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*REPORT TO THE  
CONSERVATION, ENERGY, AND  
NATURAL RESOURCES SUBCOMMITTEE  
COMMITTEE ON GOVERNMENT  
OPERATIONS  
AND THE SUBCOMMITTEE ON  
ENERGY AND ENVIRONMENT  
COMMITTEE ON SMALL BUSINESS  
HOUSE OF REPRESENTATIVES*



*Concession Operations In  
The National Parks--  
Improvements Needed In  
Administration*

National Park Service  
Department of the Interior

Improvements are needed by the National  
Park Service in

- administering concession operations, including environmental requirements;
- spurring competition in the awards of concession contracts; and,
- establishing franchise fees.

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*BY THE COMPTROLLER GENERAL  
OF THE UNITED STATES*

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JUL 27 1975

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COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

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CI The honorable William S. Moorhead  
R Chairman, Conservation, Energy, and  
Natural Resources Subcommittee  
Committee on Government Operations and  
The honorable John D. Dingell  
Chairman, Subcommittee on Energy  
and Environment  
Committee on Small Business  
House of Representatives

In response to your various requests, this is our report on improvements needed by the National Park Service in monitoring concession operations, establishing franchise fees, complying with environmental requirements, and encouraging competition.

As directed, formal comments were not obtained from the Department of the Interior or the Yosemite Park and Curry Company, the principal concessioner at Yosemite National Park; however, we discussed most of the matters presented in the report with officials of Interior and the Company.

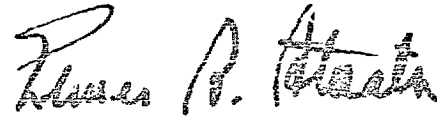
32-66  
We invite your attention to the fact that this report contains recommendations to the Secretary of the Interior which are set forth on pages 12, 21, 27, and 37. As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions he has taken on our recommendations to the House and Senate Committees on Government Operations not later than 60 days after the date of the report, and the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report. We will be in touch with your office in the near future to arrange for the release of the report so that the requirements of section 236 can be set in motion.

In addition, the report contains matters for consideration by the Congress which are set forth on page 21. The

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07 House and Senate Committees on Interior and Insular Affairs  
-3 have legislative responsibility for these matters. There-  
fore, when released, the report will also be made available  
to these two committees.



Comptroller General  
of the United States

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ABBREVIATIONS

CEQ	Council on Environmental Quality
GAO	General Accounting Office
MCA	Music Corporation of America
NEPA	National Environmental Policy Act of 1969
YPLC	Yosemite Park and Curry Company

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COMPTROLLER GENERAL'S REPORT

CONCESSION OPERATIONS IN  
THE NATIONAL PARKS--  
IMPROVEMENTS NEEDED IN  
ADMINISTRATION  
National Park Service  
Department of the Interior

D I G E S T

Because of concern over how concession operations in the national parks are administered, the subcommittees asked GAO to review how the National Park Service

- monitors and evaluates concession operations,
- encourages competition and small business in awarding concession contracts,
- establishes concessioner franchise fees, and
- complies with environmental requirements in approving new facilities.

The subcommittees also asked GAO to make recommendations for improvements in these areas.

There are problems in the four areas and GAO is recommending that the Secretary of the Interior require the Park Service to make improvements. (See pp. 3, 12, 14, 21, 22, 27, 29, and 37.)

The Park Service has not kept track of

- concessioner prices to be sure that they are appropriate,
- the upkeep of Government-owned facilities used by concessioners to be sure that they are maintained properly and are safe for occupancy, and
- the use of parks for conventions.

Also, in judging the adequacy of franchise fees, the Park Service has no guidelines on an acceptable rate of return for the concessioners

and the relative importance of gross sales, net profit and return on investment.

Consequently, the Park Service cannot determine adequately whether park visitors, the concessioners, and the Government are being treated equitably. There are indications that the Park Service is taking some corrective action on these matters. (See pp. 12 and 28.)

Park Service policy is to renew contracts with existing concessioners it believes are operating satisfactorily, although renewal rights are not absolute. The Park Service also prefers to have one concessioner in each national park.

Based primarily on its review of concession operations at Yosemite National Park, GAO concludes that the Park Service does not have sufficient information to determine whether existing concessioners are performing satisfactorily and, consequently, are entitled to preference when a contract is to be expanded or renewed.

Competition usually encourages improved services and may outweigh benefits derived from preferential renewal rights and encouraging one concessioner to run a park's facilities.

Having one large business control all concessions in a park limits Park Service actions to enforce compliance. From a practical point of view, the Park Service cannot close down the concessioner to force compliance, because the concessioner's sizeable interest makes the obtaining of funds to buy out the concessioner difficult. The policy of preferring to have only one concessioner in each park also reduces opportunities for small businesses in concession activities.

The Concessions Policy Act encourages continuity in concession operations. However, if the Congress wishes to provide for more competition in the award

and renewal of concession contracts it  
can do so by

--encouraging construction of facilities by  
the Government whenever possible, lessening  
potential problems from large conces-  
sioner interests and

--amending the act to eliminate preferential  
renewal rights. (See pp. 15 and 21.)

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## CHAPTER 1

### INTRODUCTION

Pursuant to requests dated September 11, October 24, November 7, 1974, and May 23, 1975, from the Chairman of the Conservation, Energy, and Natural Resources Subcommittee, House Committee on Government Operations, and the Chairman, Subcommittee on Energy and Environment, House Committee on Small Business, we reviewed certain aspects of the National Park Service's management of concession operations, including

- monitoring and evaluating concession operations at Yosemite National Park by the Park Service,
- encouraging competition and small business in awarding concession contracts,
- establishing concessioner franchise fees,
- complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321) in approving new facilities, and
- data on Yosemite Park facilities and staffing.

The National Park Service was established by the act of August 25, 1916 (16 U.S.C. 1) to promote and regulate the use of national parks and monuments.

The act of October 9, 1965 (16 U.S.C. 20) (commonly referred to as the Concessions Policy Act of 1965) established detailed policies and procedures for administering concession operations. It provides that concession operations should be limited to those necessary and appropriate for public use and enjoyment of the national park areas while preserving and conserving the areas. The act also provides guidance on concession contracts, awards, extensions and renewals of contracts, and concession profits and franchise fees.

The Park Service administers about 300 park areas covering about 29 million acres of federally owned land and consists of a headquarters office in Washington, D.C., and eight regions, each headed by a regional director. A superintendent is appointed to manage the operations of each park.

As of January 1975 there were 7,487 permanent Park Service employees--529 at headquarters and 6,958 in the field. During fiscal year 1975, \$332 million was appropriated to the Park Service by the Congress primarily for operating the national park system.

In requesting us to review concession management by the Park Service, the subcommittees asked that we direct our attention to seven specific park areas, with particular attention paid to the Yosemite National Park. As agreed with the subcommittees, we did our field work at Yosemite National Park in California and the western regional office in San Francisco, California, and made our review of the other six park areas at Park Service headquarters in Washington, D.C.

The 1975 fund allocation, the number of concessioners operating under contracts, and the number of Park Service employees for the seven park areas were:

National park area	Fiscal year 1975 allocation of appropriated funds	Concessioners operating under contracts at December 26, 1974	Number of Park Service employees at January 4, 1975	
			Permanent	Part-time
Bryce Canyon, Utah	\$ 497,500	2	14	4
Cedar Breaks, Utah	100,200	0	2	1
Crater Lake, Oregon	1,711,600	1	18	4
Grand Canyon, Arizona	4,929,800	6	81	79
Yellowstone, Wyoming	7,495,900	2	95	156
Yosemite, California	6,420,900	4	125	176
Zion, Utah	893,700	2	28	13

As of December 26, 1974, there were 338 concessioners operating in the national park system--132 under contracts and 206 under permits. Permits are used to authorize commercial operations which are relatively minor in nature and in which the concessioner is not expected to construct or otherwise acquire fixed assets that cannot be readily removed. Concessioner gross receipts during calendar year 1974 for all parks were estimated at about \$125 million. The Park Service collected about \$2.1 million in franchise fees from concessioners during fiscal year 1974. Of this amount, about \$788,000 was collected by the Park Service for the seven park areas included in our review.

The scope of our review is discussed on page 42.

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## CHAPTER 2

### CONCESSION OPERATIONS AT YOSEMITE NATIONAL PARK

The Park Service has not effectively monitored and evaluated the concession operations of Yosemite Park and Curry Company (YPCC), the largest single concessioner in Yosemite Park. Our test checks raise questions as to whether (1) rates charged the public are reasonable and in accordance with law, (2) the safety and convenience of the general public are adequately considered, and (3) Government property is appropriately protected.

