

# Committee on Resources

---

## Witness Testimony

---

Testimony of

**DR. JAMES H. GILFORD**

Chairman

Mid-Atlantic Fishery Management Council

Before the Subcommittee on Fisheries,

Wildlife, and Oceans

1 April 1996

I am pleased to be here today to comment on a proposed Amendment to Section 4 of the Land and Water Conservation Fund Act of 1965 contained in H.R. 2025. I have been asked to provide testimony on the portion of the proposed legislation that would permit the National Park Service to collect and retain fees for nonrecurring commercial or nonrecreational uses of Park System units. The views that I will express are based principally on the results of audits conducted by the Office of Inspector General that address the establishment, collection, and accounting for fees by the National Park Service in analogous contexts.

In February of this year, the Chairman of this Subcommittee requested a review by the Office of Inspector General of the Park Service's implementation of its authority under the fiscal year 1994 Appropriations Act to recover and retain costs for special use activities. The Subcommittee requested that we review how this authority was implemented at five parks (Grand Canyon National Park, Yellowstone National Park, Canyonlands National Park, Santa Monica Mountains National Recreation Area, and Yosemite National Park); the basis used at each park for establishing permit fee levels; how each park accounted for the revenues generated; and how the revenues were expended, including whether they were expended in support of the purposes for which they were collected. We expanded the scope of our review to include eight additional parks (Assateague Island National Seashore, Delaware Water Gap National Recreation Area, Gateway National Recreation Area, Golden Gate National Recreation Area, Lake Mead National Recreation Area, Point Reyes National Seashore, Statue of Liberty National Monument, and Zion National Park), which we selected based on the reported revenues for special use fees for fiscal year 1994. These 13 parks reported about \$2 million in special use fees for fiscal year 1994, which accounted for about 53 percent of the approximately \$3.8 million of special use fees reported by the Park Service for that year.

Based on our audit, we concluded that the Park Service did not implement its authority to collect and retain fees for special park uses in a consistent manner. There were inconsistencies among the parks regarding: (1) the types of activities that were subject to a fee; (2) the bases for determining the amount of the fee; and (3) the use of fee revenues. In addition, we identified deficiencies in the controls for collecting and/or accounting for fee revenues at 4 of the 13 parks we reviewed. Accordingly, there was no assurance that the appropriate amount of fees was being collected.

We believe that these types of problems, which also were identified in prior audits, stem principally from the absence of clear and specific guidance by the Park Service in these areas. Such guidance (which the Park Service is in the process of developing through revisions to its internal guidelines), reliable accounting systems, and effective program oversight are critical to the successful implementation of a fee and cost recovery program such as the one contained in H.R. 2025.

**H.R. 2025** - The proposed amendment to Section 4 of the Land and Water Conservation Fund Act, on which we were asked to comment, would add the following new section 4(o):

(o) Fees for Commercial Nonrecreational Uses. - Utilizing the criteria established in section 4(d) (16 U.S.C. 4601-6a(d)), the Secretary of the Interior shall establish reasonable fees for non-recurring commercial or non-recreational uses of National Park System units that require special arrangements, including permits. At a minimum, such fees will cover all costs of providing necessary services associated with such use, except that at the Secretary's discretion, the Secretary may waive or reduce such fees in the case of any organization using an area within the National Park System

for activities which further the goals of the National Park Service. Receipts from such fees may be retained at the park unit in which the use takes place, and remain available, without further appropriation, to cover the cost of providing such services. The portion of such fee which exceeds the cost of providing necessary services associated with such use shall be deposited into the National Park Renewal Fund.

Our concerns with this provision are best illustrated by the problems identified in our audit on special use fees. Accordingly, I will highlight some of the problems cited in our audit report and offer suggestions designed to prevent or limit similar occurrences under the fee program contained in the proposed legislation.

**Types of Activities Subject to Fees** - The 1994 and earlier Appropriations Acts, which authorized the recovery and retention of special use fees, did not describe the types of activities subject to such fees. This approach left the Park Service responsible for identifying those particular activities that fit within the scope of the general description set forth in the legislation. In the absence of specific guidance from the Park Service, however, individual park units were left to their own discretion to identify those activities for which fees would be charged. This resulted in differing interpretations among the parks. For example:

- Six parks issued permits for backcountry camping, but only Canyonlands National Park collected fees for reservations and issuance of the permits, which totaled \$63,530 in fiscal year 1994.

