.

With inadequate numbers of protection rangers, their core responsibility, which is preventative resource protection at both highly visited and remote park locations, is continually being trumped by response-oriented emergency services and people and property related law enforcement. As we previously mentioned, the resource stewardship triangle cannot stand without all three legs, resource education, resource management, and resource protection.

Law enforcement is not the only duty performed by protection rangers. Often there are so many other collateral duties heaped on protection rangers that they do not really have any discretionary time to perform the preventative resource and visitor protection function. NPS managers need to value protection rangers' discretionary time and defend it zealously. One step in that regard would be to add a strategic goal with a measurable outcome to quantify what preventative resource protection is worth to the National Park Service.

One area that the law enforcement study did not cover is that of NPS employee housing, especially as it relates to protection duties and protection rangers. It is ANPR's opinion that a modest amount of quality housing that is affordable to rangers at the GS-9 level is an essential requirement of the NPS law enforcement program, for the safety of rangers for backup, and is a reasonable level of deterrent protection for park resources and park visitors.

The Association of National Park Rangers represents a portion of the rank and file, on-the-ground employees of the National Park Service, and our perceptions describe conditions where the rubber meets the road. Our perceptions are not filtered through management or political layers, and we provide them in an attempt to help the National Park Service meet its obligations to the American people and to Congress.

Funding for the shortfalls we have described does not necessarily have to come from new appropriations. It could be from current appropriations redirected, but that would most likely mean some other important function of the National Park Service would suffer.

The reality, however, is just as the National Park Service's seventh Director George Hartzog described when he said, "Policy without funding is just conversation." The same can be said for title VIII of the Omnibus Act of 1998. It has been nice conversation so far. ANPR is hoping for some action, and we pledge to help in any way we can.

Thank you for the opportunity, Mr. Chairman. That is the end of my prepared statement. We would be happy to answer any questions you might have.

[The prepared statement of Mr. McElveen follows:]

PREPARED STATEMENT OF SCOT MCELVEEN, BOARD MEMBER FOR SPECIAL CONCERNS, ASSOCIATION OF NATIONAL PARK RANGERS

Mr. Chairman and members of the subcommittee, thank you for inviting the Association of National Park Rangers (ANPR) to share our thoughts with you on the National Park Service's (NPS) implementation of management policies and procedures to comply with the provisions of Titles I, II, III, V, VI, VII, and VIII of the National Parks Omnibus Management Act of 1998. We would also like to thank you for developing and sponsoring the Act itself, and in particular the inventorying, monitoring, and research mandate in Title II and the Law Enforcement Program Study requirement in Title VIII. These provisions demonstrate the Committee's care for NPS employees and National Park System resources.

ANPR, formed in 1977, is a professional, non-profit organization comprised of approximately 1,100 individuals who are entrusted with and committed to the care, study, explanation, and/or protection of those natural, cultural, and recreational resources included in the National Park System, and persons who support these efforts. Among our members are NPS rangers and other employees from all regions, grade levels, and specialties. ANPR is neither a union nor a bargaining unit, but rather is an association created to advance the park ranger profession and to support and perpetuate the NPS and the National Park System.

I am here as a Board Member of ANPR on my own time and travel expenses, and my testimony here is as an ANPR member and not as an NPS employee.

ANPR provides testimony with regards to the following titles:

Title I—National Park Service Career Development, Training, and Management  
Sec. 101 Protection, Interpretation, and Research in the National Park System

We believe that for resource preservation of any type to be successful a triangle of resource education functions, resource management functions, and resource protection functions must occur. Resource education uses interpretive tools to prevent resource derogation by working to form a sense of stewardship in park visitors and park neighbors. Those that are aware of the threats they themselves pose to resources, that value a park's resources, and develop a stewardship ethic are less likely to cause harm to resources either intentionally or unintentionally. Resource management uses scientific methods to prevent resource derogation by researching and monitoring all park resources, and in some cases applying corrective techniques to resources damaged internally by park users and/or externally by societal decisions or environmental factors. We have to know what resources we have in parks, what condition those resources are in, and for resources showing impairment(s), what the cause(s) of those impairment(s) are. Resource protection uses law enforcement tools to prevent resource derogation by monitoring resource conditions, then focusing field time in locations where resource derogation by park users is occurring, and then contacting or apprehending those committing illegal acts that cause resource derogation. The goal of course is preventative law enforcement, making the contact before the resource derogation occurs. However, given the vast acreage of many parks, apprehension after the fact is the more likely scenario, especially for those that intentionally and knowingly utilize illegal activities to remove park resources for profit or personal prestige. This threat of apprehension and the possibility of criminal penalties deters what would otherwise be wholesale removal and/or damage to park resources.

So, in the vast majority of parks all three of these functions must be proportionately represented to adequately preserve parks resources in an unimpaired state for the enjoyment of present and future generations, the NPS mission. No one function can prevent derogation of park resources from all the external and internal threats noted above.

The ability of the NPS to apply state-of-the-art management, protection, interpretation of and research on the resources of the National Park System has not kept up with the demands placed upon the System. Many parks are barely able to field a daily law enforcement presence to ensure the protection of visitors and resources. Significant portions of park education and interpretive programs are conducted by volunteer and other unpaid staff in the absence of adequate permanent and seasonal uniformed personnel. The establishment of Cooperative Ecosystem Study Units has enhanced coordination with the Biological Resources Division of the U.S.

Geological Survey and improved opportunities to direct investigations into park natural resource issues, however funding to conduct park-based research has been slow to materialize.

#### Sec. 102 National Park Service Employee Training

The NPS has made progress on developing mission-related web based training for entry level employees and those in the early stages of their career. There does not seem to be a well developed strategy for identifying needs, developing programs and delivering them to employees over time. Even where training has been developed, many parks cannot afford the associated travel costs or allow operational staff to be away from the park.

Missing from the NPS training program is an intake program specifically for the ranger work force. As the NPS seeks to hire a diverse group of the best and brightest rangers in the future, a well developed intake program is a must.

#### Sec. 103 Management Development and Training

The NPS has released its, "Supervisory Development and Training Guideline", meeting the general direction imparted by the Act. It is too early to say with assurance that the issuance of the document will have any significant impact on the development and delivery of training to prepare employees for future managerial positions, including that of Superintendent.

#### Sec. 104 Park Budgets and Accountability

A) Strategic plans are prepared in accordance with the Servicewide Performance Management system. They are viewed by some managers as a paperwork exercise and, in the judgment of many, add little to the public's or the bureau's understanding of the unit's annual program. One particular problem with the Servicewide goals is that there is no goal where protection rangers' work in resource law enforcement is measured. The only goal where protection rangers' work is measured is in increasing visitor safety by reducing visitor accidents. This is a disservice to the occupation. Protection rangers are primarily resource protectors, as well as protectors of life, health, and property.

B) Unit budgets are released to the public through press releases as soon as they are made available at the park level. Regrettably, the timing of these releases has not met the January 1 requirements of the Act due to delays in the approval and allocation process followed by the Congress, the Department, and the NPS.

Funding allocations should also include maintenance, interpretation, and law enforcement as part of resource preservation, and not just in visitor services. All park employees should spend a substantial part of their work time contributing to resource preservation, either directly or indirectly. Currently funds retained from fees collected cannot be allocated into all the categories listed in the Act, especially for personnel in these categories. It would be very beneficial to the NPS and the American public if they could.

#### Title II—National Park System Resource Inventory and Management

Thank you Senator Thomas for your leadership in pushing the NPS towards truly integrating scientific study into park management. The NPS is moving in that direction. While there's still a long way to go, the success of the Natural Resource Challenge in its first 2 fiscal years can be linked to the passage of the 1998 act. ANPR urges continued support for the remaining 3 years of the Natural Resource Challenge.

#### Sec. 202 Research Mandate

There has been some increased attentiveness to documenting management decisions through a complete Administrative Record. The acquisition of data, as either basic research or monitoring during and after a project, are expenses that have not previously been calculated in estimating the true cost of a project or decision. There has not been an infusion of funding to adequately ensure that either the research needs or monitoring responsibilities are met in all instances.

#### Sec. 203 Cooperative Agreements

The NPS is making progress in establishing this network of CESU's, although funding to implement it lags. At the field level it is difficult to assess the accomplishments of the program at this early stage, but managers are generally optimistic.

#### Sec. 204 Inventory and Monitoring Program

The I&M program has been a keystone of the Service's Natural Resource Challenge initiative and nearly all parks with a natural resource base are seeing benefits from the program. This is working well in its initial stages and should continue to

expand and garner important basic information for park planning and decision-making purposes.

#### Sec. 205 Availability for Scientific Study

The NPS has just implemented new web-based research permit procedures which streamline the process and make it much more consistent across the NPS and more friendly to the scientific community. The scientific community appears to be aware and supportive of these efforts. Parks are properly sites for scientific research and study.

#### Sec. 206 Integration of Study Results Into Management Decisions

This is the weak link. We are not aware of the NPS providing any real useful guidance on how to “assure the full and proper utilization of the results of scientific study for park management decisions,” nor how managers are to be held accountable for the trend in resource condition, etc. It’s being done in places but not because of this law. Accountability is lacking because the NPS doesn’t know how to do it! The NPS may not be assuring that the administrative record is reflecting how studies are being used. The law is not the problem, but we believe the NPS needs to develop the means to make this work. These actions were left to Regional Directors to implement, but we believe they need to be tackled at the national level.