The act gives the Park Service wide latitude in implementing regulations and policies affecting the administration of the parks. We have reviewed the Park Service regulations and the Yosemite concession contracts, as requested, and did not find any inconsistencies with the act.

#### RATES CHARGED THE PUBLIC

The act provides that the reasonableness of rates charged the public by a concessioner shall be judged primarily by a comparison with rates currently charged for similar services and facilities, considering the length of season, peakloads, occupancy, availability, cost of labor and materials, type of patronage, and other related factors.

Under existing Park Service guidelines, the park superintendent has primary responsibility for insuring that the concessioner's rates are reasonable. To do this, he is required to

- review proposals for rate increases by concessioners and obtain from concessioners all comparisons and cost data used to support proposed increases,
- review all proposals for new concessioner facilities or services,
- conduct periodic price checks at various concessioner facilities to determine if concessioners are charging the authorized rates, and
- perform comparison studies to determine whether concessioner rates are reasonable.

Our review in Yosemite Park disclosed that price studies by park officials have not been made in sufficient detail to insure that prices are fair and reasonable. Looking and

grocery price studies did not consider such factors as the length of the tourist season, peakloads, occupancy rates, labor and material costs, and goods and services provided to the concessioner by the Park Service. Park Service guidelines for evaluating concessioners' rates do not include criteria for use by local Park Service officials in evaluating such factors.

#### Lodging rates at Yosemite

During late 1974 a Yosemite Park official surveyed lodging rates at several businesses outside the park to evaluate a proposed YPCC rate increase at various Yosemite lodging facilities. Park officials said the 1974 survey did not consider such factors provided in the act as the length of the tourist season, peakloads, occupancy rates, costs of labor and materials, and goods and services provided to the concessioner by the Park Service.

The superintendent approved rate increases for five types of lodging facilities where the survey indicated that comparable outside prices justified the increases. These increases were contingent upon improvements and corrections of certain deficiencies. Although the survey indicated that the lodging rates for three other types of facilities were higher in the park, the Park Service did not direct YPCC to decrease these rates.

The park superintendent said that he could never recall an instance in which a concessioner's rate was reduced. He also indicated that the survey was not extensive enough to support a rate decrease, but after we discussed the matter with him, he said a more detailed study would be done to determine if the lodging rates for the three types of facilities should be reduced.

We compared rates charged at the Yosemite Lodge, one of the concessioner's lodging facilities, with rates charged at nine facilities located outside the park and found that the rates charged at Yosemite Lodge were higher in all cases. The double occupancy rate at the Yosemite Lodge was \$26; rates of the nine facilities outside the park ranged from \$14 to \$25 with an average rate of about \$18. Although our comparison of the nine facilities did not consider the factors cited in the act, it did serve to show, on the basis of a general comparison of the rates, that the rate charged at the Yosemite Lodge is higher than rates charged by others for similar type accommodations. We believe that the Park Service should reevaluate the prior rate increases in accordance with the act's requirements.

### Markup on grocery sales

Grocery prices at Yosemite Park stores are required to be approved by the Park Service on the basis of a percentage markup. The Park Service established a schedule of such markups in which a maximum and an average markup are allowed for each type of item. For example, a grocery item included in the "staple grocery category," such as sugar or flour, can be marked up to a maximum of 35 percent, while the average markup for the entire category of such staple groceries must not exceed 25 percent. Park Service officials stated that they did not know how the specific markups for the various categories were established.

Because the Park Service could not provide us with the basis for the various percentage markups, we were unable to determine their validity.

A Park Service official, formerly responsible for concession management at Yosemite, said he conducted about seven price checks in grocery stores in Yosemite during 1973 and 1974 to determine if the current prices at the Yosemite grocery stores were within the allowable markup. Records were not available on such price checks and the only records that were available covered a price check made in 1970 on 13 grocery items. The prices were found to be within the percentage markup guidelines.

We also compared grocery prices in YPCC's grocery store in Yosemite Valley with prices in nine other stores which included a variety of chain and ranchain stores in resort, rural, and urban areas. We found that in eight of the nine stores the prices charged for similar items were lower than those in the YPCC grocery store. For these eight stores, the prices ranged from about 2 to 14 percent lower than prices for similar items in the YPCC store. For the ninth store, the prices of similar items were about 1 percent higher than those in the YPCC store.

Park Service officials said that they have not required concessioners to submit cost-of-goods data on a regular basis because they did not have sufficient staff members to evaluate this information. Without such data, Park Service officials cannot determine whether the markups are within the Park Service guidelines.

### Other factors that should be considered in price studies

Following are some of the factors that Park Service officials said were not considered in price approvals by them at

Yosemite and which affect the concessioner's business in the park compared with business outside the park.

--YPCO does not pay for the park land it uses and is exempt from real property taxes. YPCO does, however, pay a possessory interest tax to the county on its facilities and improvements.

--The Park Service provides snow removal and related services estimated at \$119,000 a year at YPCO's Badger Pass ski resort area.

--YPCO is permitted to graze without charge up to 300 horses and other livestock on 18,000 acres of land.

On the other hand, the YPCO assists the Park Service by maintaining a firehouse serving both concessioner and Park Service facilities.

#### DISCOUNTS TO EMPLOYEES

At the time of our review at Yosemite Park, the YPCO provided a variety of discounts to all Park Service employees, including a 10-percent discount at YPCO grocery stores, gift shops, studios, and sport shops; a 20-percent discount at YPCO restaurants and cafeterias; and a 50-percent discount at Badger Pass ski area on ski lifts, ski school, and equipment rentals.

This practice appeared to be in violation of the Department's regulations and Executive Order No. 11222 since the discounts are of monetary value and are given by a Park Service concessioner to Park Service employees.

Executive Order No. 11222, May 8, 1965, as amended, establishes standards of conduct for all Government employees. The Department of the Interior's regulations implementing this order are found in 43 C.F.R. 20.735-11. Both the Executive order and 43 C.F.R. 20.735-11 prohibit employees from accepting, directly or indirectly, anything of monetary value from one who (1) has, or is seeking to obtain contractual or other business or financial relations with the Department; (2) conducts operations or activities regulated by the Department; or (3) has interests that may be substantially affected by the employee's performance or nonperformance of his official duty.

We informally discussed with the Department's Office of the Solicitor the propriety of the concessioner granting discounts to permanently assigned Park Service employees. On May 6, 1975, the Park Service Director notified all regional directors to look into this practice and work with the park superintendents to insure its immediate termination should such practice exist.

NEED TO IMPROVE MAINTENANCE  
OF GOVERNMENT-OWNED FACILITIES  
USED BY YPCC

YPCC occupies 20 Government-owned buildings in Yosemite National Park ranging from a saddle shelter to several buildings at the Wawona Hotel complex. The Wawona Hotel complex consists of four buildings for guest lodging and a building to house employees. These facilities, some of which were built as far back as 1864, have been used by YPCC since 1925.

The YPCC concession contract requires YPCC to provide necessary maintenance and repairs to Government-owned facilities except for casualty damage or major repair or rebuilding which is the Park Service's responsibility. However, the Park Service has never established guidelines to define the types of maintenance and repairs which are YPCC's responsibility and the types of major repairs which are Park Service's responsibility. The Park Service administrative officer at Yosemite told us that the Park Service and YPCC are currently holding discussions to try to establish such guidelines.

In 1968, the Park Service Director established a policy requiring that annual maintenance and repair inspections be made by the Park Service on all Government-owned buildings occupied by concessioners. The Director said some concessioners had not been maintaining and repairing Government-owned buildings on a timely and regular basis which then resulted in a costly capital rehabilitation program.

Our review at Yosemite National Park showed the Park Service had conducted only three inspections of the Wawona Hotel and other buildings from 1968 through 1974--in 1969, 1971, and in 1973. The Park Service administrative officer at Yosemite said annual inspections were not always made because they have a low priority as far as park duties are concerned.

The reports on all those inspections indicated that some Wawona Hotel buildings were in poor condition and needed extensive repairs. The 1971 fire and safety inspection was conducted by the Park Service and several State of California inspectors, and revealed a number of structural, fire and safety hazards. They recommended that (1) all or at least parts of the Wawona Hotel be closed until necessary repairs were made, (2) the hotel's plumbing and wiring be brought up to building code requirements, (3) its exits be made fire safe, and (4) automatic sprinklers be installed.

We were unable to obtain a satisfactory answer concerning the inspectors' recommended repairs that were not made.

After our discussions with Park Service officials on this matter, we were told that a fire and safety inspection would be made of the Wawona Hotel buildings.

