

# Committee on Resources

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Statement of

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on

Oversight of National Park Service Concessions Management Program

and Implementing Regulations

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Recreation and Public Lands

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Mr. Chairman, and members of the Subcommittee, my name is Phil Voorhees. I represent the National Parks Conservation Association (NPCA). I also serve as a member of the National Park Service Concessions Management Advisory Board. NPCA is America's only private, nonprofit advocacy organization dedicated solely to protecting, preserving, and enhancing the National Park System. NPCA was founded in 1919 and today has approximately 300,000 members.

I am pleased to offer testimony today that reflects NPCA's view that very substantial progress is being made by the National Park Service in the area of concessions management. For many years, NPCA has been a strong advocate of ensuring that concessioners operating within the national park system do so in a manner that reflects standard industry practices in state parks, local parks and within the hospitality industry in general. The road to ensuring this has been long and involved and the agency has not finished its work as yet, but very substantial progress is clear. Many concessioners are welcoming the transition from a broken system to a more normal business-like partnership with the NPS

## Points of Progress Since 1998

Five years ago, Congress passed into law the Omnibus Parks Act (PL 105-391) that encapsulated significant changes for the management of concessions in national parks. Prior to passage, concessions were operated on a substantially non-competitive basis. As evidence of this, according to an analysis performed by NPS in the mid-1990s, from 1963 to 1993, only seven of the approximately 1,900 contracts executed were awarded to businesses that competed against the incumbent concessioner. Also, prior to 1998, the small amount of franchise fees generated by the concessions program were deposited in the general Treasury instead of contributing to the upkeep of the parks. Finally, the former law provided concessioners with an opportunity to capture a significant increase in value in the buildings and structures built by concessioners, resulting almost entirely from federal investments in the parks themselves and simple increases in tourism unrelated to the performance of the concessioners. As a result of the 1998 reforms, parks are now able to retain concessions fees, concessions contract opportunities are generating substantial competition, and "blue sky value" once afforded concessioner-built structures is being more closely controlled. These changes are both good for the visitor and good for the taxpayer.

With the passage of Omnibus Parks Act, however, another problem emerged that was hidden by the old

concessions law. Passage of the new law meant that the Park Service had to work harder to produce strong financially feasible concessions bid proposals and manage the daily operations of concessioners. For the past five years, the Park Service concessions program has struggled to operate in a more effective, professional and responsive manner. To the agency's great credit, they have supported the goal of professionalization at all levels and have allocated the resources to contract with PricewaterhouseCoopers to provide generalized support, training and contract analysis. The agency has openly explored best practice models of concessions management in the military and the general hospitality industry, has developed a comprehensive training program with Northern Arizona University, and has responded to a broad variety of recommendations for improvement made by the Concessions Management Advisory Board. Without the personal support of former director Bob Stanton, and especially Director Fran Mainella, the Service would not be making the strong, steady progress that it is today.

#### Issues Remaining to be Addressed

Beyond the particulars of concessions reform enacted by the 105th Congress, the law was developed with the understanding and goal that the Park Service and the concessioners would need to operate on a level playing field if visitors and taxpayers were to receive high quality service at reasonable cost. The law put in place many of the critical changes to make that possible. Unfortunately, it takes time for a system so far out of balance to find itself again in equilibrium. And it takes patience on the part of all parties to allow for the kind of professional trust that is necessary for business-based partnerships to reestablish themselves. Thus far, to its credit, Congress has been patient. Concessioners have been generally patient with improvements making their way through the concessions management program. And concessions staff have been patient with complications involved in moving change through a complex bureaucracy. Slowly, steadily, the agency is putting in place an effective and fair concessioner performance evaluation system, a uniform rate approval process, a core menu concept and other improvements. Many of the changes, like the core menu concept, are designed to reduce bureaucracy and improve concessioners' operating flexibility. Slowly, professional trust and the spirit of partnership is reemerging, in pace with the improvement in the professional capacity of the concessions program itself.

#### Encouraging the Process of Continuous Improvement

After five years and counting, improvements in the management of concessions in national parks are well on their way. The 1998 law is a very significant improvement over the preceding 1965 Concessions Policy Act. Regulations designed to realize the intent of the law were drafted, reviewed and finalized. They are lengthy and – like nearly all regulations – imperfect. But they are a sufficient base for steering the concessions program in the correct direction: toward better visitor service, fair and vigorous competition for concessions contracts, improved ability to maintain the substantial asset base of concessions structures, and most important, toward a kind of business equilibrium between concessioner and concessions manager that will rebuild the spirit of partnership and benefit all concerned.

Some concessioners have asserted that the regulations resulting from the law are convoluted and in parts confusing. NPCA agrees. We disagree however, on the appropriate solution. Some have argued that the law must change to provide additional guidance or technical correction to various points of interpretation. Some have advocated that the regulations be reopened and amended to make more significant changes. Both avenues carry considerable complications and are unnecessary.

The focus of complaint, it seems, is the treatment of Leasehold Surrender Interest, the law's replacement for Possessory Interest. In NPCA's view, changing the regulations in any way with regard to this structure would cause many more problems that it could solve. One unavoidable complication of reopening the regulations is further delay. While all parties have been patient with slow but steady progress in contracts management, reopening the regulations would have the inevitable result of stopping progress in its tracks while all wait for a new final rule to emerge. The delay could last two years, burning time that would be better spent building productive business partnerships and improving competition for contracts that benefit the visitor. In addition, it seems to make little sense to reopen the regulations on this issue especially. The Omnibus parks Act provides for reevaluation and reconsideration of the concept of Leasehold Surrender Interest nine years after enactment, or four years from now. If a reconsideration is to be made, it would seem prudent to wait the full nine years for the requisite base of experience with the current regulations to build as it pertains to Leasehold Surrender Interest.

The National Park Service has repeatedly demonstrated its willingness to hear all points of view and consider reinterpretation of points of law, if that reinterpretation aligns with standard business practice

outside the parks. In addition, the National Park Service Concessions Management Advisory Board was specifically designed to review and resolve complications and air concessioner concerns. Having met nearly a dozen times in five years, the Board makes a special point in each meeting to hear residual concessioner concerns and provide a forum for balanced discussion. Concessioner concerns are being heard, not ignored.

The most appropriate solution for continued concessioner grievances, is continuation of the process that is already in place in the parks. In our view, the regulations need not be reopened at this time and the law certainly does not bear amendment. For changes in interpretation that result from discussion and evaluation of concessioner concerns, the agency has at its disposal Directors Orders that provide direction to field managers on how laws, regulations and other requirements must be followed. This is the correct venue for delivering guidance and direction to the field, not changes in the base law or regulation. To do otherwise would risk further upsetting the equilibrium in concessions management that is slowly but surely establishing itself to the benefit of the visitor, the taxpayer, the parks and the concessioners themselves.