#### Sec. 207 Confidentiality of Information

This was a wonderful addition to the NPS resource preservation tools and it is being utilized in a number of places around the National Park System.

#### Title III—Study Regarding Addition of New National Park System Areas

ANPR’s membership believes there are many fine opportunities for high value lands which may include some of the national monuments established during the previous Administration and assigned to land management agencies other than the NPS, to now be included in a listing of future additions to the System. Similarly, as the significance of events and people who shape our times become better understood, there will certainly be opportunities for the study and addition of cultural areas to the System. One such potential study, the Cold War Heritage Trail, is but a single example of how our nation’s recent past has helped define its immediate future.

#### Title IV—National Park Service Concessions Management

Even though the Subcommittee held its oversight hearing on Title IV previously, ANPR offers these comments. We are pleased to see that Congress recognizes and supports the need to provide a range of services for the proper use and appreciation of national park units. The recently promulgated concession policy and regulations will, of necessity, require a period of adjustment. It is critical that park managers and collateral duty concession managers be afforded the training and knowledge to adequately provide monitoring and oversight of this complex and vitally important partnership. The rules have changed and the field has not yet acquired the necessary skill to carry out the responsibilities inherent in the Act.

#### Title V—Fees for Use of the National Park System

ANPR not only encourages the NPS to collect fees for transportation systems used in parks, but we also encourage the NPS to expand the use of transportation systems to all park units that have identified or potential visitor use in excess of carrying capacities. By law in Title 16 United States Code, the NPS is required to establish carrying capacities for all units of the System. We would like to see the NPS accomplish this and to use transportation systems where they alleviate resource derogation and improve visitors’ experiences.

The collection, retention and distribution of fees collected within the System have been used to address significant resource management, education and operational needs. ANPR has a great deal of confidence in the program and would encourage making the Fee Demonstration Program a permanent authority. The public is largely supportive of the program when they can see the end result of their fee payments. Parks are supportive of the program when they see the direct application of fee revenues applied to a backlog of needs that cross all program areas.

#### Title VI—National Park Passport Program

It is difficult to gauge the success of the Passport program from the field perspective. The public has accepted the Passport, it seems, although the relationship of the Passport to the Golden Eagle Pass program is not well understood by the public and to a lesser degree, to the employees of park units. With the greater emphasis on the Park Passport, there is a greater expectation that it would cover all expenses within a park. Visitors have recorded numerous complaints because, having pur-

chased one in lieu of paying an entrance fee, they learn it does not cover fees such as parking or cave tours in another park. There is also a concern raised by a few managers that the increasing use of the internet to purchase the Passport will reduce the amount of revenue accruing to a park that sold a high volume of Golden Eagle Passes or more recently, Park Passports.

#### Title VII—National Park Foundation Support

ANPR would like to see local fundraising support developed for such programs in parks as emergency medical services, search and rescue, and structural fire. It is desirable to gain local community involvement in parks' operations whenever that is possible. What better way to gain local support than to have local involvement in such important operations? This involvement will also reflect positively on local communities through the visitors' eyes, and a positive image of local communities by visitors may translate into improved economies in local communities. We can give you some examples of how this might work upon request.

#### Title VIII—Miscellaneous Provisions

Again, ANPR would like to thank the Subcommittee for its requirement for the NPS to form a Task Force and prepare a report on the shortfalls, needs, and requirements of the NPS' law enforcement program. The Task Force was convened. The *Law Enforcement Program Study* was completed and made available to employees, but the devil is in the details, the implementation of the study's recommendations.

It is difficult for the NPS to come before Congress with its hand out for more money when it has generally been the "favorite child" in the Department of the Interior and received significantly greater increases than the other bureaus. However, that seems to be a necessity given that the NPS has not been able to prioritize spending in the context of its mission. If the NPS puts more of its operational funding into one specialty, which other specialty does it cut? If more interpretive rangers are needed does the NPS do less maintenance? If the NPS needs more protection rangers do they do without resource managers? All work specialties add to achieving the NPS mission, including protection rangers who perform law enforcement as their primary duty.

In the 20 years between 1978 and 1998, the National Park System:

- grew by 84 new units—28% growth.
- expanded in acreage from 31.3 million acres to 83.4 million acres—expansion of 166%.
- experienced a rise in visitation from 283 million visits to 435.6 million visits—a 53% rise in total visitation.

During the same period the number of permanent protection rangers increased from 1,168 to 1,483, only a 27% increase.

ANPR recommends that the NPS find some way to gain additional funding or reprioritize current funding so that it can adequately hire, train, and equip the number of protection rangers identified in the *Law Enforcement Program Study*. In discussing the need for additional protection rangers, we would like to emphasize:

- Protection rangers are resource protectors, as well as protectors of human life, health, and property. They utilize law enforcement, resource education, and other tools to achieve resource stewardship and visitor enjoyment outcomes. Without an adequate number of protection rangers to prevent resource derogation from criminal activity, there may not be enough intact resources left in parks to provide enjoyment for visitors. Response-based law enforcement will never be adequate to preserve resources because resources cannot call for help when they are being damaged, disturbed, or removed.
- With inadequate numbers of protection rangers, their core responsibility (preventative resource protection at both highly visited and remote park locations) is continually being trumped by response oriented emergency services and people/property related law enforcement. As we previously mentioned, the resource stewardship triangle cannot stand without all three legs resource education, resource management, and resource protection.
- Law enforcement is not the only duty performed by protection rangers. Often so many other collateral duties are heaped on protection rangers that they have no discretionary time to perform preventative resource and visitor protection. NPS managers need to value protection rangers' discretionary time and defend it zealously. One step in that regard would be to add a strategic goal with a measurable outcome to quantify what preventative resource protection is worth to the NPS.

- Protection ranger safety is being compromised at current staffing levels. Two ranger homicides in the last three years have emphasized the need for back-up that responds quickly.
- Recently the NPS commissioned an independent study of the NPS Law Enforcement Program by the International Association of Chiefs of Police (IACP). This study came to the same basic conclusions that the *Law Enforcement Program Study* did, notably that the function is understaffed to meet the responsibilities given to the NPS by Congress.

With any increase in staffing comes increased support needs. If more protection rangers can be funded they will need higher quality radio systems and dispatch services, adequate training in law enforcement and resource knowledge, adequate quality and quantities of vehicles, vessels, aircraft, computers, surveillance and other specialty equipment, reporting systems, law enforcement databases, offices and storage areas, fitness facilities and equipment, administrative and managerial support, and planned intake and field training programs. All this costs money.

One area that the *Law Enforcement Program Study* did not cover is that of NPS employee housing, especially as it relates to protection duties and protection rangers. It is easy to understand why having employees on-site would reduce response time to life/safety emergencies. If the NPS could staff parks with personnel to provide critical services 24 hours per day, then NPS housing would be unnecessary. Because this obviously is not feasible, the only effective option is to provide quality, affordable park housing for these personnel in appropriate locations that would allow them to effectively respond, in a timely manner, to threats against resources and visitors.

While life/safety emergencies can be accurately quantified in parks, resource preservation emergencies are very seldom detected, and are therefore hard to quantify. There is not much science applicable to support this assertion, and what has been done is isolated to the resource preservation emergency of wildlife poaching. One study in remote portions of Idaho revealed that for every wildlife poaching case investigated, 40 wildlife-poaching cases go undetected. This study also found that in only one of every 200 known cases of wildlife poaching is enough evidence located to prosecute and convict the violator. Similar studies conducted by the California Department of Fish and Game revealed that only 2% of all poaching cases were even detected by their wardens. One can only imagine how these numbers roll up when considering all NPS resource preservation emergencies for plants, animals, and minerals, and cultural, archeological, and paleontological resources. Our point here is that if resource preservation in perpetuity is truly the overarching priority of the NPS, then a "reasonable level of deterrent protection" would logically have to translate into support for NPS housing placed in strategic locations throughout parks. Consistently defining why protection ranger housing is necessary is critical to assuring that the NPS Housing Program is on target to achieve our mission, and is logical, trackable, and defensible to Congress.

It is ANPR's opinion that a modest amount of quality housing that is affordable to rangers at the GS-9 level is an essential requirement of the NPS Law Enforcement Program for safety to rangers (back-up) and protection for resources and visitors.

Since the NPS reorganization in 1994, the national Ranger Activities Office (WASO-RAD) has been grossly underfunded and understaffed. The result of this has been piecemeal leadership resulting in a hodgepodge of approaches at varying NPS units around the country. The NPS Law Enforcement Program needs strong leadership at the national level to ensure that protection rangers meet legal and policy standards. In one glaring example of an adverse impact due to lack of funding and/or staffing, competencies for protection rangers have been completed in draft but are of little use because we can't find the money to field test them and have them validated by the Office of Personnel Management. Protection ranger competencies would be a major improvement in accountability to ensure that park law enforcement programs were meeting the NPS' and individual parks' mission.

#### *In Conclusion*

Since its inception in 1977 ANPR has used the professional expertise of its members to formulate positions which support the NPS and the National Park System. On occasion Congress has requested that ANPR provide them with testimony concerning legislation, especially legislation that impacts employees of the NPS and their ability to perform as stewards of the resources encompassed within the National Park System for the enjoyment of the American people. Our assumption is that Congress requests our testimony because we are the rank-and-file, on-the-ground employees of the NPS, and our perceptions represent the reality of where the rubber meets the road. As a non-partisan, professional organization we are free

to state our opinion of legislation or management actions without political interference or the fear of individual career repercussions. We like to think of ourselves as a partner and critical friend of the NPS.