On May 14, 1975, the park superintendent told us of the results of fire, safety, sanitation, and structural inspections of the Wawona Hotel conducted in January 1975 through March 1975 by the Park Service, a representative from the U.S. Public Health Service, and a private structural engineering firm.

The engineering firm stated that the Wawona complex showed signs of poor maintenance; in particular, there was extensive water damage due to leaking roofs. The report said that should this condition continue to exist, the buildings would deteriorate rapidly.

According to the superintendent, followup inspections and meetings were held to discuss the severity of the hazards and specific corrective action, including target dates and funding to attain satisfactory compliance. The superintendent said that most of the major hazards had been corrected. However, certain major hazards, such as fireproofing the boiler room and other rooms used for storage of combustibles, had not yet been corrected. We did not evaluate the adequacy of the corrective actions because we had completed our work at the park before they were taken. Although an electrical inspection to determine the existence of electrical hazards had not been done, one had been requested.

When making fire and safety inspections, Park Service personnel are to follow the guidelines issued by the Department concerning property inspections and safety management. These guidelines direct Park Service personnel to use the fire and safety standards adopted by nationally recognized professional associations such as the National Fire Protection Association, applicable Federal standards such as those of the Public Health Service, and State standards. Park Service officials were unable to tell us what specific standards were used in the earlier inspections. However, for the 1975 inspection, we were told that the inspectors used the State of California, Public Health Service, and Occupational Safety and Health Administration standards.

USE OF PARKS FOR CONVENTIONS,  
SEMINARS, AND SALES MEETINGS

The subcommittees asked that we advise them whether the use of national park facilities for conventions, seminars, and sales meetings is authorized by the Concessions Policy Act of 1965, Park Service regulations and concession contracts.



The act provides the Secretary with broad authority, and the basis to determine what is an appropriate use of park facilities. Although the act does not specifically mention using park facilities for conventions, seminars, and sales meetings, we believe it does not preclude the Park Service from allowing a concessioner to make the facilities available for such uses. The provisions of the Park Service standard concession contract and the Park Service's regulations also do not preclude using park facilities for such purposes.

Park Service officials told us that concessioners have, for many years, hosted such gatherings in "off seasons" with the Park Service's approval. They considered this to be a sound business practice which provided certain people the opportunity to visit the park who might not otherwise do so.

Park Service officials also told us that it has been their policy to discourage using the parks for conventions and group meetings during the "heavy vacation seasons"--June through September. We noted, however, that during 1974, conventions and other group meetings were held during these peak periods at five of the seven national park areas mentioned in the subcommittees' request. Moreover, our review of visitor data indicated that visits by the public generally increased substantially during June through September of 1974. Examples of groups which held or planned to hold meetings at these parks included manufacturing and sales organizations, automobile clubs, and professional associations of doctors, accountants, dentists, teachers, real estate agents, and bankers.

The following table shows the number of group meetings held during 1974 at the seven national park areas.

<u>National park area</u>	<u>Number of meetings held during 1974</u>	<u>Meeting held during</u>	
		<u>Peak season (June thru September)</u>	<u>Off-season</u>
Bryce Canyon, Utah	8	8	-
Cedar Breaks, Utah	-	-	-
Crater Lake, Oregon	-	-	-
Grand Canyon, Arizona	13	2	11
Yellowstone, Wyoming	5	5	-
Yosemite, California	102	27	75
Zion, Utah	<u>15</u>	<u>11</u>	<u>4</u>
Total	<u>143</u>	<u>53</u>	<u>90</u>

Use of facilities at  
Yosemite for conventions

Our review of Yosemite data indicated that the number of visitors increased substantially from May through September. During 1974, 2.6 percent of the available lodging (about 10,000 room nights) were used by persons attending conventions or group meetings at Yosemite National Park. About 50 percent of the 10,000 room nights used for conventions were during the peak season of May through September.

The Ahwahnee Hotel and Yosemite Lodge, where most conventions are held, are filled to near capacity during the peak season. During May through September 1974, they were about 99 percent occupied.

Convention and group bookings are generally heaviest at the Ahwahnee Hotel. For 1975, 51 conventions and group meetings are scheduled to be held there, with persons attending occupying about 23 percent of the total room nights available. About 19 percent of the total room nights available during May through September were scheduled to be used for conventions and group meetings.

Additional facilities, such as dining services, have occasionally been unavailable to the general public when conventions were being held. For example, the entire dining hall of one facility was reserved by a professional association for eight meals during a 4-day period in May 1974.

Although the superintendent of Yosemite National Park said he was aware that conventions were being held, he had not required the concessioner to submit to him an advance schedule of the conventions. As early as October 1, 1974, the YPCC convention calendar showed that a wine festival was scheduled to be held in January 1975. However, the superintendent of Yosemite did not know until December that the wine festival was scheduled. On December 9, 1974, he wrote to YPCC expressing doubt that such an activity was appropriate and suggested that, in the future, YPCC obtain Park Service approval to use park facilities or services for the events before advertising them to the public. The superintendent approved the wine festival, however, because promotional materials had already been distributed and the festival was already completely reserved.

After we questioned the Park Service on its lack of monitoring the use of its facilities for conventions, the Director of the Western Region, on January 3, 1975, sent a letter to YPCC requesting it to advise the Park Service as

far in advance as possible of the use of concession facilities for conventions. A similar letter was sent to the other concessioners in the region. This letter also stated that bookings of special groups must never in any way exclude or impair the services being provided to the general visiting public.

On January 14, 1975, YPCC offered to cancel all 1975 summer conventions, but the park superintendent said such action was not necessary since these groups should not arbitrarily be denied accommodations. He left it to the discretion of YPCC to decide which conventions to cancel, if any and said that in the future such meetings should be scheduled for other times of the year.

#### CONCLUSIONS

The Park Service had not adequately monitored (1) concessioner prices to insure their appropriateness, (2) the upkeep of Government-owned facilities used by concessioners to insure their proper maintenance and safe occupancy, and (3) the use of the park for conventions. As a result, the Park Service, in our view, cannot adequately determine whether visitors, concessioners, and the government are being treated equitably.

Park Service guidelines for approval of concessioner prices do not contain criteria for evaluating such factors as length of tourist season, peakloads, rates of occupancy, cost of labor and materials, goods and services provided by the Park Service to the concessioner at no charge, and services performed by the concessioner in assisting the Park Service. Also guidelines do not contain a clear definition of the type of maintenance and repairs which are the concessioner's responsibility.

Local Park Service officials need to make required inspections and insure that the facilities are maintained properly and necessary repairs are made. The Park Service should take prompt action to resolve the problems noted in the recent inspections at Kawona and to resolve any problems noted in the proposed electrical inspection.

The Director of the western region required in January 1975 that he be given notice as far in advance as is possible by concessioners of any proposed convention or group use of concession facilities in the western Region. However, this requirement does not apply to the entire park system.

Conventions should be discouraged during peak seasons and should not be held at anytime unless the concessioner gives adequate notice of his plans and demonstrates satisfactorily how such conventions will not interfere with the

services being provided to the general visiting public. Any proposals which do not satisfactorily provide such plans and assurances should not be authorized.

RECOMMENDATIONS TO THE  
SECRETARY OF THE INTERIOR

To insure that rates charged the public are reasonable and in accordance with law, the safety and convenience of the general public is adequately considered, and Government property adequately protected, the Secretary of the interior should require the Park Service to:

- Develop and publish in the Federal Register, guidelines for approval of concessioner prices containing criteria for evaluating such factors as the length of the tourist season, peakloads, rates of occupancy, cost of labor and materials, and goods and services provided by the Park Service to the concessioner at no charge, and also services performed by the concessioner in assisting the Park Service.
- Reevaluate existing rates in accordance with the act's requirements.
- Develop and publish in the Federal Register, guidelines to clearly define the type of maintenance and repair which are the concessioner's responsibility.
- Reemphasize to local Park Service officials the need to perform required inspections and to insure that the facilities are maintained properly and necessary repairs are made.
- Develop and publish in the Federal Register, guidelines discouraging conventions during the peak season and requiring from the concessioner adequate advance notice and satisfactory demonstration on how such conventions will not interfere with the services being provided the general visiting public.

Park Service officials admitted that in the past they have been approving concession prices without adequately considering all the criteria cited in the act. They added that a team of Park Service personnel was established in February 1975 to study ways in which the legislative criteria could be incorporated in the rate approval function. They said this study, which is currently underway, is to be completed about July 1975.

Park Service officials agreed on the need to monitor conventions and stated that they would establish a monitoring system after they had examined the operation of the Western Region system.

