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## An analysis of the Concessions Policy Act of 1965 (P.L. 89-249)

David B. Harrell

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To the Graduate Council:

I am submitting herewith a thesis written by David B. Harrell entitled "An analysis of the Concessions Policy Act of 1965 (P.L. 89-249)." I have examined the final electronic copy of this thesis for form and content and recommend that it be accepted in partial fulfillment of the requirements for the degree of Master of Science, with a major in Forestry.

John Rennie, Major Professor

We have read this thesis and recommend its acceptance:

Bill Park, David HOuston, Timothy Young

Accepted for the Council:

Carolyn R. Hodges

Vice Provost and Dean of the Graduate School

(Original signatures are on file with official student records.)

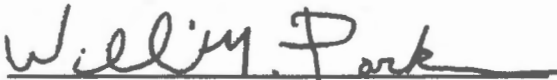

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and recommend its acceptance:



Accepted For the Council:



Associate Vice Chancellor  
and Dean of the Graduate School

AN ANALYSIS OF THE  
CONCESSIONS POLICY ACT OF 1965 (P.L. 89-249)

A Thesis  
Presented for the  
Master of Science  
Degree  
The University of Tennessee, Knoxville

David B. Harrell

August 1992

Ag-Vet Med.

THESIS

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I must also say thank you to my friend and wife, Lisa. Without her love and support, this project would not have been completed. It is to her that I dedicate this thesis.

Judy Driskill, my supervisor within the Tennessee Valley Authority, has consistently been willing to make available special arrangements so that I could complete my graduate studies. I thank Rev. Samuel and Pauline Condon for their support and encouragement. I also wish to thank my parents, Rev. Clay and Rosa Harrell. They continue to support my decisions.

Most of all, I thank God Almighty for His guidance and the gift of determination. Through Him all things are made possible.

## DEDICATION

This thesis is dedicated to my wife Lisa E. Harrell. Her computer knowledge is demonstrated in this project.

## ABSTRACT

Concession operations within the National Park System have become one of the most visible aspects of park management. Moreover, it is viewed as a "gauge" which detects trends in the evolving concept of preservation and use. Also, it is used as a yard stick to measure the overall health of the National Park Service's (NPS) administration. Currently, major reforms in the management of concession operations are supported by Secretary of the Interior, Manuel Lujan, certain members of Congress, the National Parks and Conservation Association, as well as other environmental groups. The targeted area of focus for these reforms center on the Concessions Policy Act of 1965 (P.L. 89-249).

The hypotheses of this research are (i) the implementation of the legislation is very systemic (a change in one part can have significant impacts on other parts), and (ii) differences in perceptions do occur between NPS concession managers and concessioners. A mail survey instrument was sent to 20 NPS concession managers and 100 concessioners. The study encompassed the entire continental United States.

NPS officials and concessioners were asked to determine the importance of eight listed components, which are found in P.L. 89-249. NPS officials indicated that "preferential right to provide new facilities", "30-year length of contract," and "the use of one concessioner per park" were not important



policy components in today's operating environment. Concessioners viewed "preferential right to provide new facilities" as being very important and "30-year length of contract" and "the use of one concessioner per park" as being moderately important. A possible explanation for NPS's response is the existence of a perception that the other incentives provided for in the Act possess enough inducement that those three are no longer needed. This finding further suggests that the Act has become partially outdated.

A second major finding occurred with significant differences determined in the degree to which P.L. 89-249 was functioning (i.e., meeting its intended objective). Concessioners perceived the Act was functioning at a higher level of effectiveness than perceived by NPS officials. Both groups indicated that the Act was, to some degree, accomplishing its intended tasks (i.e., reducing the difficulties of obtaining a concessioner and loan).

This study also revealed that NPS officials perceived P.L. 89-249 contributed more to the well being of concessioners than it did to them. For example, possessory interest was viewed by NPS officials as a policy component which placed them at a "moderate" disadvantage while "highly" contributing to the well being of the concessioner. It became important to know why NPS officials perceived P.L. 89-249 as not protecting their interest more fully. Possible answers were found as a result of reviewing the history of

concessions management within the National Park system. This historical review suggested that NPS lacked the necessary technical and political expertise to influence not only concessioners, but also Congress and the general public. The above statement can be supported by the agencies struggle to realize their mission statement (preservation and use) and NPS's placement within the Department of Interior.