The 4th Director of the NPS, Newton Drury, in the most difficult of times surrounding World War II defended non-consumption of NPS resources to support the war effort by saying, "If we are going to succeed in preserving the greatness of the national parks, they must be held inviolate. They represent the last stand of primitive America. If we are going to whittle away at them we should recognize, at the very beginning, that all such whittlings are cumulative and that the end result will be mediocrity. Greatness will be gone."

The National Parks Omnibus Management Act of 1998 and the recommendations of the NPS *Law Enforcement Program Study* are plans that can help prevent those daily "whittlings" that become cumulative. But the plans can only be effective if they are implemented. We offer our assistance to fulfill the National Parks Omnibus Management Act of 1998 and/or the recommendations of the NPS *Law Enforcement Program Study*.

Senator THOMAS. Thank you very much.

Mr. Vestal.

**STATEMENT OF JAY VESTAL, VICE-PRESIDENT OF FIELD DEVELOPMENT, NATIONAL PARK FOUNDATION**

Mr. VESTAL. Senator Thomas, thank you for the invitation to address the subcommittee today. My name again is Jay Vestal. I am the vice-president for field development for the National Park Foundation, which is the congressionally chartered nonprofit partner of the National Park Service.

I am pleased to speak with you about the efforts of the Foundation to implement the provisions of title VII of the National Parks Omnibus Management Act. This language amended the National Park Foundation's congressional charter and directed the Foundation to develop programs to build philanthropic support at the local park level.

Before talking about our specific efforts, I would like to provide a brief overview on the Foundation.

The National Park Foundation honors, enriches, and expands the legacy of private philanthropy that helped to create and continues to sustain America's national parks. Last year, NPF raised nearly \$32 million in contributions to support the national parks. Our grants fund outreach, education, visitor services, and help enhance the national park experience and strengthen the connection between the American public and their national parks.

The Foundation is governed by a board of distinguished national civic and business leaders, appointed by the Secretary of the Interior. The Secretary of the Interior chairs our board, and the Director of the National Park Service also sits on that board. David Rockefeller, Jr. currently serves as NPF's vice chairman and is the citizen leader of our board. The Foundation recently lost one of its most productive board members in Don Rumsfeld when he became Secretary of Defense. I have included a complete list of our current board with my testimony.

NPF could not have accomplished all that I describe without the support and guidance of the National Park Service, which we greatly appreciate. We also appreciate the encouragement from you, Senator Thomas, and other members of Congress for the work that we do.

The American public loves the national parks and, when given the opportunity, has demonstrated a willingness to help. It is im-



portant to remember, however, that philanthropy for national parks should never replace Federal appropriations. Philanthropy will never solve the National Park Service's backlog of infrastructure and maintenance needs which donors see as a responsibility of the Federal Government.

Philanthropy, however, has always been a part of our National Park System. There are a number of successful park-based nonprofit organizations building on this proud philanthropic tradition every day, which I describe in my written testimony.

We have learned a lot from working with local park support groups. Although some parks are fortunate to have successful fund-raising partners, most parks enter the world of philanthropy from scratch. Support for these fledgling organizations is a focus of the National Park Foundation.

In 1998, Congress directed the National Park Foundation to design a program to foster fund-raising at the individual national park level. NPF has developed several models of park-specific fund-raising that make the most of local community enthusiasm and expertise, as well as NPF's own institutional experience.

At Grand Teton, for example, we helped to launch an independent nonprofit, the Grand Teton National Park Foundation, who by the way had founding board members that included Dick and Lynn Cheney. NPF invested significant staff time and financial resources to help get this group started.

With the Glacier Fund, we took a different tack where the volunteer leadership has decided to operate as a committee of the National Park Foundation.

And the new African American Experience Fund started out as a program owned and operated by NPF. It focuses on multiple parks that are linked thematically and follows an organizational structure similar to the Glacier Fund.

These examples show how NPF is carrying out this new congressional mandate in an entrepreneurial, creative way that provides solutions which fit the circumstances of each particular park. My written testimony describes in greater detail these and several other models that we have developed.

Title VII also establishes minimum requirements for NPF's efforts to support philanthropy at the local level. The Foundation has developed an organizational design following the best practices in the nonprofit community. The core elements include: one, recruiting a strong board; two, developing a clear mission; three, securing start-up funding to underwrite the first year's operations; and four, hiring a professional executive director charged with the launch of the fund-raising effort.

NPF has also developed a standard set of bylaws that any group can use to become a committee of the National Park Foundation. In addition, we have developed investment policies and fund accounting procedures to ensure the wise stewardship of donations.

The Foundation has designed a 2-day training curriculum for new fund-raising organizations. There are some other tools that we plan to develop to assist with local park fund-raising, which are described in my testimony.

Senator Thomas, the National Park Foundation was very pleased when you expanded our legislative authority in 1998. We look for-

ward to keeping you, your staff, and members of this subcommittee updated on our progress with local park fund-raising efforts in the coming months. Thank you very much.

[The prepared statement of Mr. Vestal follows:]

PREPARED STATEMENT OF JAY VESTAL, VICE-PRESIDENT OF FIELD DEVELOPMENT,  
NATIONAL PARK FOUNDATION

Senator Thomas, thank you for your invitation to address this subcommittee. My name is Jay Vestal, and I am the Vice-President of Field Development for the National Park Foundation. I am charged with working with individual National Parks and their support groups to help them gain access to philanthropic support. I have had a nearly 30-year career in fund raising for non-profit organizations. For a majority of those years, I was associated with health care philanthropy. As Vice President of an organized fund raising effort for children's hospitals called the Children's Miracle Network, I was able to help infuse children's health care with an additional \$600 million in private gifts over the span of a decade.

More recently, I have served as a fund raising consultant to a broad range of well-known and successful non-profits including the American Cancer Society, Easter Seals, Junior Achievement and the American Diabetes Association.

Today, I would like to speak with you and your subcommittee about the efforts of the National Park Foundation (NPF) to implement the provisions of Title VII of the National Parks Omnibus Management Act (P.L. 105-391) which was signed into law in November, 1998.

This language amended the National Park Foundation's Congressional charter (P.L. 90-209) and directed the Foundation to develop programs and procedures to build philanthropic support at the local Park level. We are pleased to report today that with the leadership of the NPF Board and the support of this subcommittee, other members of Congress and the National Park Service, the Foundation has been able to increase the level of philanthropic support for National Parks over the last five years. Before talking about our specific efforts to build local Park fund-raising efforts, I would like to share some of these successes with the subcommittee.

BACKGROUND ON THE NATIONAL PARK FOUNDATION

The National Park Foundation honors, enriches and expands the legacy of private philanthropy that helped create, and continues to sustain, America's National Parks. In 2000, NPF raised nearly \$32 million in contributions and generated an additional \$7 million from other sources. For every dollar that we spent, 94.5 cents supported National Parks through grants and other direct support and only 5.5 cents covered our administrative and fund-raising costs. Total assets rose to \$75 million.

Over the past five years NPF has enjoyed substantial growth: a five-year total of \$78 million in contributions, \$106 million in total revenue and \$66 million in total grants and program support to National Parks across the country. During the past five years, our net assets have increased by over \$30.7 million. Some of these assets funded permanent endowments established to provide an ongoing revenue stream for a particular program or project for the benefit of National Parks. Other assets are still held by NPF, pending disbursements to Parks.

Our grants fund outreach, education and visitor services to help enhance the National Park experience and strengthen the connection between the American public and the National Parks.

The Foundation is governed by a Board of distinguished national civic and business leaders, appointed by the Secretary of the Interior, who are committed to supporting America's National Parks. By Congressional charter, the Secretary of the Interior is the Foundation's Chairman of the Board, and the Director of the National Park Service serves as its Secretary. David Rockefeller, Jr., currently serves as NPF's Vice Chairman and is the citizen leader of the Board. The Foundation lost one of its most productive Board members, Don Rumsfeld, when he became the Secretary of Defense earlier this year.

The Foundation works closely with the leadership of the National Park Service here in Washington, in the regional offices and at the individual Parks. NPF could not have accomplished all that I describe in my testimony without the strong support, guidance and assistance of the National Park Service. Our work, and the work of the other local non-profit support organizations, is guided by Director's Order #21 on Donations and Fundraising.

Philanthropy has always been a part of the National Park System. Many National Parks owe their existence to philanthropists who generously donated wondrous

landscapes to the American people. Numerous benefactors, including the first National Park Service Director, Stephen T. Mather, have contributed their professional skills, personal talents and energies, as well as private collections, real estate, and financial support. I have attached a brief overview on the tradition of philanthropic support to National Parks to my testimony to demonstrate some of the ways private donations have made a difference in National Parks.

There are a number of successful non-profits building on this proud philanthropic tradition every day. For example, Acadia National Park and the nonprofit Friends of Acadia have gone back to the roots of the Park and asked private citizens who care passionately about the Park and its environs to help rebuild the historic carriage road and trail systems. For the 38 miles of carriage roads, \$4 million of private contributions were matched with more than \$6 million of line item construction funding from the National Park Service. More recently, Friends of Acadia completed a \$9 million campaign to rehabilitate 130 miles of Park trails. In a superior example of partnership, the Park pledged \$4 million, primarily from the fee demonstration program, which was matched by private donations solicited by the Friends. In both campaigns, endowments were established so that the benefits of the fund-raising efforts will continue.