### CHAPTER 3

#### AWARD AND RENEWAL OF CONCESSION CONTRACTS

The subcommittees requested us to determine (1) what the Park Service was doing to encourage competition in the award of concession contracts, (2) the extent to which the Park Service encourages small business concerns to become concessioners, and (3) the Park Service's procedures for approving transfers of concession operations, specifically for purchasing concession operations at Yosemite National Park by the Music Corporation of America, Inc. (MCA) which purchased controlling interest in YPOC in August 1973.

Under the Concessions Policy Act, the Park Service is authorized to have a single concessioner operate all similar services and facilities in a national park area. Also, the act provides that the Secretary shall encourage the continuity of concession operations by giving preference to existing concessioners who have performed satisfactorily whenever a new or renewal contract is to be awarded.

Preferential treatment, according to a Park Service official, means that the Park Service always renews contracts with existing concessioners who, in its opinion, have performed in a satisfactory manner. Although the Park Service notifies the public of concession opportunities, it does very little to encourage competition in the awarding of concession contracts. The Park Service does not, in our view, have sufficient information to determine whether concessioners are operating in a satisfactory manner and consequently are entitled to renew their existing contract or provide new or additional services.

The Park Service has a small business "set-aside" policy for construction, supply, and service contracts but not for its concession contracts. We believe the policy of preferring to have only one concessioner in each park reduces the opportunities for small businesses in concession activities.

Concerning the transfer of existing concession operations, the Park Service follows the general rule of approving all such transfers unless it can show good cause for denying such transfers. As a result, it does not actively engage in encouraging competition in such transfers.

#### POLICIES AND PROCEDURES FOR AWARDING CONCESSION CONTRACTS

Under the act, the Park Service is given broad authority to award and renew concession contracts, including giving

preference to existing concessioners who have performed satisfactorily. However, the Secretary is required, under the act, to give public notice of his intention to grant contract extensions, renewals of contracts, or enter into new contracts. The Secretary is to consider and evaluate all proposals received as a result of such public notice.

#### New concessions

When the Park Service decides that new or additional facilities or services are needed, the act and the concessions contract generally give an existing concessioner, who is providing comparable or similar services, a preferential right to provide the new or additional services under his existing contract. If there is no existing concessioner providing similar services, a prospectus, describing the proposed concession activities, is publicized through press releases and newspapers and is also mailed to parties who previously have notified the Park Service that they are interested in obtaining a concession contract.

During calendar year 1974, five contracts with new concessioners were awarded. The Park Service sent a copy of the prospectus to an average of 50 prospective concessioners for four of the five contracts. It did not publicize a prospectus for the fifth contract which was awarded to an existing concessioner when the Park Service took over the operation of a recreation area from New Jersey. A review of the response to the four contracts that were advertised showed that a total of 10 offers were received by the Park Service ranging from 1 to 4 offers. Park Service officials said this type of response was typical.

#### Existing concessions

Existing concession opportunities are required to be publicized by the Park Service through the Federal Register. Also, a copy of the notice to renew the contract is required to be sent by the Park Service to parties who have previously expressed an interest in such activities. After such notice, anyone expressing further interest is given a fact sheet on the concession operations. A fact sheet contains basic information relative to the type of services to be provided, the terms of the contract, franchise fees, and rates and charges to the public. The Park Service's policy is to allow interested applicants at least 30 days, after notification in the Federal Register, to submit their offers.

The public notice and the fact sheet usually state that the existing concessioner has performed his obligations to

the satisfaction of the Park Service and is entitled to preferential treatment in the negotiation and award of the new contract. This statement may very well reduce the number of interested parties who otherwise would submit an offer. Under the act the Secretary shall give preference in the renewal of a contract to those who have performed their obligations to his satisfaction.

However, a report by Interior's Office of Audit and Investigation pointed out that there is no advantage to the Park Service publicizing and advertising concession opportunities to prospective interested parties because the Secretary points out that preference will be given to the existing concessioners. In replying to this report the Park Service said that its encouragement to continue operating with an existing satisfactory concessioner is in full conformity with the act.

During calendar year 1974, 11 contracts for existing concessions were renewed. In all cases, the Park Service public notice stated that the existing concessioners were operating satisfactorily and were entitled to preference in the negotiation of new contracts. A Park Service official said he did not receive any responses from other parties on these 11 contracts or on the fact sheets that were issued in connection with contract renewals from July 1, 1972, to December 31, 1974. All such contracts were awarded to existing concessioners.

The Deputy Director of the Park Service said that pursuant to the Concessions Policy Act, the Park Service always renews the contract with the existing concessioners, if they have performed satisfactorily.

#### POSSESSORY INTEREST

The Concessions Policy Act of 1965 directs the Secretary to encourage concessioners to construct desirable facilities to accommodate park visitors. In order to promote sizeable investment in park facilities by concessioners and make possible a return of their investment, the Park Service awards concession contracts for terms of up to 30 years.

The act recognizes concessioners' possessory interest in facilities they have acquired or constructed. The Park Service also recognizes possessory interest in an improvement, addition, or alteration of a capital nature to a Government-owned building or structure.

Possessory interest is the right of a concessioner to be compensated for the value of the improvements he has made, if



the Government should end his contract or otherwise deprive him of the use and benefit of those improvements. The act and Park Service contracts provide general guidelines for determining the amount of the compensation for the possessory interest.

The Departmental Concessions Management Task Force Report of May 15, 1975, stated the following concerning possessory interest:

"A concessioner, although supposedly having only limited contractual rights to operate within a park, in fact has a property right which can only be extinguished by the payment of just compensation. In the most extreme situation, the Park Service could terminate a concession contract for substandard performance and yet be required to compensate the concessioner for his possessory interest. More realistically, the Park Service is discouraged from terminating concession contracts where large possessory interests are at stake because either new concessioners with sufficient investment funds may not be prepared to come forward due to a history of unprofitability of the operation or other factors or, appropriated funds are not available to the Park Service to compensate for the possessory interest. \* \* \*"

The subcommittee asked us whether the Concessions Policy Act requires that a concessioner obtain a possessory interest in Government-owned facilities in cases where the concessioner modifies, repairs, expands, or rehabilitates those facilities.

We believe that the Concessions Policy Act gives a concessioner a possessory interest in improvements, such as additions or improvements of a capital nature, which he makes to Government-owned facilities, unless the concessioner affirmatively relinquishes or waives his possessory interest.

PARK SERVICE POLICY ON SMALL BUSINESS  
SET-ASIDE AND ON PREFERENCE FOR ONE  
CONCESSIONER IN EACH PARK

The Park Service has a small business "set-aside" policy for construction, supply, and service contracts but not for its concession contracts.

The Department defines a construction firm as a small business if its annual receipts for the preceding fiscal year or its average annual receipts for the preceding 3 fiscal years do not exceed \$750,000.

Construction, supply,  
and service contracts

Park Service officials said its small business policy regarding construction contracts is to set aside, for award to small businesses, all construction, including alteration, maintenance, and repairs estimated at \$500,000 or less. Construction awards estimated over \$500,000 are also set aside for award to small businesses under certain conditions. A Park Service official said the Park Service also sets aside, for small businesses, certain types of service and supply procurements. These, however, are awarded on a case-by-case basis.

Park Service officials stated that they do not have specific goals for the dollar amount or the percentage of total Park Service procurements which should be awarded to small businesses. Data furnished by the Park Service shows that during fiscal year 1974, it purchased about \$89.5 million in goods and services, of which \$66 million (74 percent) was purchased from small businesses.

Concession contracts

The Deputy Director of the Park Service said large firms are usually awarded concession contracts to provide food and lodging services to the major national parks because small businesses usually do not have the financial resources necessary to operate such facilities. He added that for food and lodging services, the Park Service prefers to have only one concessioner in each national park because (1) it is easier for the Park Service to deal with a single concessioner, and (2) if there were more than one concessioner, they would compete among themselves with some making a profit and others incurring losses. He added that, if there is a single concessioner, he can "balance out his profitable concession operations against nonprofitable operations."

Minority business enterprise agreement

The Park Service has established a policy of providing information and assistance to minority business enterprises that may desire to operate concessions in the national parks. Pursuant to a September 4, 1973, agreement between the Park Service and the Office of Minority Business Enterprise, Department of Commerce, the Park Service has, from September 4, 1973, through June 6, 1975, notified the Enterprise of 29 concession opportunities for minority business enterprises at 15 national parks and monuments. The Enterprise, however, had not notified the Park Service, as of June 6, 1975, of any minority business concessioners that may be interested. Consequently,

no concession contracts or permits had been awarded to minority businesses under the Park Service-Office of Minority Business Enterprise agreement.

#### TRANSFERS OF CONCESSIONS

Park Service concession contracts state that the concessioner shall not transfer or assign his contract unless the transfer or assignment is approved, in writing, by the Park Service. Park Service officials said the following steps were generally followed in transfers of concession operations.