A fourth component of this research addressed the perception of how interconnected the different policy components were to one another. Overall, concessioners ranked each component as being more interconnected than NPS officials. However, both groups viewed P.L. 89-249 as being a very interconnected system. In other words, when one policy component is altered (for example, as a result of a reform measure), it will affect the functioning of other components. This concept is extremely important to understand.

Without this knowledge, the likelihood of making effective changes is greatly diminished. For example, "length of contract" was ranked as being highly interconnected to protection against loss of investment. Thus, if the length of concessioners contract was significantly limited, the level of protection against a loss of investment could decrease.

Other alternatives need to be explored. There is no quick solution which can satisfy all interests. It is hoped this study can provide a foundation for future studies.

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## I. INTRODUCTION

### Problem Statement

When Stephen T. Mather assumed the directorship of the newly formed National Park Service (NPS) on April 17, 1917, his infant organization confronted many serious challenges (Blodgett, 1990). One of the most vexing, then and thereafter, developed from the Service's obligation to oversee and manage private "concessioners"<sup>1</sup> within the National Parks. Concessions management is driven by the implementation of The Concessions Policy Act of 1965 (P.L. 89-249). P.L. 89-249 is comprised of guidelines (incentives and regulations) which govern private sector involvement on National Park lands. The U.S. has adopted a policy of public ownership of National Park lands, and the involvement of both public and private institutions in the execution of P.L. 89-249. Accordingly, the whole issue regarding the incentive and regulatory climate that impacts the private sector as a result of the implementation of this policy, is exceedingly important. In other words, concessioners have become, in part, an implementation arm of P.L. 89-249. Thus, the incentives and regulations affecting this implementation arm are accordingly very important.

The study of this vital aspect of National Park

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<sup>1</sup> Concessioners are defined as private persons and/or corporations which provide and operate facilities and services within a National Park boundary.



management, known as "concessions management", is both needed and timely. As of this summer (1992), there are two concession policy reform acts which have been introduced in both houses. The reform bills are intended to limit the present level of concession use and encourage surrounding communities to develop and operate visitor facilities. The Senate version (S.1755) would increase the franchise fee (paid by concessioners) to levels set by the Secretary of the Interior. The Secretary has suggested fees be raised to 22% of gross receipts, with 5% going to the general treasury and 17% back to the Park Service. The House of Representatives version (HR.943) would raise the franchise fee to a flat 22.5% of gross receipts, with collected fees going into an account available for Park operations and maintenance, as opposed to the present system of going into a general U.S. Treasury account. Also, the reform bills would weaken the preferential right of renewals and extensions by increasing the bidding process on all contracts.

The most controversial aspect of concessions reform is that pertaining to possessory interest acquired by concessioners. The House bill would require existing concessioners to sell their interests before renewal, and would ban such interests altogether in new contracts. The Senate bill would eliminate the possessory interests more gradually, and would designate 50% of the collected franchise fees for acquisition of possessory interests by the

government.

Major reforms of one type or another are supported by Secretary of the Interior, Manuel Lujan, certain members of Congress, the National Parks and Conservation Association, as well as other environmental groups. The targeted area of focus for these reforms center on the Concessions Policy Act of 1965 (P.L. 89-249). Concession management issues have become a symbol for many special interest groups of the much broader conflict of preservation versus use. Thus, regardless of the outcome of the two reform bills, the next few years will most certainly shape the future role of National Park concessions, mainly as a result of interest group influence. Research may provide valuable information for use in the decision-making process.

### **Purpose and Objectives**

The general purpose of this research is to determine current perceptions of both NPS officials and concessioners pertaining to P.L. 89-249 and its implementation. This research may also help determine the systemic linkages (interconnections) among these different components. The hypotheses of this study are that the implementation of the legislation is very systemic (a change in one part can have significant impacts on other parts), and that differences in perceptions do occur between NPS concession managers and concessioners.

There are three major objectives to this study:

1) Identify and review all important documents affecting the management of concessions within the National Park Service.

The end result of this objective will be a comprehensive outline of the evolving operating environment. The importance of this objective lies in the fact that to understand concessions management as it exists today, it is imperative to grasp the historical development and the factors affecting the development of this system.

2) Determine NPS concession manager's and concessioner's (collectively referred to as stakeholders) perception of the overall impact of P.L. 89-249 and its implementation, the impact of individual components within the Act, and how the stakeholders perceive these individual components to be interconnected to each other.

The basis for this latter objective is rooted in the fact that people's perceptions guide their decisions which, in this case, affect implementation. Also, to adequately understand and evaluate policy, the systemic impacts of policy changes must be recognized and analyzed.