Another successful effort is underway in San Francisco, where the Golden Gate National Parks have done a great job positioning the numerous National Parks in the Bay area as deserving of philanthropic support from the local community. Last year, the Golden Gate National Parks Association, their support organization, raised over \$11 million.

There are similar success stories with groups such as the Grand Canyon National Park Foundation, the Yosemite Fund, Rocky Mountain Nature Association, Friends of Virgin Islands National Park, and the Yellowstone Park Foundation. The National Park Foundation works closely with these and numerous other local non-profit support organizations to increase the level of philanthropic support for National Parks.

We have learned a lot from working with these local Park-support groups. Although some Parks are fortunate to have mature, sophisticated, successful fund-raising partners, most National Parks enter the world of philanthropy at the ground level. They must compete for the attention of donors amid the appeals of 700,000 other legally recognized non-profit organizations, many of which have been fund raising for years. Park support organizations must start with the same basic fund-raising principles that have created the most successful and sustainable philanthropic institutions.

In addition, getting a fund-raising organization off the ground takes time. Several of the successful local Park support organizations started in the last seven years have shared their budgets for their first several years with us. In the initial years, each group was basically breaking even. But during these years, they were building their board leadership, their donor base, and general awareness in the local community—important steps which laid the groundwork for later successes. For example, the Friends of the Great Smoky Mountains National Park raised \$140,000 in 1994, its first year of operation. In 2000, the Friends raised nearly \$1.8 million.

Finally, the American public loves the National Parks, and when given the opportunity, has demonstrated a willingness to help. Philanthropy for National Parks, however, should never replace federal appropriations. It will never solve the National Park Service's backlog of infrastructure and maintenance needs, which donors see as the responsibility of the federal government. Private philanthropy is intended to provide additional financial support for the Parks and should supplement, not supplant, federal appropriations.

#### COMMENTS ON TITLE VII—NATIONAL PARK FOUNDATION SUPPORT

In 1998, Congress directed the National Park Foundation to design a program to foster fund-raising at the individual National Park unit level, in addition to its broader efforts. Over the past several years, NPF has developed several different models of Park-specific fund raising that make the most of local community enthusiasm and expertise as well as NPF's own institutional experience. Individual Parks or groups of Parks that seek NPF's assistance may choose the option of establishing a local fund-raising organization structured as a committee of the NPF Board. Under the committee structure, NPF assists the formation of each new fund, helping identify and recruit influential leadership as fund trustees. NPF seeks the leadership contributions that are essential to sustaining a start-up organization. With the volunteer leadership in place and operational funding secure, NPF can recruit a fund-raising professional to focus specifically on guiding the growth of the fund.

Through these efforts, which the NPF Board directs, the Foundation has taken a strategic approach, assessing the various opportunities and focusing initially on a select few to ensure that we are able to succeed with each of the efforts we launch in partnership with the National Park Service. We continue to refine existing models and test new ones. Since each National Park is a little different, there is not one plan that can be applied across the entire System.

I would now like to highlight several of our efforts:

#### *Grand Teton National Park*

The National Park Foundation was already working to build local philanthropic support for National Parks before the passage of the National Parks Omnibus Management Act. In 1997, NPF helped create the Grand Teton National Park Foundation, which raises funds in support of the visitor services and resources protection programs of the Park.

Working with the Park leadership, NPF recruited board members from both the local Jackson area and around the nation, including Lynne and Dick Cheney. The board is currently chaired by Jerry Halpin. Start up funds for the fledgling foundation came from gifts of \$150,000 from a local couple and \$100,000 from the Grand Teton Natural History Association.

The Grand Teton National Park Foundation came together quickly from concept to a productive, progressive volunteer board and paid staff with over \$2 million in resources in three short years. According to Linda Olson, Executive Director of the Grand Teton National Park Foundation, keys to success included: board members who have the knowledge and resources to get the job done; Grand Teton's popularity locally, regionally, and nationally, which allows the board to seek donations from park lovers nationwide; an executive director who knows the Park and the NPS; and advice and leadership from the National Park Foundation.

#### *The Glacier Fund*

Over the last century, the railroads played a major role in popularizing America's National Parks, so it seems fitting that the first chairman of The Glacier Fund is Louis Hill, grandson and namesake of the president of the Great Northern Railroad. In the early 1900s, it was the first Louis Hill who conceived of a grand system of Swiss-style hotels that would rival anything in Europe and attract Easterners to "See America first!"

The current Louis Hill and 15 other Trustees chosen from throughout the nation will guide fund-raising efforts to support the natural and cultural wonders at Glacier National Park in Montana.

Between several fund-raising initiatives and gifts from the Trustees, operating costs for the Glacier Fund have been covered so that new contributions raised can be directed toward Park projects. It's important to note that 100% of the Trustees are contributors.

So far, the Glacier Fund has disbursed more than \$15,000 for renovation of the Sperry Chalet, \$5,000 toward the salary of a bear-management expert, \$15,000 for wildlife research projects, \$2,500 for an ecology project involving students from the Blackfoot Indian reservation, and is putting \$5,000 into renovating an historic homestead in partnership with an Iowa hiking group. The Glacier Fund has \$90,000 in its operating account and almost \$200,000 in total assets invested with the National Park Foundation.

#### *USS Arizona Memorial Fund*

It was a day that would "live in infamy." Japan's 1941 attack on Pearl Harbor reverberated around the world, and the site—centered upon the doomed battleship USS *Arizona*—even today evokes powerful emotions in all who visit it.

Still, no one imagined when the museum and visitor center opened in 1980 that it would attract 1.5 million visitors a year. Long lines and waiting are standard, and the museum, because of its modest size, can exhibit only a fraction of the artifacts germane to the Park. The National Park Foundation, in consultation with NPS staff at the Park, has established the USS *Arizona* Memorial Fund to spearhead a \$10 million capital campaign to expand the visitor and staff facilities in a new Memorial Museum to enhance the Pearl Harbor experience.

NPF has identified donor prospects and important connections within Hawaii's corporate community as we lay the ground work to begin securing leadership gifts for the campaign. The *Arizona* Memorial Museum Association provided a lead gift of \$2 million to the USS *Arizona* Memorial Fund, and it is providing the operating capital for the campaign's early phases.

#### *Outside Las Vegas Foundation*

Seven million acres of spectacular natural landscapes—ranging from the lush forested Alpine environment to dry desert landscape—surround Las Vegas. These public lands are managed by four federal agencies—the National Park Service, U.S. Forest Service, U.S. Fish and Wildlife Service and the Bureau of Land Management—which have come together to empower a non-profit organization to raise private support to assist in the protection of these special places.

In 2000, these four agencies, working with the National Park Foundation, created the Outside Las Vegas Foundation, whose mission is to preserve the federal public lands surrounding Las Vegas, enrich the experience of its visitors, enhance the quality of life for local residents, and promote community stewardship of these valuable resources.

The National Park Foundation helped secure a \$300,000 grant to fund the first three years of operation. In addition, nearly \$350,000 has been donated or pledged for initial programs and activities.

The Outside Las Vegas Foundation has recruited prominent members of the Las Vegas community to serve as Trustees. A few months ago, the Foundation hired Alan O'Neill as its first Executive Director. Alan had previously been the Superintendent of Lake Mead National Recreation Area.

#### *African American Experience Fund*

Seventeen National Park sites are dedicated predominantly to African American themes—from slavery to civil rights—and many other Parks address elements of the African American experience. Yet, African Americans account for a small fraction of National Park visitors. That is a situation the National Park Service is working hard to reverse, and the National Park Foundation has created a new fund in support of that effort. To date, the African American Experience Fund (AAEF) has secured \$175,000 to operate for its first year and fund start-up activities. The Fund was officially launched last month during Black History Month at an event featuring Rep. John Lewis as the keynote speaker. The Fund seeks to create a new tradition of philanthropy for National Parks that illustrate significant moments in the African American Experience.

Meanwhile, National Park Foundation Board member Barry Lawson Williams is spearheading the effort to recruit Trustees for the Fund, which is currently chaired by former National Park Service Director Robert Stanton. NPF-AAEF personnel are meeting with National Park Service officials of African American sites to map out goals and strategies to further raise awareness of these important places.

#### *Future Plans*

Building off of the AAEF model of linking National Parks thematically, this year the National Park Foundation wants to try the model of linking National Parks geographically. The Washington National Parks Fund, serving Mount Rainier, North Cascades, and Olympic National Parks, was one of the first such multi-Park fund-raising organizations. Some of the seed money to launch the Fund came from the National Park Foundation.

NPF is close to starting a new collaborative effort among the Parks of the Nation's Capital—including Rock Creek Park, the C&O Canal and the monuments on the Mall—so that the people who live and work in DC, as well as the millions who visit, know that these places that do so much for the quality of life in this area are, in fact, National Parks and worthy of their support.

#### *Tools for Park-Specific Fund-Raising Efforts*

Title VII also established minimum requirements for NPF's efforts to promote philanthropic support at the local level.

As described earlier in my testimony, the Foundation has developed an organizational design following the best practices in the non-profit community. The core elements include recruiting a strong board, developing a clear mission, securing start-up funding to underwrite the first several years of operation and hiring a paid executive director charged with the successful launch of the fund-raising effort.

