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STATEMENT OF A. DURAND JONES, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, BEFORE THE HOUSE SUBCOMMITTEE ON NATIONAL PARKS, RECREATION AND PUBLIC LANDS, COMMITTEE ON RESOURCES, REGARDING THE STATUS OF THE NATIONAL PARK SERVICE CONCESSIONS MANAGEMENT PROGRAM.

MARCH 25, 2003

Mr. Chairman, members of the subcommittee, thank you for the opportunity to discuss the ongoing efforts and accomplishments by the National Park Service (NPS) in implementing Title IV of the National Parks Omnibus Management Act of 1998, the Concessions Management Improvement Act, Public Law 105-391.

We are interested in providing an update on the status of the NPS concessions management program including the issues in which you have expressed interest; the improvements we are making; the ongoing development of working relationships with our external partners and seeking your input and comments on the program.

The NPS concessions program administers 590 concessions contracts in 126 parks. These contracts currently generate \$818.6 million in annual revenues. Of these 590 contracts, 52 currently gross above \$3.0 million. These high-dollar contracts represent about 80% of the total annual concessions revenues. In contrast, the more than 75% of contracts generating less than \$500,000 account for less than 6% of the gross revenues.

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 This title repealed the Concessions Policy Act of 1965, Public Law 89-249, and established a new process for concessions contracting and the terms and conditions of those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. A major change was the repeal of the preferential right of renewal for all contracts grossing over \$500,000, other than those held by outfitters and guides. The law also established the National Park Service Concessions Management Advisory Board (CMAB) and directed other changes in the National Park Service Concessions Program (NPSCP). The law was the bipartisan product of over 20 years of work by legislators, including your committee.

We are moving forward with our implementation of the law through our concessions regulations and other actions, and we appreciate the assistance received by the CMAB, established by Section 409 (s) of Title IV.

Concessions Management Advisory Board Working Group

We particularly appreciate the CMAB's assistance in our recent effort to engage representatives of our concessions partners, along with members of both authorizing committee staffs, in discussions to address several key issues of common concern. These have included management of Leasehold Surrender Interest (LSI), cross collateralization of loans, approval of sales and transfers, and more simplified and flexible pricing approval. Through a committee of the CMAB, we made substantial progress in achieving common understanding of these issues and framing a range of alternatives to improve our handling of them. In particular, we believe there are conditions under which we can favorably consider requests for cross collateralization and we are working on specific criteria to accomplish this. Similarly, there appear to be ways to simplify our review of sales and transfers which will streamline the process for concessioners to conduct business. The CMAB has already endorsed and we have approved the implementation of a core menu pricing system. We will implement this system more broadly. In addition we are exploring other ideas to make pricing approval simpler and more effective. Finally, we have had extensive discussion regarding the application and handling of LSI. We believe that our discussions have created a common ground of understanding on how this concept functions in relation to standard business practices. Further, we have identified several potential approaches to simplify and improve the application of LSI in a fair and equitable manner. We will be continuing our discussions on all these topics in the coming months. Recommendations coming from this committee will be publicly presented and discussed at future meetings of the full CMAB and subsequently submitted to the Director of the NPS with recommendations for action.

In response to the law and to recommendations of the CMAB, the NPS has made and will continue to make

a number of other business process changes. In doing so, the concessions program has made extensive use of external firms (including PricewaterhouseCoopers (PwC)) with specific expertise in the arenas of asset management, hospitality, recreation, tourism, engineering and finance. Our process improvements and commitment not only responds to the intent of the Concessions Management Improvement Act but implements the President's management agenda as well.

To ensure proper implementation of the law, the NPS is following recommendations made by the CMAB in four specific areas: initiating professional staff development, improving external relationships with stakeholders, business practices and open competition, and contract progress.

Professional Development Guidance

Our goal for ongoing professional development of concessions program staff is in its initial stages. The NPSCP, through the guidance of the CMAB, is implementing a program to improve the skills of concessions staff through formal and informal training. In addition, through the recruitment process, we are hiring qualified business candidates. The most recent positions filled include the Chief of Concessions Management at Grand Canyon National Park, a Management Assistant with concessions responsibilities at Rocky Mountain National Park and a Concessions Management Specialist at Golden Gate National Recreation Area. As additional concessions positions become vacant, we will seek candidates with a business background, focusing, when possible, on candidates with experience in the hospitality industry. The NPS realizes that we must have the necessary business acumen, knowledge and skills to perform our duties in a highly professional manner. We have developed a strategic partnership with Northern Arizona University (NAU) School of Hospitality as an opportunity for NPSCP employees to further advance their Concessions Management skills. This multi-year program includes 420 hours of course study that is based upon the NAU core hospitality curriculum. The objective of this program is to provide a hospitality management curriculum that will improve the overall accountability and professionalism of the NPSCP. Additional training was developed to enhance the skill set of NPSCP staff working on concessions contracts and to lay the foundation of a NPSCP Certification Program. The program's goal will be to ensure all concessions staff are qualified and certified to fulfill their role in a complex business program. The coursework was developed and is taught collaboratively through a partnership with the American Hotel and Lodging-Educational Institute, NPS, the Department of the Interior and PwC.