3) Determine stakeholder perceptions concerning the underlying major issue of stakeholder influence in the

decision making process surrounding concessions management.

Through an analysis of the operating environment (objective one), it was revealed that the issue of the amount of influence a stakeholder is able to acquire and maintain throughout the implementation of P.L. 89-249 is and has always been a paramount issue. Thus, to fully obtain an understanding of the impacts and results of the implementation of P.L. 89-249, this perception must be determined.

## II. POLICY REVIEW

### Introduction

Public Law 89-249 (Appendix A), referred to as the Concessions Policy Act of 1965, was enacted on October 9, 1965. Every National Park congressional Act commencing with the Yellowstone Act of 1872 has provided for granting of leases, permits, or contracts to enable the private sector to provide required visitor facilities. The role of Congress has been to determine how this best can be accomplished. Understanding the congressional intent is an essential component of any research which examines policy. This chapter attempts to determine congressional intent and how Public Law 89-249 relates to and has amended other existing laws. This chapter will provide the reader with a "working analysis" of Public Law 89-249 through the process of dissecting and reviewing each individual section of the law.

### Public Law 89-249

#### Section 1. National Park Concession Policies

Between 1916 and 1965, the conflict between preservation and use became more apparent and deepened (Lemons and Stout, 1984). This increased conflict resulted from a combination of a larger national population, greater mobility, changing visitor expectations, and longstanding NPS norms and standard

operating procedures which encouraged increased visitation to the Parks. Consequently, Congress supplemented the Organic Act's (Act of August 25, 1916) statement of National Park purpose with Public Law 89-249.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That in furtherance of the Act of August 25, 1916 (39 Stat. 535), as amended (16 U.S.C.1), which directs the Secretary of the Interior to administer National Park System areas in accordance with the fundamental purpose of conserving their scenery, wildlife, natural, and historic objects, providing for their enjoyment in a manner that will leave them unimpaired for the enjoyment of future generations, the Congress hereby finds that the preservation of Park values requires that such public accommodations, facilities, and services as have to be provided within those areas should be provided only under carefully controlled safeguards against unregulated and indiscriminate use, so that the heavy visitation will not unduly impair these values and so that development of such facilities can best be limited to locations where the least damage to Park values will be caused. It is the policy of Congress that such development shall be limited to those that are necessary and appropriate for public use and enjoyment of the National Park area in which they are located and that are consistent to the highest practicable degree with the preservation and conservation of the areas.

In enacting Public Law 89-249, Congress intended to establish a financial policy for concessioners and to provide the proper atmosphere for private investment to meet the demands of increased Park use. The primary purpose of Public Law 89-249 was to codify policies that, with certain exceptions, had been followed by NPS in administering concessions within National Parks. Such policies had been in force before 1950 and were favored by Park concessioners

(Lemons and Stout, 1984). Congress also clearly stated that it was in the interest of NPS to promote private as opposed to public concessioners. Having Congress express this desire in statutory form helped to somewhat settle the debate over public or private provisions. Congress has indicated that they are unwilling to appropriate the funding needed to support a public operated recreation business within National Parks.

It should not be interpreted that Congress intended to encourage development within National Parks. Although this Act gives the Secretary of the Interior broad discretion, Section One clearly outlines that concession operations will remain within the basic mandates and philosophy of the National Park Service. A reasonable interpretation of this section, and the Act as a whole, is that it reaffirms the fundamental policy of preservation. Only those facilities necessary for the enjoyment of Natural Park features and located where such features will not be impaired should be permitted. The creation of facilities not needed for such enjoyment is specifically forbidden. Such an interpretation ensures that concessioner facilities will be "consistent to the highest practicable degree with the preservation and conservation of the areas."

However, NPS, which must interpret this legislation to comply with its mandates and respond to Park management issues, has always had extreme difficulty in defining the

intent of "preservation and use." To more fully comprehend the intent of Section One of Public Law 89-249, the purpose of the Organic Act (1916) must also be briefly explored. The fundamental purpose expressed in the Organic Act (Section One) is three-fold: (a) to conserve scenery, natural and historic objects, and wildlife; (b) to promote the enjoyment of scenery, natural and historic objects, and wildlife; and (c) to provide for public enjoyment of these areas so that the scenery, natural and historical objects, and wildlife are unimpaired for future generations. Congressional intent thus seemed to permit the accommodation of visitors, but with two significant conditions: first, enjoyment meant enjoyment of Park's scenery, and the natural and historic objects and wildlife; and second, visitation and accommodations would not impair the preservation of Park resources.

