

STATEMENT OF  
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ON BEHALF OF THE  
SMALL CONCESSIONS COALITION

TESTIMONY  
BEFORE THE SUBCOMMITTEE ON NATIONAL PARKS  
U.S. HOUSE OF REPRESENTATIVES

HEARING ON IMPLEMENTATION OF THE  
NPS CONCESSIONS MANAGEMENT  
IMPROVEMENT ACT OF 1998  
APRIL 6, 2005

Mr. Chairman: On behalf of the Small Concessions Coalition, I submit this statement to convey several concerns regarding the state of National Park Service (NPS) concessions since the enactment of the Concessions Management Improvement Act of 1998, Pub. L. 105-391.

The Small Concessions Coalition consists of NPS concessioners representing concessions contract holders whose operations gross between \$500,000 and \$6 million annually. Most small concessioners hold only a single contract. For decades, these concessioners have provided high quality visitor services in our nation's parks and have become a vital aspect of their respective local, and often rural, communities. However, since Congress enacted the 1998 Act, these small concessioners have been stripped of their traditional opportunity to earn a preferential right to renew their concessions contracts and forced to compete with the approximately 15 large companies holding the largest 50 contracts (worth over \$600 million annually). Requiring small concessioners to compete with these financially dominate and highly sophisticated "big 50" concessioners places the small operators at a significant competitive disadvantage and, consequently, at risk of extinction. The consequence will be that the largest companies will takeover the smaller concessioners and in a decade or so, a dozen or so large entities will end up controlling over 100 NPS concessions contracts. We submit that this level of concentration is not what Congress wanted, nor is it in the public interest.

Congress also made a clear policy determination that "small" concessions ought to retain the ability to earn the preference renewal. The only issue is how to define "small." In 1998, an arbitrary monetary threshold (i.e., \$500,000 annual gross revenue) was picked. We suggest a more rational less arbitrary approach: simply cross-reference the definition of "small" used by the federal Small Business Administration (SBA). SBA classifies at 13 CFR 121.201 (Sector 71 – Arts, Entertainment and Recreation), a small business in this field as one with annual gross revenues of \$6 million or less. Congress should cross-reference the SBA definition – whatever it is – in the NPS Concessions Act. What is "small" for one part of the Executive Branch ought to be "small" for another.

The 1998 Act ostensibly seeks to increase competition for concessions contracts and secure greater fee revenues for the government. On the other hand, there remains the need to establish a stable and economically rational business environment in which concessioners can operate to ensure that the public receives high quality visitor services. The efforts to increase competition and revenue have resulted in more sophisticated and complicated prospectus processes, higher compliance costs, and increased franchise fees. While these efforts may be effective for the "big 50", it has become apparent that these precepts have come to dominate concessions administration and are strongly influencing promulgation of all regulations and policies pursuant to the 1998 Improvement Act, which is causing serious and substantial difficulties for small concessioners.

Efforts to generate revenue also have taken a disproportionately heavy toll on small concessioners. The 1998 Improvement Act provides that the primary purpose of the Act is to improve visitor services and park resources, and that revenue generation is a secondary goal. However, the Act included a franchise fee component as part of the competitive selection process; therefore, it is not surprising that de facto fee bidding has occurred. Small concessioners simply do not have the resources to successfully outbid their much larger competitors. Squeezing smaller qualified concessioners out of the market for the sake of increasing government's revenues is inconsistent with the purposes of the 1998 Improvement Act. Accordingly, we urge the Subcommittee to consider amending the 1998 Improvement Act to close this loophole and prevent this illegal fee bidding.

To help prevent the loss of this vital group of small concessioners, the 1998 Improvement Act must provide a stable business environment in order to provide all concessioners a fair opportunity to compete for contracts. Stability has long been a hallmark of concessions contracts. For over 50 years, performing concessioners could earn a preferential right to renew their concessions contracts by providing quality services to park visitors. This stability created the incentive for the private sector to invest in facilities necessary to provide high quality services to park visitors.

Despite the excellent track record of this approach, Congress eliminated the preference right as part of the 1998 Improvement Act. Only guides and outfitters and “small” concession contracts of \$500,000 or less kept the preference right. It was thought that limiting the preference right would spur competition and lead to better visitor services. However, the elimination of the preference right, coupled with rising compliance costs, escalating fees, and fee bidding have left many small concessioners financially strained and/or vulnerable to takeovers by their larger competitors. If Congress allows this class of small concessioners to be lost, the pool of qualified concessioners will shrink, competition will decrease, the quality of visitor services will suffer, and the overall commitment to rural park area communities will vanish.

We applaud the Subcommittee’s continuing efforts to evaluate the concessions program. A strong oversight role is needed to assure that NPS is acting consistently with the letter and spirit of the 1998 Improvement Act. This role also is critical to assuring that the agency remembers that visitor use and enjoyment is one of the two fundamental objectives of the Park system as articulated in the 1916 NPS Organic Act. Amendments to the 1998 Improvement Act to address overly burdensome compliance costs, fee bidding, and the preference right of renewal is consistent with the 1998 Improvement Act’s general purpose and will provide additional improvements to the concessions program.