As described earlier in my testimony, NPF has developed a standard set of bylaws that any group can use to become a committee of the National Park Foundation. In addition, we have developed investment policies and fund accounting procedures to ensure the wise stewardship of contributions.

The Foundation has designed a standard two-day training curriculum for beginning fund raising organizations associated with National Parks and other public lands. The first training session was offered earlier this month at the Association for Partners of Public Lands Annual Convention. We are currently working on the development of a Trustees manual for use by the Trustees of each local Park fund.

Finally, the National Park Foundation is working closely with the National Park Service and other Park-specific fund-raising organizations to develop two publications. The first is a reference guide to National Park Service Director's Order #21 on donations and fund raising. This document will interpret and explain in a user-friendly style, the rules, regulations and policies governing fund raising for National Parks for National Park Service staff and their non-profit partners.

The second is a handbook for private-sector support. This resource guide will provide Park Service staff and their non-profit partners with fundamental information on how to start, build and grow a local non-profit group to support the projects of a National Park.

The handbook will also feature case studies and success strategies for public-private partnerships. We hope to have this handbook finished by the end of the year.

Senator Thomas, the National Park Foundation was pleased when you expanded our legislative authority in 1998, and we look forward to keeping you, your staff and members of this subcommittee updated on our progress with our local fund-raising efforts in the coming months.

Senator THOMAS. Well, thanks to all of you. I appreciate your efforts. Certainly, all of us are interested in making things happen that will be beneficial for our parks. Also, in addition to the implementation of the laws in this case, we also need feedback in terms of the laws themselves. Sometimes they need to be altered as well, in order to be as effective as they can be.

Mr. Galvin, you talked about training, which I think is one of the issues that always arises. Most people start managing resources, or doing whatever they do, and are more oriented perhaps towards bears and geysers. Then they become a park superintendent, which is a pretty good sized business operation in many cases. Does your training move in the direction of enabling people to be able to be business managers as well?

Mr. GALVIN. Incrementally it has I think. A couple of things.

One is I know in the concessions hearing, we testified that we are working with universities—Northern Arizona University in this instance—to train our people more complementarily with the housekeeping industry and with the recreation industry.

With respect to management and supervision training, we do now require 80 hours of management and supervision training when any supervisor enters on duty. So from the time they become a foreman or a supervisory park ranger, they get 80 hours in the first year and are required to get 40 hours every year after that.

With respect specifically to business practices, I think you are aware of the business plan initiative, which has been supported by the National Parks Conservation Association, which puts business majors in the parks to analyze their operations. We have done about 30 parks thus far. I think some of the superintendents in those parks, having had the advantage of a couple of M.B.A.'s in the parks for 3 or 4 months, have followed up by hiring people with an M.B.A. background—Santa Monica comes to mind—so that they can continue that analytical effort and look to people with business backgrounds to make recommendations.

I remember one of the business students said, you know, you really need to think of a park as having a whole suite of investors. It is not just visitors that you are looking at. It is local communities. It is other things. That was kind of an eye-opening thing to hear for a park manager I think.

So, we definitely need more business skills. I think we are moving in that direction.

Senator THOMAS. I hope so.

Do your plans include drafting business plans?

Mr. GALVIN. Yes. I think this summer we will do probably another 10 or 15 parks.

The business plan effort is a fairly extensive effort, and I think it requires resources that most parks really do not have. We have intentionally tried to do it in a variety of parks, small, medium, and large parks. We have developed a template of activities, as a result of that. We have integrated the approach with the Government Performance and Results Act and the strategic plan. In each instance, we found significant shortfalls in park operations as a result of those plans.

What we are going to try to do this summer is to build a template in which parks could do business plans without the kind of expertise that they have gotten through the support of the Foundation and the business students. This is all being basically supported by private foundations.

The foundations are not anxious to keep funding year after year more business plans for parks, but they are interested in two things. One is developing a system that could be replicated in other parks, and two is encouraging people with business backgrounds to enter the National Park Service. We have been talking about things like student loan pay-downs and other things that would encourage that.

Senator THOMAS. The Foundation is not drafting business plans, are you?

Mr. VESTAL. No, sir.

Senator THOMAS. It is NPCA.

Mr. GALVIN. I am sorry. It is NPCA. That is right. NPCA through Foundation funding. I am sorry.

Senator THOMAS. Well, I hope we can move in that direction. Of course, there is outsourcing. We can also bring people in on contracts, and so on.

Mr. GALVIN. Yes.

Senator THOMAS. One of the problems these gentlemen talked about, the allocation of funds, has a great deal to do with plans and business management. All those things, obviously, tend to go together.

Mr. Ward, you state, I think in your testimony, that there is a rumor that there is inadequate funding to hire a second recruiting class. Do you think there is any substance to that rumor?

Mr. WARD. We have a fairly open sharing of information between our Labor Committee and the management. They state that there is a conflict between the regional budget people and the Park Police budget people regarding when they are going to run out of money before the end of this fiscal year. The Park Police believe, if nothing is done, it will happen sometime in the June-July period. The regional people have evidently not stated a position, but they also are now preparing to write a reprogramming request and the recruit class. So, I would say that probably indicates that they have decided that they are going to run out of money unless something is done.

One of the fears that was expressed to me by management was that even if they canceled the class and got it reprogrammed, that

there still would not be enough money in the budget plan between now and the end of the year.

This seems to go to the region prepared the budget plan for the Park Police this year. The Park Police have told the region they saw problems with it and probably would run out of money. But the region and evidently the higher-ups in the budget in the Park Service said it would be fine and it was perfectly adequate.

Like I said, that is why we were appreciative of a requirement for a NAPA audit because this ties into the problems that have been ongoing for quite some number of years.

Senator THOMAS. Obviously, particularly for the police, law enforcement is not a unique issue. Do you work with others in law enforcement to get the latest information, the latest techniques and so on? You are not just independent from all other law enforcement agencies, are you?

Mr. WARD. The Park Police in Washington, D.C. work with the Metropolitan Police, the FBI on the Counter-terrorism Task Force that they have.

Senator THOMAS. I am talking about planning and management, not just carrying out policing tasks.

Mr. WARD. Well, I for years, as the head of our organization and our union, have advocated that the budget should be something that everybody in the organization should be able to look at, see, feel, and touch. And then rumors and the facts can be known. The way the budget has been run within the Park Service, the Park Police, is that no one ever sees anything that is written down. Different people say different things.

For instance, I was at a meeting last year.

I have no budgetary experience, but I looked around and I looked at Montgomery County police, San Francisco police, New York City police, and I looked for all the money that is listed in their budgets. I am not sure I found it all, but I found what I could find on the Internet. I added up all the budgets. Then I divided it by the number of sworn officer positions that they say they have or they say they need. Like New York City says we have 39,000 and we should have 42,000, and Montgomery County, Maryland says, we need 1,100 and we have 1,000.

What I found was that the Park Police, if they removed the retirement payments for the D.C. retirement system out of the Park Police budget—because no other police budget has that sort of thing in it—and divide the total by the number of sworn officer positions, the Park Police has about \$72,000 per officer. MPD in D.C. has about \$82,000 and \$90,000, and then the suburbs get into \$100,000 and \$200,000.

The Park Police managers are saying, well, we do not get enough money. Maybe there is some truth to that, but it could be more complicated than that.

So, I went to a meeting where former Assistant Secretary Berry, the Comptroller of the Park Service was there, and I sort of laid this out. I said, does anybody wish to dispute this information and say that the Park Police is a very well-funded police organization. I looked right at the Comptroller when I said this. And nobody said anything. Maybe it is because they did not want to argue with me.



But subsequent to that, we have gone out and I have heard that the argument has been made that the Park Police is a very well-funded police agency.

Senator THOMAS. Were you able to make a comparison of expenditure per officer compared to these others?

Mr. WARD. Yes.

Senator THOMAS. What were they?

Mr. WARD. For D.C. city police, it was about \$82,000. The Capitol Police was about \$92,000. The New York City police was a little bit ahead of MPD, but with 40,000 some odd officers, there is probably some economy of scale in there.

Senator THOMAS. So, at least the Park Police is in the ball park.

Mr. WARD. Well, we are at \$72,000. We are \$10,000 behind MPD.

Senator THOMAS. Oh, I thought you said \$92,000.

Mr. WARD. We are the lowest of the ones I looked at in the geographic areas we work. We are \$10,000 behind MPD, which is the next higher one, and it ranges upwards of \$100,000 and something.

Senator THOMAS. It might be a reasonable thing to look at.

Mr. WARD. Subsequent to that meeting, to sum up the point, I have heard that the Park Service has said through the Comptroller's office that the Park Police is a very well-funded agency and has made arguments for that. All I had to say is, well, those arguments may be true, but I have not heard them. But it is not an open atmosphere that leads to the solving of problems when contrary arguments are made and not disputed in a meeting you would think was being held to solve the problem.

Senator THOMAS. Thank you.

Mr. JACKSON, do you think it would be appropriate to have people in top management positions of the Park Service with a background and knowledge of law enforcement?

Mr. JACKSON. I think it is important. The Park Service does have a training program. That training program is improving, but it is possible to become a chief ranger of a national park with no advanced training whatsoever in administering law enforcement or to become a superintendent without more than a 1-week class in administering law enforcement programs. There are no requirements beyond basic Federal Law Enforcement Center training classes, plus generally 40 hours a year, and that is it. But there is no concise development program for that within the ranger ranks.