Improving Relationships with Stakeholders

The relationship we have with our external stakeholders continues to improve. We are working to involve all affected parties in the concessions program. For example, the 1998 law placed an emphasis on competition for contracts in the national parks. However, all incumbents grossing \$500,000 or less, and all outfitters and guides, continue to enjoy a preference in the renewal of their contracts, if the concessioner has operated satisfactorily during the term of its contract and has submitted a responsive proposal for a proposed new contract which satisfies the minimum requirements established by the Secretary. For all incumbents and potential operators, we offer educational sessions on "How to do Business with the NPS." These sessions are designed to assist participants in understanding the NPSCP and the key components of the prospectus development process. Three such outreach sessions were held in FY 2002, in Napa, California, Phoenix, Arizona, and Atlanta, Georgia, and we anticipate holding two additional sessions in FY 2003.

Business Practices and Open Competition

Through outsourcing, we developed protocols that focus on the key business processes of contracting and contract oversight in all concessions contracts. We will ensure, that the franchise fee established by the contracts reflect the "probable value to the concessioner of the privileges granted by the particular contract involved." The law requires that this value "be based upon a reasonable opportunity for net profit in relation to the capital invested and the obligations of the contract." We are also outlining how to better meet our fiduciary responsibilities through responsible contract oversight.

We believe that competition for the renewal of concessions contracts is a healthy step, and allows for potentially new business opportunities, which benefit the concessioner, the visitor and the National Park Service. We believe it is the intent of Congress for incumbents and potential operators to have the opportunity to compete fairly and equally for a concessions contract, so that government and visitors receive the best services available. A potential issue of concern to the National Park Service is the possibility of government debt obligation in relationship to concessioner Possessory Interest (PI). It is important to note that the compensation for concessioner PI is guaranteed either by the newly selected concessioner or the U.S. government (if no successor is identified). PI reflects a governmental obligation. However, PI is not as

readily quantifiable as LSI, which will replace PI in all new contracts. As reported in the 2000 NPSCP Annual Financial Report (AFR) database, 127 concession contracts reported assets in which PI was claimed. This represents more than 20 percent of concessions contracts. We are aggressively evaluating the total obligation represented by PI and prospectively by LSI. When this work is complete we expect to present a comprehensive approach to managing these obligations.

Contract Progress

Our backlog on concessions contracts has been a concern for all involved. The largest 52 concessions contracts include hospitality, retail, marina and transportation assets and operations. Recognizing their complexity, high value, legal and financial risk, we have sought external expertise to assist us in developing an action plan for the development of prospectuses for these contracts. In FY 2002, the NPSCP with the aid of external experts, identified the 52 contracts and the level of prospectus due diligence necessary for each. By the end of FY2002, six large prospectuses were issued and five contracts were executed. Over the course of the next year, we estimate that fifteen additional prospectuses will be issued under our revised process for large contracts. As we mentioned earlier, we have engaged PwC and numerous other firms to assist parks in developing a strategy for undertaking appropriate due diligence for these large contracts, including real property condition assessments, real and personal property valuations, market and financial analysis, and concessions facility planning. We are assessing the condition of our facilities and aligning our capital improvement programs to address deferred maintenance. Thus far, over \$13 million dollars of deferred maintenance has been identified and will be eliminated through the maintenance reserve and other improvement requirements in new contracts. As with other park facilities, we will be monitoring facility conditions to measure the performance of concessioners and park managers.

The parks, in conjunction with PwC and its subject-matter experts, have been working together to redesign the prospectus to appropriately reflect the needs of NPS and offerors. Currently, the regions and individual parks are responsible for the prospectus development of those contracts grossing less than \$3 million in annual revenues, and each region has developed a strategy for implementation. Approximately 100 of the small contracts were issued between FY 2001 and the end of FY 2002, and approximately 200 will be issued in FY 2003.

Commercial Use Authorizations

The NPS is addressing the concerns of the small business operator regarding the implementation of the Commercial Use Authorization (CUA)- Proposed Rule. We received significant public comment on the proposed rule, issued on November 27, 2002. Based upon the concerns raised, the NPS intends to request CMAB establish a multi-disciplined work group, to consider the issues raised by the comments. The work group will consist of interagency personnel, representatives of private sector interested parties and designated officials of the CMAB. This approach will allow for consideration of the business need for a predictable, stable platform while ensuring consistency with the preservation of park resources. Recommendations of the work group will be transmitted for full consideration by CMAB in a public meeting. NPS will review any advice from CMAB on this issue in determining how best to move forward with this rule.

Non-profit Organizations

The issue of non-profit organizations supporting our National Park units, and the effect these non-profit organizations may have on a park concessioner appears to be of concern to some park concessioners. Non-profit organizations range from scout troops and educational institutes, to park cooperating associations, friends groups or foundations. Each offers support to the park in a unique way, and as a distinctive entity. They must each have the proper permit, authorization, or agreement based on the services they offer the park or its visitors. We are managing all these non-profit organizations to assure they are meeting applicable requirements.

This subcommittee has asked the Government Accounting Office (GAO) to assess NPS compliance with applicable regulations, policies, and contracts to determine whether park subsidies are provided to non-profit organizations, and to determine how services provided by non-profit organizations affect concessioners. The NPS has provided GAO substantial information in support of this study. The Division of Interpretation, the Partnership Office and the Concessions Office will work together to address any issues that may arise as a result of the review. We look forward to receipt of the review.

The NPS is actively working on improving the concessions management program. We have made many

improvements since the passage of P.L. 105-391, and anticipate continual improvements as we work with our concessioners, private sector contractors, and this committee. We thank you for the support and direction you have provided and we look forward to a concessions program that is successful for the NPS, our concessions partners and the general public.

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