- Gateway National Recreation Area issued 3,621 parking permits for fishing that allowed access to off-road and other areas where public access is normally restricted. It did not collect any fees for this special use. In similar circumstances, Assateague Island charged a \$40 annual fee for off-road access and collected \$209,440 in fiscal year 1994.

We see the potential for this same type of inconsistency in the proposed legislation for fees for commercial or nonrecreational uses. The ability of the park units to retain funds to cover the costs of providing services associated with such uses likely will result in the identification of numerous potential fee situations. To ensure consistency among the various park units, while allowing for the necessary flexibility to accommodate different activities among the parks, the Park Service should be required to identify the major commercial or nonrecreational activities for which fees would be charged, and to provide sufficiently specific guidance to permit individual park units to apply the guidance to related activities not identified by the Park Service.

Furthermore, the proposed legislation itself requires clarification in that the heading of Section 4(o) refers to fees for commercial nonrecreational uses while the body of the Section refers to fees for commercial or nonrecreational uses. Commercial uses that are also recreational would qualify under the latter description, but not under the former.

**Establishing Fees** - The proposed legislation identifies the criteria in Section 4(d) of the Land and Water Conservation Act as the bases upon which the Secretary of the Interior is charged with establishing reasonable fees. Section 4(d), with its proposed amendment, provides:

All fees established pursuant to this section shall be fair and equitable, taking into consideration the direct and indirect cost to the Government, the benefits to the recipient, the public policy or interest served, the comparable fees charged by other public and private entities, the economic and administrative feasibility of fee collection and other pertinent factors . . . .

It is the intent of this part that comparable fees should be charged by the several Federal agencies for comparable services and facilities.

In the context of special use fees, we found that the parks varied considerably in the methods they used to establish fees. Specifically, 5 parks (Grand Canyon National Park, Santa Monica Mountains National Recreation Area, Yosemite National Park, Statue of Liberty National Monument, and Zion National Park) used cost data; 3 parks (Assateague Island National Seashore, Gateway National Recreation Area, and Yellowstone National Park) used comparability studies; 3 parks (Delaware Water Gap National Recreation Area, Lake Mead National Recreation Area, and Point Reyes National Seashore) used appraisals; and 2 parks (Canyonlands National Park and Golden Gate National Recreation Area) used the "collective judgment and experience" of their personnel.

In addition, fees varied among the parks, and were not always set at the appropriate level or adequately supported, given the method selected by the park unit. For example:

- Golden Gate collected daily location use fees for commercial filming and accepted donations ranging from \$50 to \$6,600 based on the specific filming location; three parks charged a daily monitoring fee of \$300; six parks charged actual monitoring costs; and three parks did not charge a fee.
- Assateague Island considered the annual rates charged by the States of Delaware (\$50) and New Jersey (\$100) in establishing its offroad vehicle permit fee of \$40. Yellowstone performed a comparability study of the fishing license fees charged by surrounding states before it established its fishing permit fees. However, Yellowstone collected \$5 for a 7-day permit and \$10 for an annual permit, whereas the comparables ranged from \$13 to \$24 for an annual fishing license. Neither park could support the basis for setting the fees at rates lower than those at comparable locations.
- Grand Canyon, Santa Monica Mountains, Yosemite, Statue of Liberty, and Zion charged fees that were designed to recover the direct costs of personal services, utilities, waste management, administrative activities, and management reviews that were associated with the special uses. However, the parks did not have adequate support for how they computed the fees and did not include indirect costs for program direction and administrative support.

Based on findings of this nature, we concluded that existing Park Service guidance did not provide sufficient direction to assist employees at individual park units in determining when to use the cost or market approach in establishing the special use fees, the types of costs to include in the calculation of fees, or the documentation necessary to support fee determinations. This conclusion was very similar to one reached in a November 1988 audit report entitled "User Charges and Collections, National Park Service" (No. 89-22), where we also found that the Park Service's user fee program suffered from insufficient Servicewide guidance and oversight, including a lack of guidance on fee determination and cost finding techniques. Further, in an analogous context, we found similar problems. In our September 1994 audit report entitled "Concessions Management, National Park Service" (No. 94-I-1211), we concluded that the Park Service needed to develop and implement consistent policies and procedures to ensure that the Federal Government was receiving fair value for concessions.