Senator THOMAS. Well, it is unique in some ways. You also have fire fighters and building inspectors and other kinds of people who have specific tasks that are difficult, I suppose, who could work on that.

Is there anyone in the management team who specifically deals with law enforcement, Denis?

Mr. GALVIN. Generally, central offices in the Park Service are organized the same way that parks are, and there is a division of operations that includes a variety of functions, which include law enforcement. In a park, the principal law enforcement spokesman would be the chief ranger. In the Washington office, it is the head of ranger activities who reports to the Associate Director for Operations. Now, the Associate Director for Operations might or might not have a law enforcement background. Usually they have a ranger background.

Senator THOMAS. Scot, you mentioned that as well, did you not, about the idea of an associate director for law enforcement?

Mr. MCELVEEN. I did in my written testimony, anyway. We would support that effort. As Greg said, the Washington office certainly could be beefed up some so that the law enforcement function part of that office gets more—"attention" is not the word I am looking for—exposure so that the entire realm of National Park Service employees understand that law enforcement is an important function to meeting the mission of the National Park Service. It is not something that we just do because we have to.

Senator THOMAS. For instance, in Yellowstone the U.S. Marshal has people there, do they not? Are they there all the time, or are they just on the premises when there is a felony they have to deal with?

Mr. GALVIN. It would be unusual for a marshal to be in residence. Frequently in big parks, we have magistrate systems there.

Senator THOMAS. You do, but there has to be somebody to work with the magistrate.

Mr. GALVIN. Normally that is done by the rangers or by the Park Police in the areas where they have responsibilities. I am not aware of any place where there are permanently assigned U.S. marshals.

Senator THOMAS. No. I guess I did not expect that, but you can call on other enforcement agencies, can you not, when you have felonies?

Mr. GALVIN. Yes. And frequently we have written cooperative agreements with other agencies.

Senator THOMAS. I understand what you are saying.

Mr. Vestal, I agree with you entirely that, as we have other sources for funding, the thing we have to be very careful about is that they are not used to supplant and take the place of appropriations, which can easily happen. On the other hand, there is a limit. Almost every agency that comes up here will say we need more money, and they probably do. Also, we have to find better ways to use the money. So, that has something to do with it, I am sure.

You mentioned, I think again in your written testimony, about visitor complaints on the various fees and suggested that there be one entry fee and that be the only charge. Is that your point of view?

Mr. MCELVEEN. In some cases. Visitors get confused when they pay an entrance fee and either they do not hear the full explanation of that or they do not get it, one of the two. When they get to an activity that also requires a use fee, they are confused as to why did I pay the entrance fee and now that I want to go on this walk or I want to go on this canoe trip, I also have to pay another fee. They do not get that in many cases.

Perhaps there is a way, in parks that are going to have those types of use fees, to incorporate the two together, although I am not sure how that would work because not every person that enters a national park unit that has an entrance fee goes on to do one of the special uses that the special use fees are charged for.

Mr. GALVIN. Mr. Chairman, that is one of the areas that we are going to be working with the Foundation and a private firm to study. The principal focus of that study will not be revenue en-

hancement, but rather it will be trying to rationalize the fee system so that when people pay for one thing at Bryce, they pay the same amount for the same thing at Zion, and to look at things like the difference between entrance fees and user fees, and see if there is a way that you can simplify the system without affecting the amount of revenue that is brought in.

Senator THOMAS. It is not an easy issue, of course.

Do you favor extending the fee demonstration program?

Mr. VESTAL. Oh, yes, sir.

Senator THOMAS. Do you think that has been well received among visitors?

Mr. VESTAL. From our perspective, yes.

Senator THOMAS. Do you think the distribution of funding is properly done?

Mr. VESTAL. Well, I will have to defer to Mr. Galvin on that one.

Senator THOMAS. I thought you might have a prejudice on that some way or another.

[Laughter.]

Senator THOMAS. What do you think will be the impact of the Golden Eagle Pass? Does that have any impact on the kinds of things you are doing?

Mr. VESTAL. One of the interesting things about the new National Park Pass is the ability to begin to engage in a dialogue with people who purchase the pass not just for the financial benefit but for the opportunity for them to demonstrate their stewardship of national parks. That program is now just beginning because the pass has just been in place for a year. But it is already beginning to show benefit in terms of people expressing their interest and support for parks. We are very pleased with it.

Senator THOMAS. Good.

Could you briefly describe how that \$12 million has been invested?

Mr. GALVIN. Eighty percent of it stays right in the park where it is collected, and virtually all of it goes into the infrastructure. We do not use any of it for operations or to pay permanent salaries. So, most of it is going to rehabilitate structures in the park. I was just reading a newsletter from Rocky Mountain this morning where they are rehabilitating campgrounds, providing new picnic tables, rehabilitating the rest room at their administration building.

A couple of parks, Grand Canyon being the notable one, have made proposals to use a fair amount of their money to implement a transportation system, and that is still under review. But most of it goes to rehabilitate infrastructure.

Senator THOMAS. I have heard that that does need to be reviewed.

Mr. GALVIN. In fact, it is being reviewed at the direction of the Congress, Mr. Chairman.

Senator THOMAS. That is very nice.

Again, I know it is always difficult. We have been dealing in the last several weeks with all kinds of people coming in, many of them concerning research. But your research on science—what could you say has been the accomplishment of that?

Mr. GALVIN. Well, first, I think that we feel that the National Park Service is not a research organization in the sense that we

should do the research ourselves. One of the things that the Cooperative Ecological Study Units opens to us is the ability to use universities to do our research along with the Sabbatical in the Parks program, and the Learning Centers. And BRD is still an important contributor to the knowledge gained in individual parks. What we do with that information is use it as research managers.

Now, in many instances, that means we need people with scientific background in parks so that they can manage the science done in the parks, and they may be Ph.D.'s, but we do not see—a person like Dave Graber at Sequoia who is a Ph.D. but manages science in Channel Islands and Sequoia and other places and makes sense out of the research so that he can translate it to managers for sound management decisions.

The codification that is in this omnibus bill has been extremely useful, both in terms of setting up major areas of science and research, but also in encouraging outside researchers to do research in parks. One of the things that is mentioned in my testimony that I did not highlight is the research permit system is now up on the Internet. So, a researcher who is interested in doing research in a particular park or in a unit of the National Park System can look at a particular park. Say, somebody is interested in doing research on Channel Island. See what the research needs are of the park, apply, do the permit application on the Internet and get a response on the Internet. So, we are trying to make the system easier for researchers to get into.

I was just in a Learning Center 2 weeks ago in Point Reyes. We are rehabilitating buildings in parks, in this instance a ranch, to provide working space for researchers, dormitory space, office space, computer terminals, laboratory space. That alone encourages researchers to do work in parks and is a very cost beneficial way to do it.

Senator THOMAS. I guess I am not quite clear. It seemed to me that what I had heard from the Park Service is that the research and science—and I understand that all the visitors and all the infrastructure, and so on, has taken away from that—was basically oriented at managing those resources—

Mr. GALVIN. That is right.

Senator THOMAS [continuing]. Not just at random research.

Mr. GALVIN. No. They work off a list of park needs. On this Internet system, there was a list of research needs in the parks that researchers work off of.

Senator THOMAS. Needs for what?

Mr. GALVIN. Needs for management.

Senator THOMAS. How to manage the resource.

Mr. GALVIN. Exactly, right.

I was with one of the BRD biologists last week, and they are doing extensive surveys on the animals in the parks. Interestingly enough, amphibians in Point Reyes are in great shape. Now, generally throughout California, amphibians are in decline. In fact, the BRD researcher who is resident in Point Reyes is an expert on amphibians in California. So, one of the unique opportunities that Point Reyes offers is to figure out why are these populations in good shape in Point Reyes and not in such good shape on the west-

ern face of the Sierras and maybe to be able to solve a much bigger problem, but using the information that they found in the park.

Senator THOMAS. Mr. Ward, just thinking out loud, in Washington, for example, where the parks' resources are strung out all over the place, why would it not make more sense to contract with the D.C. police to do some of this work, as opposed to having the Park Service do it all?

Mr. WARD. That goes back to the National Commission for the Advancement of Federal Law Enforcement. Sort of one of the things they were tasked with was why is there Capitol Police and FBI? I think that is reflective of the way the United States of America is. Most States have State police, they have city police or county sheriffs and different sort of things like that. I think the Federal Government sort of reflects that State sort of thing.

Why is there a Park Police? Because I think the President who lives in the White House and the Federal Government and the executive branch have an interest in the law enforcement that occurs on the National Mall and in and around the White House.

Senator THOMAS. That is why all the Secret Service guys are standing around there.

Mr. WARD. Well, their mission is to protect the President.

Senator THOMAS. I understand, and I am not promoting this idea.

When you talk about Yellowstone Park, are they the only police agency with jurisdiction in the park?

Mr. WARD. Right.

Senator THOMAS. When you talk about the parkway over here, that is right in the middle of a county in Virginia, and you begin to wonder why do we have to do it that way. I do not know the answer. I am not suggesting it be changed, but it does raise a question.

Mr. WARD. From our perspective and from what I thought the Government's perspective was, it would be a good thing to have the people that control the areas around the White House that handle the demonstrations to be somewhat removed from directly being associated with the President.