1. The existing concessioner or the prospective concessioner notifies the Park Service, in writing, that they propose to transfer or would like to operate the concession.
2. The prospective concessioner is required to submit pertinent information to the Park Service on:
  - a. Terms of the proposed purchase agreement.
  - b. Financial position.
  - c. Related business experiences.
  - d. A plan of operation, specifically noting any changes in present operations.
  - e. Personal and business references.
3. The Park Service procedure provides for reviewing and evaluating the above information to determine whether it should grant the approval of the transfer.

The above steps have not been formalized in regulations, nor have any formal criteria been established on satisfactory related business experience or financial position for a new concessioner.

Park Service officials said it will not deny the right of an existing concessioner to sell his concession to whomever he wants; however, the new concessioner must obtain Park Service's approval before he can operate the concession. As a general rule, unless the Park Service can show good cause for denying such approval, the new concessioner will be given approval to operate the concession. Also, when a concession is transferred from one concessioner to another, the terms of the existing contract are usually assigned to the new

concessioner. However, the Park Service will give consideration to the negotiation of a new contract with the new concessioner should he so request.

#### MCA purchase of YPCC

Before purchasing 53 percent of YPCC stock from the United States Natural Resources, Inc., in August 1973, MCA informed the Park Service of the proposed purchase of the YPCC concession operations at Yosemite National Park and requested that it be considered by the Park Service as an acceptable concessioner. In June 1973, the Park Service advised MCA that, based upon its previous experience with subsidiaries of MCA that operate concessions at other locations--Landmark Services, Inc., a tour bus service in the Washington, D.C., area, and Almours Securities, Inc., a food service concession in Mount Vernon, Virginia--the Park Service had no objection to MCA's acquisition of YPCC and considered MCA an acceptable concessioner at Yosemite.

A Park Service official told us that the Park Service did not financially evaluate MCA during the Park Service's approval process because MCA had the resources to purchase the stock of YPCC, which was an ongoing business with adequate financial resources. The official also said that Park Service did not make an experience evaluation of MCA because MCA planned to retain the existing management personnel of the YPCC.

#### CONCLUSIONS

Based primarily on our review of concession operations at Yosemite National Park as discussed in chapter 2, the Park Service does not have sufficient information to determine whether existing concessioners are performing satisfactorily and consequently, are entitled to be given preference when a contract is expanded or renewed. For example, as mentioned previously, the Park Service does not obtain sufficient data to adequately determine whether the prices charged the public for goods and services are fair and reasonable and are in line with the amounts permitted under the terms of the contract between the Park Service and the concessioners.

We believe that competition usually encourages improved services and may well outweigh benefits derived from preferential renewal rights and having one concessioner running park facilities. Although preferential renewal rights are not absolute, the Park Service policy is to always renew contracts with existing concessioners they believe are operating satisfactorily.

We believe that the policy of preferring to have only one concessioner in each park reduces the opportunities for small businesses in concession activities. Among the problems of having one large business control all concessions in a park is that actions available to the Park Service in enforcing concessioner compliance are limited. With one large concessioner, the Park Service cannot, from a practical point of view, close him down to enforce compliance, because his sizeable possessory interest makes it difficult to obtain funds to buy out the concessioner.

Government financing of park facilities construction could lessen potential problems from large possessory interests and make possible shorter term contracts, thereby encouraging competition.

The Park Service does not actively engage in encouraging competition in transfers of concession operations.

RECOMMENDATIONS TO THE  
SECRETARY OF THE INTERIOR

To insure that concession contracts are awarded only to concessioners with satisfactory performance and transferred only to concessioners with satisfactory experience and finances, we recommend that the Secretary of the Interior require the Park Service to develop and publish in the Federal Register, standards for evaluating satisfactory performance by a concessioner and concession transfer procedures, including standards for judging satisfactory selected business experiences and financial position for new concessions.

MATTERS FOR CONSIDERATION  
BY THE CONGRESS

We recognize that the act encourages continuity in concession operations. If the Congress wishes to provide for more competition in the award and renewal of concession contracts it can do so by (1) encouraging Government construction of facilities whenever possible, thereby lessening any potential problems from large possessory interests, and (2) amending the Concessions Policy Act to eliminate preferential renewal rights.

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## CHAPTER 4

### ESTABLISHING CONCESSIONER FRANCHISE FEES

The subcommittees requested us to determine (1) the basis and intent used in establishing the franchise fee formula and (2) if the formula was applied correctly and consistently in the latest fee negotiations for nine specific contracts.

The Concessions Policy Act of 1965 provides that franchise fees should be based on the value to the concessioner of the privileges granted under the contract. Park Service procedures provide for establishing a franchise fee rate based on a specific formula. The franchise fee paid by the concessioner is determined by applying the rate to the concessioner's gross receipts. This rate, however, may be adjusted based on certain economic factors, such as the rate of return on sales and investment, and net profit. Concession contracts generally contain a provision that the rate established in the contract will be reviewed at 5-year intervals. Contracts awarded or renewed since passage of the act provide that any adjustments in the rate can only be made with the concurrence of both parties.

We could not evaluate the basis for the formula, because essential supporting data was not available. Also, we noted that specific criteria had not been established by the Park Service to help its personnel evaluate factors which may warrant adjustments in the formula rate. Adequate documentation was not always available to support the rates charged the concessioner when the rate differed from that established by the Park Service under its formula.

#### FORMULA RATE GUIDELINES

The Concessions Policy Act of 1965 states that franchise fees are to be determined by considering the "probable value to a concessioner of the privileges granted under the contract." The act further states that such value is the opportunity for the concessioner to realize net profit in relation to gross receipts and capital invested. Revenue accruing to the United States shall be subordinate to the objectives of protecting and preserving the natural park areas and providing adequate and appropriate services at reasonable rates to the public.

The Park Service in 1965 developed a formula to help establish franchise fee rates. Under this method, a concessioner's sales should be segregated into four basic categories and the formula rate established by applying a

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specific rate to an existing concessioner's past actual sales or a new concessioner's estimated future sales for each type of operation. The four basic types of concession operations and the rates applied to sales in each category are (1) food and lodging--3/4 percent, (2) transportation, service stations, and photographic supplies and services--3 percent, (3) souvenirs--5 percent, and (4) all other operations--1-1/2 percent.

For example, in October 1973, the formula rate for one concessioner was 1.64 percent based on his average annual gross sales, from 1968 through 1972, for the four categories of operations as follows:

<u>Category</u>	<u>Average annual gross sales 1968 to 1972</u>	<u>Formula rate</u>	<u>Amount of franchise fee</u>
Food and lodging services	\$4,043,500	x 3/4% =	\$ 30,326
Transportation, service stations and photographic sales and services	1,199,987	x 3 =	36,000
Souvenirs	637,083	x 5 =	31,854
All other sales	<u>1,505,530</u>	x 1-1/2 =	<u>22,583</u>
Total	<u>\$7,386,100</u>		<u>\$120,763</u>

Formula rate:  $\$120,763 \div \$7,386,100 = 1.64$  percent.

A Park Service official said that the Park Service made detailed studies of selected concessioners' operations in arriving at the rate for each category of sales. Sales, expenses, and profits were taken into consideration, and comparisons were made with similar businesses operating outside of the national parks. The official said, however, that the Park Service did not maintain any documentation on these studies.

Because essential supporting data was not available, we could not evaluate the basis used by the Park Service in establishing its formula and whether it was valid.

Park Service guidelines provide that the franchise fee rate charged a concessioner is to be the formula rate unless pertinent economic factors warrant adjusting the formula rate. However, the Park Service has not prepared any criteria or guidance for concession management personnel to use in evaluating pertinent economic factors that may warrant increasing or decreasing the formula rate. Concession management personnel had to rely upon their personal judgment in considering situations where economic factors warranted such an adjustment.

When the YPCC contract was renewed in 1963, the franchise fee rate was set at 0.75 percent. In 1968, at the end of YPCC's first 5-year period, the franchise fee rate, on the basis of the formula, was determined to be 1.55 percent. Park Service officials decided that the concessioner's rates of return on investment and gross receipts were reasonable and, therefore, they did not request that the rate be adjusted to the formula rate. The existing rate of 0.75 percent was retained from 1968 to 1973.

In 1973, at the end of the second 5-year period of the contract, the Park Service proposed to raise the franchise fee because YPCC's 1973 net income after taxes of \$1.6 million was nearly double that for 1972, which was \$828,000. The rate, on the basis of the franchise fee formula, was determined by the Park Service to be 1.55 percent. Further discussion of the YPCC rate negotiations is contained in a subsequent section of this chapter.