What is important to note here is that the exact definition of the terms "preservation" and "unimpaired" are not consistent, but rather have evolved over time. As a result, Section One of the Organic Act has been interpreted to promote both preservation and use. For example, during the first 17 years of Park history, NPS was lead by two of its founders, Stephen T. Mather and Horace M. Albright. These men, because of their personal involvement in the passage of the Organic Act, firmly believed they understood the intent of the Act and its statement of purpose (Lemons and Stout, 1984).

These first two directors placed particularly heavy



emphasis on making the Parks more accessible and managing them essentially as scenic recreation areas to ensure continued public use and enjoyment. More importantly, throughout the years Congress itself funded substantial tourism development in National Parks intended for intensive public use (i.e., parkways, recreation areas, seashores, and urban Parks) and by mandating that the Park Service become involved in large-scale national and state recreational planning. In effect, Congress sanctioned the Service's management traditions and its interpretation of the Organic Act. Until Congress or the public seriously and consistently challenged the emphasis on tourism and scenic recreational values, it could be assumed that the Service was operating the Parks much as had been intended.

The evolution of the interpretation of "preservation" and "unimpaired" becomes extremely significant in determining the intent of Section One of Public Law 89-249. This is especially evident in interpreting the intent of "necessary and appropriate". The Act states that "such development shall be limited to those that are necessary and appropriate for public use and development..." The interpretation of "necessary and appropriate" in fact parallels the interpretation of "preservation and unimpaired." For example, not so many years ago, it was thought to be both "necessary and appropriate" for Yosemite National Park to have a golf course. A golf course would probably not meet the current

definition of necessary and appropriate. Even in circumstances where the type of facility would still be considered necessary and appropriate (i.e., restaurants and motels), the architecture reflects the past expensive tastes of a wealthy nation. Thus, it may be that the styles of earlier facilities are no longer considered necessary and appropriate.

## Section 2. Concessioners defined

Subject to the findings and policy stated in Section 1 of this Act, the Secretary of the Interior shall take such action as may be appropriate to encourage and enable private persons and corporations (hereinafter referred to as "concessioners") to provide and operate facilities and services which he deems desirable for the accommodation of visitors in areas administered by the National Park Service.

Congress further re-confirms that it is the Secretary's responsibility to encourage and enable the private sector to both provide and operate facilities and services. The intent here is that Congress wishes to fully utilize private capital; this implies not only operating a business, but when possible also financing the construction of the facility.

The Secretary is given relatively broad discretion in defining what he "deems desirable for the accommodation of visitors. . ." However, the Secretary is subject to all guidelines of Section One. It is implied that what the Secretary deems desirable is, in fact, within those guidelines of Section One.

### Section 3(a). Contracts

Without limitation of the foregoing, the Secretary may include contracts for the providing of facilities and services such terms and conditions as, in his judgement, are required to assure the concessioner of adequate protection against loss of investment in structures, fixtures, improvements, equipment, supplies, and other tangible property provided by him for the purposes of the contract (but not against loss of anticipated profits) resulting from discretionary acts, policies, or decisions of the Secretary occurring after the contract has become effective under which acts, policies, or decisions the concessioner's authority to conduct some or all of his authorized operations under the contract ceases or his structures, fixtures, and improvements, or any of them, are required to be transferred to another party or to be abandoned, removed, or demolished. Such terms and conditions may include an obligation of the United States to compensate the concessioner for loss of investment, as aforesaid.

This section establishes the first incentive to encourage private investment -- ". . . protection against loss of investment in structures, fixtures, improvements, equipment, supplies, and other tangible property . . . resulting from discretionary acts, policies, or decisions of the Secretary . . ." Concessions management is only one facet of National Park management. For example, there are natural and cultural resource management, visitor protection, and campground maintenance aspects to name just a few. However, this incentive gives the concessioner assurance that if, as a result of a management decision, his contract is cancelled or the facility is forced to be relocated, demolished, or transferred to another party, he will be compensated for his loss of investment.

### Section 3(b). Profits

The Secretary shall exercise his authority in a manner consistent with a reasonable opportunity for the concessioner to realize a profit on his operation as a whole commensurate with the capital invested and the obligations assumed.