Senator THOMAS. I know, but when you have a ball park across the river over here that you are responsible for, that is a little different matter.

Mr. WARD. Well, yes, it is. But in order to have a force of the size to be able to handle the large demonstrations on the Mall, there has to be a mission ongoing. The way it has developed is that the Park Police have responsibility for the Park Service stuff that is around D.C., and our core mission of handling the demonstrations and the large public events on the National Mall are part of that.

Senator THOMAS. I understand. Maybe the Mall is a different matter from some of the others. I think it might be interesting to think about it sometime. Times do change and sometimes you have to change the way you do things. I do not know that that is appropriate, but I see the Washington, D.C. role quite differently than the other roles played in the other parks, or maybe even in New York at the Statue of Liberty. I do not know. Just a thought.

Mr. WARD. Well, I would suggest in the parks where the Park Police are at it is an exclusive or concurrent jurisdiction in urban areas which have a mission that requires a more urban type organized police force, which is what the Park Police provide for the Park Service. And I think it is important issue for the executive branch and the President to have control of the department.

We believe that NAPA will be addressing this issue in the audit that is going on.

Senator THOMAS. Good.

Scot, you talked about the various functions in the parks and so on. Do you feel comfortable with the allocation of dollars? Sure, everybody wants more dollars and I understand that.

But one of the other issues is the management plan and how you allocate the dollars that are available. Do you have a feeling about this?

Mr. MCELVEEN. I think the other disciplines other than protection would again make the same arguments to you that in resource management we do not have enough employees, and from the 1998 Act, the natural resource challenge sprang from that and some new funding has come into that. But there are a number of visitor centers around the National Park Service that are primarily operated by volunteers that, while assisting the Government and we are happy have them, do not necessarily have the resource based knowledge to answer visitors' questions fully and completely so that they get the connection between the resource and themselves.

So, I would be hard-pressed to say that we need somebody else's money, we need other people's money allocated in the protection division. I just reiterate our statement that all three of those things have to occur for park resources to be preserved and people to be able to enjoy them.

I think the feeling that we get in the protection ranks in the field sometimes is that, again, you are good when we need you, but other than that, the work that you do can be redirected to something else until a response is needed. And that is not good enough.

Senator THOMAS. I suspect that is characteristic of emergency services everywhere, is it not?

Mr. MCELVEEN. I suspect so. In people and property related emergency services, that is okay in many cases because people can complain when something is happening to them, but resources cannot do that.

Senator THOMAS. Denis, I have heard, as we talk about the administration's budget and the Park Service budget, early on there was going to be, over a period of time, \$5 million for infrastructure, and so on. Is that going to be new money, or is that going to be reallocation, for instance, of demonstration fees?

Mr. GALVIN. Some of both, I am afraid. I am not at liberty to divulge the details. There is a very strong emphasis on infrastructure. There is some redirection of existing funds to infrastructure, including fees, and there is some new money to tackle the infrastructure problem. But it is not all new money.

Senator THOMAS. It goes back to our comment a moment ago. We have been working on the fee demonstration project, but then if you are going to add something of substance to the infrastructure,

and you take it away from something else, you have not accomplished a hell of a lot really.

Mr. GALVIN. I would agree with that statement, Mr. Chairman.

Senator THOMAS. We do not have an Assistant Secretary yet to deal with that.

Mr. GALVIN. Nor a Director.

Senator THOMAS. Nor a Director.

Mr. GALVIN. Not a Deputy Secretary yet either in terms of Senate confirmation.

Senator THOMAS. We have got one pretty close apparently.

Well, these are tough issues and I know that.

I do want to tell you all, that I think there has been substantial movement to implement the law that went in a couple years ago, and I am pleased about that. Just in my own opinion, we do need to strengthen the management. I think we need business plans in each of these parks, that are of any size at all.

I frankly think we need, as you suggested, somebody in top management that deals more specifically with the uniqueness, for instance, of the policing aspect of it.

My own prejudice, which not everybody agrees with, is that I think there ought to be more oversight at the regional level, in terms of management. I agree that parks ought to have some autonomy because each of them is different, but I think they also have to have some accountability. Some of that comes from, I think, regional oversight and so on.

I know it is not easy, and I will not take much more of your time.

Denis, one other thing. On this leasing deal, it is my understanding under the proposed rules, they combine historic leasing with other leasing authorities, and this is creating some real issues.

Mr. GALVIN. We do not think so. I mentioned in my testimony that we got all supportive comments. We did not get a lot of comments. People seem to be pretty satisfied. The reason we rolled the historic leasing in with the regular leasing was because of the title that encouraged us to simplify historic leasing which, God knows, has not been terribly simple. So, we think by having both things combined in the regs, that we will actually make life simpler for prospective lessees.

Senator THOMAS. I guess the reason that it seems difficult to combine the two is that you do not have competition for historic leasing. You do not have fair market values for historic leasing. They are not profit-producing items that you can come back to a business aspect. To roll the two together seems to make it mighty difficult.

Mr. GALVIN. They might be profit-making in some instances, bed and breakfasts and other things. However, I believe the historic leasing regulations do require fair market value adjusted.

Senator THOMAS. Yes, but there are some things that are historic that do not have any profitability motive at all.

Mr. GALVIN. Well, they are turned into private residences or something like that. Yes, that is right. I do not think that the combination of the historic leasing and regular leasing programs is going to complicate life. I hope it is going to simplify things.

Senator THOMAS. I hope so.

Mr. GALVIN. It needs to be simplified. The legislation was right on in that respect.

Senator THOMAS. Some of the rules we went through last week in my opinion do not simplify and, indeed, make some of them more difficult. I agree with you that simplification and fairness ought to be our goal.

Very quickly, as we all depart, other than just more money, what would each of you say was the one thing that you would like to see happen that would make your job more effective?

Mr. VESTAL. Well, sir, we have been very pleased with our new authority that you have granted us. I would only emphasize that it takes time to build up the local grassroots fund-raising that we are working on. I would just suggest you give us some time to do the work that you have given us the challenge to meet, and I think we will meet it for you.

Senator THOMAS. Very good.

Scot.

Mr. MCELVEEN. The law required a law enforcement study. That study was done. There are very good recommendations in it, and we would just like to see some implementation strategies. If more new money is not the answer, then what is the answer? Let us see how we are going to get these recommendations done, or are they, in fact, not correct recommendations? I think they are, but let us implement them.

Senator THOMAS. Very good.

Greg?

Mr. JACKSON. I would agree with Scot. Implementing the proposals from the IACP study is important, and probably amongst that is getting someone up at the top with experience in managing a law enforcement program to see that, if there is no money or no new positions, at least what we have is being used most effectively.

Senator THOMAS. Very good.

Pete?

Mr. WARD. I would concur with that and just say staffing pretty much throughout the whole Park Service of the law enforcement portion.

Senator THOMAS. Is it fair to say from you three guys, basically, that the study has produced some recommendations that would be useful, if implemented?

Mr. WARD. Yes. Our joint statement, if you read it, is like a short version of the two reports.

Senator THOMAS. That is good. Sometimes studies do not produce anything very useful. I am glad to hear they did.

Denis?

Mr. GALVIN. Mr. Chairman, first, I would like to thank all the members of this subcommittee, both present and past, for passing this legislation. As I said at the beginning, I think it is an important addition to our ability to manage the National Park System.

I think especially I would like to single out its impetus towards a better natural resource management program and better information for managing parks. I believe in the long run that is going to be the most significant contribution, and I believe over the past 3 years, as a result of this act codifying our role in resource management, we have made significant strides in finding out what is



really going on at parks. I think that is going to be of great benefit to managing parks, but I also think it is going to be of great benefit in understanding what goes on on the land generally, to all our benefits.

Senator THOMAS. Good. I think—and you would agree I believe—that the main purpose of a park is to preserve the resource and then let the owners enjoy it.

Mr. GALVIN. Absolutely.

Senator THOMAS. Unfortunately, often ruts in the road, or the bathrooms not being up-to-date and so on, get more attention than some of the things you are talking about. So, we have to be careful that we have a balance between protecting those resources and making the visit useful.

We are hopeful that we can do more on the visitors' side, Jay, with the kinds of things you are doing and that with the kinds of contributions you are collecting, we can implement some of these programs.

So, in any event, I feel good about it. I hope we can continue to make progress and we appreciate all of you being here and appreciate your input. Thank you so much.

We will adjourn.

[Whereupon, at 11:45 a.m., the hearing was adjourned.]



APPENDIX  
RESPONSES TO ADDITIONAL QUESTIONS

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U.S. SENATE,  
COMMITTEE ON ENERGY AND NATURAL RESOURCES,  
*Washington, DC, April 5, 2001.*

Hon. GALE NORTON,  
*Secretary, U.S. Department of the Interior, c/o The Office of Congressional Relations,  
Washington, DC.*

Re: Additional questions regarding the Subcommittee Oversight Hearing on the National Park Service's implementation of management policies and procedures in conformance with the provisions of Title IV of the National Parks Omnibus Management Act of 1888—Thursday, March 22, 2001.

DEAR SECRETARY NORTON: In order to complete the record on the above referenced hearing the following questions are submitted for your response:

It is my intention to close out this phase of the hearing record within thirty days of the date of this letter of request. I also realize that some questions will be subject to review by the Department of Justice, given the state of litigation on these same concession issues. Should additional time be required for your response, please feel free to contact Jim O'Toole of the Subcommittee staff to arrange for a reasonable alternate deadline.