#### DOCUMENTATION NEEDED TO SUPPORT VARIANCES FROM FORMULA RATES

Park Service guidelines provide that any adjustments made in arriving at a fee which is higher or lower than the established formula fee must be fully documented.

The Subcommittees asked us to review the later reconsideration of the franchise fee rates for the nine contracts. Two of the nine contracts were recently awarded and their franchise fee rates were not yet due for reconsideration and reconsideration for one contract had not been completed as of June 1975. Reconsideration of the franchise fee rates has been completed for the six remaining contracts.

For two of the six contracts, the concessioners requested rate reductions in their franchise fees which the Park Service subsequently approved based on documentation supplied by the concessioners in support of their requests. For the remaining



four contracts, neither the concessioner nor the Park Service requested a rate change. Therefore, the rates used during the previous 5-year period were again assigned by the Park Service for the next 5 years. Rates assigned for the four contracts were:

<u>Formula rate</u>	<u>Rate used</u>	<u>Rate used over (+) under (-) formula rate</u>
1.76	1.25	-0.51
2.64	2.50	-0.14
1.56	1.50	-0.06
1.64	2.00	+0.36

There was no justification given for continuing to use the existing rates other than a statement by the Park Service that the concessioner's profit was not considered to be excessive. In the one case where the rate used exceeded the formula rate, a Park Service official said that Park Service had a policy of not initiating action to lower a franchise fee to place it more in line with the formula rate.

#### WAIVER OF FRANCHISE FEES

Park Service policy provides that franchise fees may be waived for financial loss because of unanticipated circumstances beyond the concessioner's control and other than normal business risks. For the 2-1/2-year period from July 1, 1972, through December 31, 1974, the Park Service received 22 requests for waivers and approved 11 for a total of \$121,235. During this same period \$4.5 million in franchise fees were collected.

The Park Service's written procedures on waiver of concessioner franchise fees are contained in two memorandums dated November 14, 1972, and January 24, 1974, from the Office of the Director to the Regional Directors. The Park Service does not inform concessioners that they must request a waiver of the franchise fee in writing before the fee is due and payable, and it has not notified concessioners or the public of its policies concerning the circumstances under which it will waive the fee.

The subcommittees asked for our opinion on the Secretary's authority to waive franchise fees. The Concessions Policy Act gives the Secretary authority to (1) take necessary action to encourage and enable concessioners to accommodate visitors, (2) subordinate consideration of Federal revenue to objectives of providing adequate and appropriate services at reasonable rates and (3) give a reasonable opportunity to the concessioner

to realize a profit. We believe that this constitutes adequate statutory authority for a policy of waiver such as that now in effect.

#### RECONSIDERATION OF FEE RATE

Park Service concession contracts generally contain a provision that the franchise fees be evaluated at 5-year intervals. However, the contracts do not provide for settling disputes that may arise between the parties when adjustments in the franchise fees are discussed. If the Park Service and the concessioner cannot agree on the amount of the new fee, neither party can require a revision. Park Service personnel said that such disputes had not occurred very frequently.

As previously noted, in November 1973, the Park Service proposed to renegotiate the YPCC franchise fee. Correspondence was exchanged and meetings held through January 23, 1974. YPCC officials believed that because of the effect of the energy crisis on travel and the number of capital improvements to be made by YPCC, the fee should remain at 0.75 percent.

From January 23, 1974, through December 19, 1974, there were no meetings or correspondence between the Park Service and YPCC on this matter. On December 19, 1974, the western region director rejected YPCC's above stated reasons for retaining the present fee rate, and he requested a meeting to discuss the fee rate.

Park Service and YPCC officials met in April and June 1975 and discussed the franchise fee rate, but no agreement was reached. Correspondence in Park Service files indicated YPCC's unwillingness to promptly resolve the franchise fee negotiation separate and apart from other considerations.

#### CONCLUSIONS

Because essential data relative to the development of the franchise fee formula was not available and park personnel could not provide satisfactory information other than a description of the general method used to develop it, we could not evaluate the basis used by the Park Service in establishing its formula to determine whether it was proper.

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED

Park Service personnel computed the formula rates but then retained, without adequate justification or required supporting documentation, the previously existing rates even though several of these varied considerably from the formula rate.

The Park Service has not established and published in the Federal Register, guidelines that establish criteria to help evaluate pertinent economic factors which may warrant changes in the established formula rate and that provide procedures for the waiver of franchise fees.

Also, the Park Service has not established specific criteria on an acceptable rate of return on gross sales and investment for various types of operations, and on the relative importance of gross sales, net profit, and return on investment.

We believe a more effective renegotiation provision should be included in each new concession contract, to resolve disputes arising during redetermination of the franchise fee. This provision should allow for any dispute to be decided by the Government contracting officer. In the event the findings are not satisfactory to the concessioner, he should have the right of appeal to the Secretary of the Interior whose decision made in good faith and supported by substantial evidence will be final and conclusive.

RECOMMENDATIONS TO THE  
SECRETARY OF THE INTERIOR

In order to aid Park Service personnel in establishing and waiving franchise fees and to inform the public of Park Service policies and procedures in this area, we recommend that the Secretary of the Interior require the Park Service to:

- Restudy its franchise fee rate structure and make improvements that may be indicated.
- Develop and publicize in the Federal Register, guidelines that establish criteria to help evaluate pertinent economic factors which may warrant changes in the established formula rate and that provide procedures for waiver of franchise fees. This should include specific criteria on an acceptable rate of return on gross sales and investment for various types of operations and on the relative importance of gross sales, net profit, and return on investment.

--Reemphasize the need to provide adequate documentation for rates actually charged when such rates differ from the rates set by the formula.

--Revise the concession contract renegotiation provision to allow for any dispute to be decided by the Government contracting officer, and that in the event the findings are not satisfactory to the concessioner, he should have the right of appeal to the Secretary of the Interior whose decision will be final and conclusive.

Park Service officials generally agreed with the above conclusions and recommendations. However, they said that presently they do not have the necessary staff to restudy the franchise fee rate structure or establish criteria for evaluating economic factors. They were unable to give us an estimate as to when such a staff would be available.

ALL INFORMATION AVAILABLE

## CHAPTER 5

### ENVIRONMENTAL STUDIES AND PARK FACILITIES

The subcommittees asked us to determine the extent to which the Park Service has complied with the National Environmental Policy Act of 1969 (NEPA) requirements in considering the need to add more public accommodations or refurbishing existing accommodations at Yosemite National Park during the past 2 to 3 years. We were also requested to review the Park Service policy of providing an opportunity for the public to review and comment on the plans of the concessioners and/or the Park Service for further development in the park areas.

The subcommittees requested that we determine (1) what types of facilities for public accommodations currently exist or are planned for future construction by either the Park Service or the concessioners in the seven national park areas, (2) what types of facilities the Park Service believes are "necessary and appropriate for public use and enjoyment," and (3) whether the existing and planned facilities are authorized by the Concessions Policy Act of 1965.

The Concessions Policy Act of 1965 provides that concessioner facilities and services shall be limited to those necessary and appropriate for public use and enjoyment of the national park area in which they are located and shall be consistent with the preservation and conservation of the areas.

#### ADDITIONAL GUIDANCE NEEDED TO IMPROVE COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

The National Environmental Policy Act of 1969 requires all Federal agencies to prepare environmental impact statements in connection with their proposals for major Federal actions significantly affecting the quality of the environment. The Council on Environmental Quality (CEQ) guidelines for preparing environmental impact statements provide that Federal agencies will, in consultation with other appropriate Federal, State, and local agencies, and the public, assess the potential environmental impact of major Federal actions significantly affecting the quality of the human environment as early as possible and in all cases before agency decisions.

Before issuing its own formal guidelines in July 1974, the Park Service was using primarily CEQ and Interior guidelines supplemented by internal memorandums. Park Service officials said that these guidelines were inadequate

and do not specify the type of documentation needed to meet the act's requirements. Also, they do not provide specific criteria for Park Service personnel to use in deciding whether an action has a major environmental impact.

The Department's NEPA guidelines, dated September 27, 1971, state that the public should be provided with sufficient material in a timely manner to be aware of the plans and programs having environmental impact. Such material should be made available to obtain the views of all interested parties. Also, the Federal Register is supposed to be used by the Park Service to publish notices of hearings on matters affecting the environment of the parks.