In the absence of sufficient guidance from the Park Service, the proposed legislation could result in the same types of problems in the determination of fees for commercial or nonrecreational uses. Indeed, a prominent feature of the amendment at issue is that it requires that fees, at a minimum, cover all costs of providing necessary services associated with the uses, unless otherwise waived by the Secretary of the Interior. Office of Management and Budget Circular A-25, "User Fees," provides guidance for Federal agencies to use in determining full cost and market prices for fee situations. The Department of the Interior provides additional Departmental cost recovery policy and guidelines to assist its bureaus and offices in identifying various elements of direct and indirect costs. However, in order to ensure that the costs for commercial or nonrecreational uses are recovered in a consistent manner among the various park units, the Park Service would need to provide detailed guidance through an update of its own internal manual. Moreover, the variety and nature of the factors that can be taken into account in establishing fees under Section 4(d) would seem to make the need for Servicewide guidance even more critical.

**Collecting and Accounting for Fees** - Regarding internal control procedures for collecting and accounting for revenues generated from special use permits, 9 of the 13 parks that we reviewed for our audit of special use fees had implemented adequate controls. The nine parks deposited the receipts into special accounts established for special use revenues and used either prenumbered or sequentially numbered receipts or bills for collection to ensure that all funds were accounted for. Deficiencies identified at the remaining four parks included: not ensuring that all special use fees were paid; not ensuring that permit fees were actually collected and deposited into the proper account; not reconciling receipts to the permits issued or to deposits; and not ensuring that receipts were deposited timely.

The U.S. Treasury has issued guidance on collecting and accounting for fees. This guidance, which the Department of the Interior has incorporated into its Manual for Financial Management, provides detailed instructions and internal control procedures for collecting, safeguarding, and depositing public funds such as entrance fees or user fees. The Departmental Manual also has incorporated guidance issued by the U.S. Treasury and the General Accounting Office on accounting for and reviewing the controls over public funds. This guidance provides detailed instructions regarding

how the funds are to be recorded in the accounting records and requirements for periodic reviews of those records by management. Considering the vast amount of guidance already issued on collecting and accounting for fees, we do not believe that the Park Service needs to create any additional guidance in these areas. However, the Park Service will need to ensure that the guidance is followed by incorporating relevant portions into its own internal manual, ensuring that personnel at the individual park units receive sufficient training in the proper procedures for collecting and accounting for fees, and providing necessary program oversight.

**Expending Fee Revenues** - The Subcommittee requested that we determine how special use revenues were spent, including whether they were spent in support of the purposes for which they were collected. We identified inconsistencies among the parks in this regard. Of the 13 parks, 6 parks (Grand Canyon National Park, Canyonlands National Park, Gateway National Recreation Area, Golden Gate National Recreation Area, Point Reyes National Seashore, and Yosemite National Park) spent special use fee receipts to support the activity that generated the revenue. Of the remaining seven parks, Santa Monica Mountains National Recreation Area spent fee revenues from filming on any special use activity; Yellowstone National Park, Delaware Water Gap National Recreation Area, Zion National Park, Assateague Island National Seashore, and Statue of Liberty National Monument spent the revenues for general park purposes in addition to the special use activity; and Lake Mead had not spent any of the revenues collected from special use fees at the time of our review. In addition, we found that 11 of the 13 parks reviewed carried over unobligated revenues totaling \$331,864 to fiscal year 1995.

We believe that the inconsistencies among the parks regarding the types of activities on which special use fees could be spent were caused by the lack of specificity in the Appropriations Acts, which do not explicitly address how special use permit revenues can be used or whether unobligated funds can be carried over to the next fiscal year. The Park Service has interpreted this authority, based on the advice of the Office of the Solicitor, to allow the parks to use special use permit revenues for general park operations and to carry over unobligated funds to the next fiscal year.

The proposed statutory language for fees for commercial or nonrecreational uses states that receipts from such fees may be retained at the park unit in which the use takes place and that the fees remain available, without further appropriation, to cover the cost of providing such services. Fees in excess of what is necessary to cover the cost of services associated with the particular use are to be deposited into the National Park Renewal Fund to be expended as further defined in the statute. We believe that the increased specificity in the proposed legislation regarding the expenditure of fee revenues should serve to prevent the uncertainty and inconsistency in this area found in our audit of special use fees.

The proposed legislation is clear that fees must be associated with the particular commercial or nonrecreational use that generated the fee. We caution, however, that the specificity of the statute, in this respect, necessitates that the park units create a separate accounting mechanism for each commercial or nonrecreational use.

**Overall Assessment** - The issue of collecting fees for park uses has been the subject of several audits by our office over the years. Our May 1988 report entitled "User Fees at Three National Park Service Units" (No. 88-74) concluded that a favorable economic return could be achieved with the collection of entrance fees at Lake Mead National Recreation Area and Cape Hatteras National Seashore. In the report, we recommended that the necessary action be taken to collect entrance fees at those two parks as well as fees for off-road vehicles at Cape Hatteras. Our November 1988 audit report entitled "User Charges and Collections" (No. 89-22) and our March 1993 report entitled "Recreation Fee Charges and Collections" (No. 93-I-793) also urged increased utilization of fee recovery programs by recommending that appropriate action be taken, including through legislative relief, to expand the collection of entrance fees and fees for various special use activities.