Thank you in advance to your attention to this request, and I look forward to your response.

Sincerely,

CRAIG THOMAS, *Chairman,*  
Subcommittee on National Parks,  
Historic Preservation, and Recreation.

[Responses to the following questions from the Department of the Interior were not received at the time this hearing went to press.]

*Question 1.* Describe what specific progress the National Park Service has achieved in the implementation of management policies and procedures in conformance with the provisions of Title IV of the National Parks Omnibus Management Act of 1998?

*Question 2.* Are there issues or problems that the Congress did not anticipate in 1998 which require supplemental legislation in order for the National Park Service to effectively and efficiently carry-out the intent of this legislation?

*Question 3.* Today under the new standard contracts park concessionaires, or their parent companies, will not be able to refinance their various commercial loans without approval of the National Park Service. For many businesses such provisions are considered to be an unreasonable encumbrance on a contract;

- a) what is the rationale behind this policy;
- b) why is the policy necessary;
- c) would you provide examples of similar practices which are incorporated into standard contracts commonly issued in private sector business transactions, and
- d) considering your response to question "3(b)" describe any acceptable reasonable or viable alternative provision which might be incorporated into the standard contract language.

*Question 4.* The standard language for contracts appears to indicate that if the National Park Service Director changes a policy or promulgates a new rule changing the terms and conditions of a signed contract, the concessionaire has no recourse but to absorb the cost of change, and/or accept new contract conditions. A business entity responding to an opened-ended contract, the provisions of which could change

at any time, is not offered any opportunity to adjust management options, fees, and/or practices to absorb the cost of conducting business activities;

a) why did the National Park Service ignore standard private-sector business practices which would provide provisions for contract renegotiation or recalculation should the terms and conditions of a specific contract change prior to the contract termination date;

b) how will the open-ended contract provision affect competition, and

c) is the National Park Service going to implement changes in their rules and procedures to rectify this oversight?

*Question 5.* The National Park Service written testimony states that many of the recommendations from the annual report issued by the Concessions Advisory Committee, as well as those recommendations issued by Price-Waterhouse-Cooper will be incorporated into the concessions management program:

a) what specific recommendations are you considering? How and when will you incorporate the recommendations into the concessions management program; and

b) how long will it take to implement the recommendations and what effect will that have on the contracts that will be issued prior to the implementation of such recommendations?

*Question 6.* Does the National Park Service require more time to formulate, solicit and award the backlog of contracts (if so, how much time will the National Park Service require)?

*Question 7.* Contracts now provide the National Park Service the opportunity to take two years to purchase the value of a concessioners possessor interest or leasehold surrender value if the current operator is unsuccessful in his or her bid process—or if the current operator decides to refrain from participating in another contract:

a) how often do you believe that a current concession operator's interests will not be purchased by another successful bidder; and

b) given the time it will take to 1) study, analyze and evaluate the financial condition of a current concession operation, and 2) issue a proper, well-defined prospectus—is it feasible that sufficient time will be available to predict that Congress may be required to off-set a purchase of a concession operation through the appropriations process;

c) are there other alternatives to the two-year hiatus for payment of interest that may be incurred, and

d) given the fact that individuals or companies in the private business sector do not normally enter into concession type contracts which would unduly delay a return on their investment, do you believe that the "two-year wait provision" will have a dampening affect on the number of prospective bidders that will be willing to participate in contract negotiations with the National Park Service given a choice, a business could for seeably invest his or her money in a program that would yield a higher return than that received at the interest rate offered by the National Park Service?

*Question 8.* Congress directed the National Park Service to streamline the contracting process for the smaller operator. On one hand, you have reduced the literal size of the proposal; on the other hand, you have doubled the workload and manpower necessary to fully respond to a prospectus by the inclusion of your additional requirements:

a) what is the National Park Service going to do to ease the excessive paperwork, accounting, and time that the smaller operator now finds himself or herself under the new bidding procedures, and

b) what is the National Park Service going to do to ensure that the individual units of the System can respond to concession operator inquiries concerning the meaning and scope of information required by the issued prospectus?

*Question 9.* What is the National Park Service prepared to do to ensure that they have access to the expertise necessary to issue a well prepared prospectus and contract; efficiently and effectively analyze current concession operations, and effectively negotiate and arbitrate concession issues?

a) What does the National Park Service plan to do in the interim, and

b) will the "apparent lack of expertise" delay contracts and negotiations with concession operators whose contracts have, or are about to expire?

*Question 10.* In the legislation Congress provided the Secretary with the authority to add criteria to be considered in the selection of the "best offer". Are responses under "environmental practices" given more weight, the same weight, or less weight in the selection process?

*Question 11.* The National Park Service has issued (under the new rules and regulations) its own unique criteria for what can be considered a "capital expenditure or capital improvement". In doing so, the National Park Service has ignored the

definitions of capital expenditures / capital improvements provided by “GAAP” (General Accepted Accounting Principals). GAAP is used by the majority of all other federal agencies:

a) why did the National Park Service ignore the definitions, rules and procedures as defined by GAAP;

b) what is unique to National Park Service concessions operations which would justify using their own definitions, rules and procedures?

c) The National Park Service also chose to ignore the rules, regulations and procedures as set forth by FAR (Federal Acquisition Regulations) which cover federal contracting and are used by the majority of the rest of the federal government agencies. Why did the National Park Service ignore what has appeared to be acceptable to the rest of the government?

*Question 12.* Mr. Horn, stated in his written testimony that some operators seeking assurance of the preference right eligibility are being informed “our agency lawyers are still looking at the issue:

a) the legislation is clear that specific that certain operators are entitled to the ‘renewal preference’—what specifically remains unclear or uncertain, and

b) what are you doing about new contracts while this issue is being reviewed, in light of the legal theory that “. . . even if it is the law, if it is not specifically written in the contract you are not entitled to the preference . . .”?

*Question 13.* It is apparent that it will take some time for the National Park Service to formulate, solicit and award some of the larger contracts:

a) have you thought about providing extensions of two or three years so that at least the government can receive some enhanced services or facility maintenance during this interim period; and

b) what benefits does the government receive under a series of one year extensions as opposed to a multiple year extension?

*Question 14.* In your opinion does the Advisory Board require assistance i.e. office space, staff, etc., and has such assistance been offered?

*Question 15.* A great deal of time and energy was spent on the “right to transfer ownership of a concession operation” and the National Park Service’s limited roll and function in the authorization process.

a) Please survey a random number of concession operators and identify any problems that may appear to deviate from the intent of Congress and provide the Subcommittee with any remedies that you be able to issue in this regard.

*Question 16.* The new National Park Service rules and regulations policy precludes the agency from consulting with the existing concessionaire even during the initial or early stages of prospectus development. Why would the National Park Service preclude itself from obtaining information which could render specifics details about an operation that could ultimately lead to a more thorough and comprehensive prospectus?

*Question 17.* The form contract requires the concessioner to use “best management practices”. This essentially means that the concessioner must employ cutting edge technology to address environmental issues or any other operating issues. There is no concern shown for the economic impact of requiring such practices, even if they were defined; and, as the definition of “best management practices” changes over time, there is no way for the concessionaire to assess the financial risk with future National Park Service mandates under this rubric. Is there any way to further define “best management practices” while achieving the desired results desired by the National Park Service, without such a potential financial impact to the prospective concession operator?

*Question 18.* The standard contract states that the concessionaire shall operate and maintain the property “in a manner considered satisfactory by the Director”.

a) What is considered “in a manner considered satisfactory by the Director”, and

b) what can be done in the rules and regulations and/or prospectus to clarify the terms and conditions of this terminology?

*Question 19.* You have placed strict time limitations on the concession operation to request an adjustment of his or her fees as a result of “extraordinary unforeseen circumstances”. The legislation provides this opportunity, but the legislation does not require time specific actions. What happens if the actual financial impact of “extraordinary unforeseen circumstances” is not fully realized for a period of 6 to 9 months after the “extraordinary” circumstance. In other words a concession may not immediately understand the total financial effect of a particular event. Can this time limit be extended, if not, why not?

*Question 20.* The NPS has required a very broad indemnity from the concessioner. The policy, arguably, could be interpreted to include actions of park visitors or even National Park Service personnel. The language is obviously very vague as issued through the rules and regulations. Can you find a way to specifically define the ex-

tent of indemnity that would clearly fall under the obligation of the concession operator?

Senator Graham has also submitted the following questions for the record:

*Question 1.* What is the current status of contract actions in the Service?

*Question 2.* Number of concessions contracts?

- a) Number operating under extensions?
- b) Contracts currently in the bidding process? and
- c) What is the anticipated time requirement to prepare contract documents, receive bids and negotiate final contract terms?

*Question 3.* What is your time period for completing contracts currently operating under extension or expiring prior to the end of December 2002?

- a) Large contracts in excess of \$3 million gross revenue?
- b) Contracts under \$3 million?

*Question 4.* What steps are you taking to determine the possessory interest or leasehold surrender interest prior to advertising contract opportunities?

*Question 5.* How and at what stage of the contract process will disputes over the possessory interest with concessioners be resolved?

*Question 6.* Has the National Park Service established procedures to track leasehold surrender interest over the contract term to not repeat this process under new contracts?

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