Yosemite National Park officials told us that the two ways they have satisfied the NEPA requirements for a proposed project, which may have an important impact on the environment, were (1) to develop an environmental impact statement for CEQ review or (2) make a decision that the project would have a "minor" environmental impact and issue a declaration that an environmental impact statement was not required. The latter is called a negative or minor environmental impact declaration. The regional director generally makes the final decision as to whether a negative declaration or minor impact statement should be issued. Park Service officials said they interpreted the NEPA and Interior guidelines that were in effect from 1972 to 1974 to mean that public review of projects receiving negative or minor declarations were not required.

Our review of environmental reports on construction projects planned or approved in Yosemite from April 1971 through April 1974 showed that the Park Service did not prepare a final environmental impact statement for any of the 38 projects. There was no record of any environmental assessment in Park Service project files for 18 projects, apparently because the Park Service considered that the projects had no environmental impact. The Park Service prepared a negative or minor declaration for 14 projects and a draft environmental study for 6 projects. The following table summarizes the types of environmental statements prepared for these projects.

Type of environmental statement prepared	Planned or approved construction projects in Yosemite National Park--April 1971 to April 1974		
	National Park Service	Concessioner	Total
No record of any environmental assessment in Park Service project files	17	1	18
Draft environmental study	5	1	6
Negative or minor declaration	12	2	14
Final environmental impact statements (CEQ approval)	<u>0</u>	<u>0</u>	<u>0</u>
Total	<u>34</u>	<u>4</u>	<u>38</u>

Yosemite Park and Curry Co. Projects

We reviewed environmental studies on three YPCC construction projects noted in the above table; the fourth project noted in the table had been postponed. Although the projects deal with concessioner facilities, the Park Service, as mentioned previously, is responsible for preparing the documents necessary to satisfy the NEPA requirements.

The draft environmental statement for a project to replace a ski lift was issued in May 1972, and indicated potential adverse impact because of the removal of trees, increased amounts of sewage, and possible increases in the number of visitors. Because of these factors, a new proposal was developed. It increased ski lift capacity but eliminated or reduced other possible adverse impacts such as slope clearing, tree removal, and road construction. The superintendent said the environmental appraisal showed that only minimum impact would result from the project, and, therefore, decided an environmental impact statement was not required.

The second project was for the reconstruction of Curry Village cafeteria which burned down in April 1973. A YPCC official indicated that because this construction was only a

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replacement of an existing facility, there was no major environmental implications. Park Service officials concluded that the proposed project had no major impact and public notice was not made as it was not required at that time.

Another environmental study was on a project for improvements to be made in employees' housing. In November 1974, YPCC replaced 3 of the 86 tent housing units for employees with a mobile home type facility. The replacement was a pilot project and if it were considered successful, YPCC would consider installing more of these units. An environmental study on the impact of the pilot project was made by the Park Service in October 1974 and determined to be insignificant.

#### National Park Service projects

Of the 34 construction projects planned or approved by the Park Service since April 1971, 19 related primarily to improvements in utilities. We reviewed the environmental studies for two projects that were started since April 1971.

The first project consisted of drilling two water wells and installing the necessary pipelines. The first well was started in October 1970--before environmental statements were required. The Park Service determined the drilling of the second well and the placement of the pipelines warranted a negative declaration.

It was recognized in the environmental study that placing the pipeline could damage a number of trees. The Park Service therefore decided to relocate the pipeline to minimize contact with tree root systems and also decided to use pipe with a diameter of 8 inches instead of 20 inches. Because of this action, the Park Service decided that an environmental impact statement was not needed.

The negative declaration statement noted that drilling a well and installing a water pump were "commonplace" occurrences. However, much discoloration of the Merced River and Yosemite Creek occurred when this well was drilled.

The second project, the largest in the past 4 years at Yosemite, involved constructing a regional wastewater system for government and private developments in the Merced River basin at a location just outside the park referred to as El Portal. The main pipeline was laid in a trench in the outside lane of the highway leading from Yosemite Valley to El Portal, a distance of about 12 miles. Construction contracts for the pipeline and the water treatment facility



amounted to \$5.1 million and \$5.6 million, respectively. Construction is expected to be completed in late 1976. The Park Service prepared a negative declaration statement for this project on August 17, 1973.

Park officials agreed that a piecemeal approach to planning is taking place in the park by implementing the abovementioned projects without a master plan; nevertheless, they add that they are continuing with the projects because of the need to control pollution and their concern for the safety of visitors.

The prior Yosemite superintendent concluded that this project would have no serious impact, and therefore issued a negative declaration. The present superintendent stated, however, that construction of the wastewater treatment facility should probably have had a full environmental impact statement because of the size of the project and the disruption to park visitation.

#### July 1974 Park Service guidelines

In July 1974, the Park Service issued guidelines on preparing environmental statements. The guidelines specified that unless a proposed action is urgently required to alleviate an environmental crisis or a hazard to human health or safety, an environmental study should be prepared to analyze environmental impacts associated with alternative courses of action.

These guidelines further provide instructions for such areas as (1) the criteria to be used in determining which Park Service actions require an environmental impact statement, (2) the format to be followed in preparing environmental impact statements, and (3) the responsibilities of various Park Service organizations for the preparation and review of environmental impact statements.

If it is decided that the action does not require an environmental impact statement, then the guidelines require the preparation of a negative declaration for certain types of actions. However, the guidelines do not require preparing a negative statement for construction projects such as the 38 construction projects noted previously. Also, the guidelines do not contain any requirement that the negative declaration and environmental assessment relating to construction projects be publicized.

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### Yosemite master plan

The draft of the Yosemite master plan and its environmental impact statement were rejected on December 13, 1974, by the Park Service Director, because the plan was found to be deficient in several respects. The Director stated that the plan was ambiguous in addressing the management objectives for the park and failed to fully describe the environmental impact which could be expected from the plan's implementation.

Presently, the Park Service is preparing a new master plan and impact statement. A Department of the Interior official said the process to be used for this preparation includes giving the public the opportunity for full participation in the planning process. He said that constructing new facilities or upgrading existing developments would not be permitted until the planning process is completed. An exception to this, according to Park Service officials, is the construction of the regional wastewater collection treatment and disposal facilities which is currently underway. Construction of this project has been permitted because of potential water pollution problems. The plan of APCU to upgrade 150 lodging units has been postponed until the new master plan is completed--estimated to be in the latter half of 1976.

The Park Service's policy is to hold public meetings on all master plans for national parks to discuss the various alternatives relating to the development of the particular national park. Public meetings should also be held on the draft master plan and environmental impact statement and, if necessary, on the final master plan and environmental impact statement.

### TYPES OF FACILITIES

The Concessions Policy Act of 1965 limits concessioner facilities and services to those necessary and appropriate for public use and enjoyment of the national park area consistent with the preservation and conservation of such areas. The act also directs the Secretary to encourage concessioners to provide and operate facilities and services which he deems desirable to accommodate park visitors.

### Existing facilities

There are no concessioner facilities at Cedar Breaks National Monument. However, in the other six national parks covered by the request, concession facilities include lodges, cabins and/or cottages, dining rooms, bars, gift shops, snack bars, stables, laundry facilities, and service stations. In

addition, one or two of the parks had banks, barber and beauty shops, grocery stores, delicatessens, a hospital, swimming pools, tennis courts, and golf courses.

Few new facilities are being planned by the Park Service and the concessioners in these park areas. Most of the construction planned for the future at these park areas provides for the upgrading and improving of existing facilities.

To accommodate over two and a half million visitors annually in Yosemite, YPCC operates approximately 1,700 lodging units which can accommodate about 5,200 people.

In addition to the lodging units, other concessioner facilities at Yosemite National Park include the following:

	<u>Other concessioner facilities</u>		<u>Total</u>
	<u>Yosemite Valley</u>	<u>Other park areas</u>	
Food facilities	16	14	30
Service stations and Garages	3	6	9
Recreation facilities	11	8	19
Others	<u>13</u>	<u>--</u>	<u>13</u>
Total	<u>43</u>	<u>28</u>	<u>71</u>

There are also over 550 housing facilities ranging from dormitories to tents, of which about 130 are for Park Service employees and about 420 for YPCC employees.

facilities considered appropriate

The Deputy Assistant Secretary for Fish and Wildlife and Parks made the following statement on the types of facilities that are considered to be necessary and appropriate for use and enjoyment of national parks.

"It has long been the policy of the national Park Service to authorize only those facilities considered necessary and appropriate for an area, and when facilities exist or can be developed outside such areas, they are not authorized within them. The public accommodations presently in park areas, such as overnight lodging, campgrounds, restaurants and other food service facilities, are provided to afford the public an opportunity to enjoy

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and use the parks. In addition, such administrative facilities as are necessary for the management of the area are provided. These include visitor centers, roads and trails, and interpretive facilities at appropriate locations, such as amphitheaters, wayside exhibits and parking overlooks, as well as facilities to support recreation activities, such as hiking, mountain climbing, bicycling, horseback riding, winter use activities, winter oriented activities, picnicking and similar activities are provided if appropriate."