The proposed legislation is consistent with this Office's previously expressed recommendations in analogous contexts to expand the collection of fees for various park uses. We further believe that the fee and cost recovery program can be successfully implemented provided that the Park Service continues its commitment to the development and implementation of clear guidance, reliable accounting systems, and effective program oversight.

As to guidance, we are aware from our audit of special use fees that the Park Service is in the process of revising its internal guidelines, "Special Park Uses," which were issued in 1986, to reflect more recent developments in this area.

In response to our audit report, the Park Service has indicated that the revised guidelines will address and correct, in detail, each of the problem areas identified in the recommendations. By providing detailed instructions as recommended regarding the types of costs to be included in the fee and the documentation needed to support fee computations, as well as regarding the establishment of adequate internal controls over the collection of and the accountability for special use permit revenues at the park level, the Park Service will have gone a long way in addressing some of the issues described above. Similar attention will have to be paid, however, to additional revisions necessitated by the proposed legislation, such as the need to identify the types of activities covered by the legislation.

As to the development of reliable accounting systems, progress is also being made in this regard. In our November 1988 audit report entitled "User Charges and Collections," we reported that, of the 25 parks visited, none of the parks controlled the permits issued with a numbering system that would facilitate reporting, auditing, and accountability. In contrast, in our recent audit of special use fees, we found that 9 of the 13 parks reviewed had implemented adequate controls for collecting and accounting for revenues generated from special use permits. Generally, we found that those parks with prior experience in collecting other types of revenues, such as entrance or recreation fees, were more effective in collecting and accounting for the special use fees. The Park Service will need to ensure that sufficient training is provided at the park units in the areas of assessing, collecting, and accounting for fees to help ensure the continuation of this positive trend.

Moreover, as this Subcommittee is aware, the lack of financial accountability is a problem that has plagued the Park Service in the past. On February 9, 1995, the Deputy Inspector General testified regarding the financial accounting and reporting problems in the Park Service. The basis for that testimony was our audit of the Park Service's financial statements for fiscal years 1993 and 1994, during which we concluded that the information in the Park Service's financial records and statements was not accurate, reliable, or supported by the accounting system. We also concluded that an adequate internal control system to identify and correct accounting errors in a timely manner had not been implemented and that the usefulness of the Park Service's financial records and reports was questionable. We attributed these conditions to a lack of commitment by Park Service managers in ensuring adequate financial management controls and accurate reporting of financial data on a Servicewide basis. As I stated in an August 8, 1995, letter to the Chairman of this Subcommittee, we believe that Park Service management now is committed to establishing a sound financial accounting control environment and to reporting accurate and reliable annual financial statements.

Our belief in this regard is based on the close involvement we have had with the Park Service since the February 1995 testimony. First, a senior auditor from the Office of Inspector General has worked on a daily basis for the past 6 months with a team that the Park Service established to identify and resolve its financial accounting and reporting problems. In establishing this team, the Park Service sought technical assistance from our office, from the Department of the Interior's Office of Financial Management, and from advisors from the private sector. Second, the Office of Inspector General has had a team of auditors working in the Park Service since April 1995 doing preliminary work in preparation for an audit of the Park Service's fiscal year 1995 financial statements. The auditors have monitored the Park Service team's efforts on a regular basis and have reported that significant progress has been and continues to be made.

A considerable amount of work remains to be done. However, we believe that, if the type of commitment and progress that the Park Service has demonstrated during the past 8 months continues, the Park Service should be able to adequately account for and report on any fees collected under the proposed amendment.

Finally, if the proposed amendment is adopted, there would be a need for effective program oversight by the Park Service in order to ensure proper implementation of the fee and cost recovery program. The Office of Inspector General can also assist in this regard through our annual audits of the Park Service's financial statements conducted pursuant to the Chief Financial Officers (CFO) Act. For income collected pursuant to the proposed amendment, we would be willing to expand those audits to include an evaluation of the internal accounting controls and testing of the accounting transactions. Our annual CFO audit reports would then disclose any reportable weaknesses or deficiencies associated with these revenues.

This concludes my prepared statement. I would be happy to respond to any questions that the Subcommittee may have concerning my testimony.

###