The Park Service said it does not list specific concession facilities and services that it considers necessary and appropriate for public use at national parks, but added that these are determined on a case-by-case basis for each park.

The Deputy Director of the Park Service said that the Park Service currently does not permit establishing "urbanized recreation" facilities such as golf courses, swimming pools, and tennis courts. Acknowledging that these types of facilities do exist at some national parks, he said that these facilities, for the most part, were constructed many years ago. He also said that the Park Service currently is not permitting major expansions of existing facilities.

The applicable statutes do not specify the type of facilities the Park Service may approve. The statutes, however, do set forth some general criteria, such as providing public accommodations if adequate controls are established to prevent unregulated and indiscriminate use. The development of new facilities is limited to those necessary and appropriate for the public use of the parks and consistent, to the highest practicable degree, with the preservation and conservation of the areas.

#### CONCLUSIONS

Only negative impact statements have been prepared on construction projects at Yosemite and no final environmental impact statements on construction projects have yet been completed.

Park Service officials agreed that before issuance of the July 1974 guidelines, field personnel did not have sufficient guidance on preparing environmental impact statements. We believe the July 1974 guidelines provide for improvement in such areas as (1) statement format, (2) criteria for determining important actions requiring the preparation of

environmental impact statements, and (3) responsibilities for the preparation and review of statements. However, the guidelines should also include criteria to assist local park officials in deciding when to prepare and publicize a negative or minor declaration statement on construction projects.

Because there have been no major projects approved at Yosemite National Park since the July 1974 guidelines were issued, we could not review the implementation of these guidelines.

RECOMMENDATIONS TO THE  
SECRETARY OF THE INTERIOR

To assist local park officials in deciding when to prepare and publicize negative declaration statements, the Secretary of the Interior should require the Park Service to add to its environmental statement guidelines, instructions on preparing and publicizing negative declaration statements on construction projects.

## CHAPTER 6

### PARK STAFFING

The subcommittees asked us to (1) determine the number and the qualifications of the concession management personnel at Park Service headquarters, the Western Region, and the seven park areas included in our review, (2) ascertain how many park rangers and other park service personnel are at each of the seven park areas for the principal purpose of servicing visitors, (3) obtain from Park Service officials a description of their method of determining personnel requirements, and (4) obtain comments of Park Service officials on the adequacy of overall park staffing.

The subcommittees expressed concern about the adequacy of Park Service staffing in managing concession operations in Washington, D.C., the regional offices, and in the parks. They wanted to know (1) what efforts the Park Service has made within the Department and with the Office of Management and Budget, and the Congress from fiscal years 1971 to 1975 to obtain funds and personnel for concession operations, (2) the basis for the overall Park Service personnel ceiling, (3) whether or not the ceiling is realistic in light of Park Service duties, and (4) whether or not the ceiling has been an important factor in the Park Service maintaining a minimum concessions staff.

#### CONCESSION OPERATIONS STAFFING

As of March 1975, there were 11 concession management personnel at Park Service headquarters responsible for advertising, negotiating, and awarding contracts; establishing and waiving franchise fees; and establishing procedures for field personnel to follow. The grade level of these personnel ranged from GS-7 to GS-15 and they held various positions such as concessions analyst, financial analyst, and systems accountant. A review of their backgrounds showed they had a variety of experience and education in such areas as accounting, economics, business administration, law, and hotel and restaurant management. A Park Service official informed us that there was a need for about seven additional concession management personnel at Park Service headquarters.

As of the same date, there was only one concession management specialist at Yosemite who was responsible for reviewing proposals for rate increases, conducting price checks, and evaluating the concessioner's overall compliance with the contract. This employee, a GS-11, had educational

training and experience in the areas of health service, sanitation, and food service. The superintendent at Yosemite said that to adequately monitor concession activities he needed four or five additional concession specialists on his staff. Less than this number, he added, would result in a continued lack of an organized concession management program.

As of March 1975, there were no Park Service concession specialists at the other five park areas included in our review which had concession operations. Park Service officials said that employees responsible for monitoring concession operations at these parks usually did not have formal training or experience in concession management. Furthermore, none of these employees worked full time on concession operations.

As of March 1975, the Western Region headquarters at San Francisco had a staff of two specialists (both GS13s) who were responsible for providing technical assistance to the park personnel on concession matters, overseeing concession activities of parks in the Western Region, and generally advising the regional director on concession matters. One of the employees has a college degree in accounting and economics and has about 7 years of experience in Park Service concession operations. The other employee attended college for 3 years in the premed field and has about 14 years of experience in Park Service concession operations. The chief concession specialist told us that, in his opinion, the concession staff at the Western Region was adequate.

We previously pointed out, in two areas already discussed, the lack of adequate staffing. In one instance, Park Service officials said they have not required concessioners to submit cost of goods data for grocery items on a regular basis because they did not have sufficient staff members to evaluate this data. In the other case, Park Service officials said they did not have the necessary staff to restudy the franchise fee rate structure or to establish criteria for evaluating economic factors which may warrant changes in the franchise fee formula rate.

#### PARK SERVICE STAFFING AT SEVEN PARK AREAS

Permanent and part-time Park Service employment for the peak and nonpeak seasons at the seven park areas named in the subcommittees' request was as follows.

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National park area	Permanent personnel		Temporary personnel (note a)		Total Park Service personnel	
	6/22/74	1/4/75	6/22/74	1/4/75	6/22/74	1/4/75
Bryce Canyon, Utah	13	14	35	4	48	18
Cedar Breaks, Utah	2	2	7	1	9	3
Crater Lake, Oregon	18	18	57	4	75	22
Grand Canyon, Arizona	84	81	155	79	239	160
Yellowstone, Wyoming	93	95	501	156	594	251
Yosemite, California	123	125	385	176	508	301
Zion, Utah	30	28	49	13	78	41
<b>Total</b>	<u>363</u>	<u>362</u>	<u>1,188</u>	<u>433</u>	<u>1,541</u>	<u>796</u>

aTemporary employees include (1) seasonal employees who work primarily during the summer and (2) employees who work part time (less than 40 hours a week) or substantially full time for more than 6 but less than 12 months per year.

#### Determining staffing levels

Park Service procedures for determining staffing levels for each park are as follows. Each park superintendent submits an annual specific position request to the appropriate regional director. The requests should outline (1) the necessity of the increase, (2) the staff and funding levels requested, (3) where and how the work is to be performed, and (4) how park operations would be affected if the request were not approved. The regional director is responsible for reviewing and evaluating the requests in relation to overall regional program needs. The staffing recommendations of the regional directors must then be evaluated at Park Service headquarters in relation to the objectives and programs of the Park Service and the Interior Department.

#### ADUQUACY OF STAFFING

The Deputy Director of the Park Service informed us that the Congress has authorized the Park Service about 8,300 full-time permanent positions, however, because of a position ceiling established by the Office of Management and Budget, the Department had established a ceiling of about 7,100 full-time permanent positions for the Park Service. Park Service officials estimated that as of June 30, 1975, the Park Service would be about 250 over this ceiling. He also said there is a shortage of full-time personnel at many of the parks but this shortage is partially alleviated by temporary and seasonal employees. However, the use of temporary rather than



permanent personnel has resulted in difficulties in attracting qualified personnel.

A Park Service official told us that the personnel ceiling was necessitated by the administration's program to reduce Federal employment. He said that Park Service believes the ceiling has been too restrictive, especially in light of the additional responsibilities legislated or otherwise mandated to the Park Service. For example, 32 new areas were enacted by the Congress in the past 4 years with staffing requirements of 108 permanent positions which had to be absorbed with present staffing.

The official also informed us that the employment ceiling has been a major factor in the Park Service having less than an adequate concession staff and that during fiscal years 1971-75, the Park Service had been under extremely tight budget and manpower ceilings. The overriding priority allocation of Park Service funds and manpower has been directed toward preserving the basic resources. A Park Service official said that because of tight budget and manpower ceilings, it has limited its requests for personnel increases to the highest priority needs and to those that would be considered to be more acceptable to the Department, the Office of Management and Budget, and the Congress. The official said that there have been no requests for increases for concession management during the past 5 years other than the normal level of increased pay costs.

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CHAPTER 7

SCOPE OF REVIEW

We reviewed legislation, regulations, policies, procedures and practices pertaining to the management of concession operations by the Park Service. We interviewed Park Service officials at headquarters, Western Regional Office and Yosemite National Park and officials of YPOC and MCA.

We also obtained comments from representatives of the Sierra Club.

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