The second incentive for the concessioner is the "reasonable opportunity for the concessioner to realize a profit on his operation as a whole." In this case, a "reasonable opportunity" to make a profit is not a guarantee as provided for in the normal utility business, where the operator is entitled to rates which automatically assures him a given rate of return on his investment. This incentive does, however, demonstrate that Congress understands that only through profits can a concessioner maintain the facilities, provide proper service and attract the capital necessary to provide the facilities to serve the Park visitor.

Of significant meaning, the "profits" are referred as pertaining to the operations as a whole. This means that the NPS may require services deemed desirable, even if they are provided at a loss, provided this does not make the entire scope of the operation unprofitable. Providing this niche of desirable unprofitable services is an important aspect of concessions management. Businesses outside government control would probably discontinue unprofitable services, thereby increasing their overall profits. This niche, in fact, places concessioners in a position to assume a role of public

responsibility to provide those services in which the public requires and NPS determines is necessary and appropriate. This is not so for private business owners outside a Park boundary.

Section 3(c). Rates

The reasonableness of a concessioner's rates and charges to the public shall, unless otherwise provided in the contract, be judged primarily by comparison with those current for facilities and services of comparable character under similar conditions, with due consideration for length of season, provision for peakloads, average percentage of occupancy, accessibility, availability and costs of labor and materials, type of patronage, and other factors deemed significant by the Secretary.

Subsection (c) places the responsibility of determining the "reasonableness of rates and charges" with NPS. This subsection gives NPS somewhat limited guidelines (a broad formula) to assess them in determining prices to charge. The intent here is to protect the public from excessive prices, and subsection (b) and (c) work together to protect the concessioner from being at the mercy of arbitrary government changes.

The concessioner must be able to charge a sufficient rate to pay for the capital invested and realize a profit from the operation as a whole. Simultaneously, the rates must be reasonable. To help insure that both of the above criteria are realized, rates will be judged primarily by comparison with those charged by similar businesses located outside of

the Park boundary. Also the Secretary has the liberty to include other factors which he deems significant. This maintains NPS's authority to protect the public interests and maintains their flexibility in establishing rates which, because of various conditions, may call for higher rates to enable the concessioner to make a profit.

#### Section 3(d). Franchise Fees

Franchise fees, however stated, shall be determined upon consideration of the probable value to the concessioner of the privileges granted by the particular contract or permit involved. Such value is the opportunity for net profit in relation to both gross receipts and capital invested. Consideration of revenue to the United States shall be subordinate to the objectives of protecting and preserving the areas and of providing adequate and appropriate services for visitors at reasonable rates. Appropriate provisions shall be made for reconsideration of franchise fees at least every five years unless the contract is for a lesser period of time.

Franchise fee is defined as a fee paid by the concessioner for the privilege of conducting business within a National Park. The probable value of the concessioner contract or permit shall be reflected in an annual franchise fee paid to the U.S. Department of Treasury. For a contract, the fee shall be in the form of a percentage of the concessioner's annual gross receipts with an additional fee for the concessioner's use of government-owned structures. Permittee shall pay a franchise fee in the form of a flat fee (Concessions Management Guideline, 1986).

The franchise fee rate is determined by applying a minimum percentage rate to each of the various types of concessioner gross receipts to arrive at an overall minimum fee produced by taking a weighted average according to the magnitude of the gross receipts. This minimum fee may be increased or decreased based on financial considerations such as past and expected operating results in comparison with the concessioner's gross receipts and investment.

According to standard contract language, the franchise fee requirement for a concessioner operating pursuant to a concession contract shall consist of two parts. One is a fee based on a percentage of gross receipts and the other is a fee for the use of government-owned structures. In the case of a permit, the two fees should be combined into an annual fixed fee amount.

The percentage fee represents the concessioner's opportunity for net profit and as expressed as a percentage of the concessioner's gross receipts, as defined in the concession contract. The percentage fee to be used in the contract is determined by a weighted average of gross receipt categories and further adjustments where warranted according to the economic and financial circumstances in which the concessioner operates.

The weighted average fee, is then adjusted according to the concessioner's profit history, expectations for the future, comparisons with private industry, and other pertinent

financial and economic considerations. While these considerations can result in the fee rising considerably above the weighted average, it is only under the gravest circumstances that a fee should be lowered below the weighted average. Hence, the weighted average is usually referred to as the minimum fee (Concessions Management Guideline, 1986).

The building use fee is a return to the government for the use of government-owned structures by the concessioner. The fee is based on a fair value return to the government and is to be determined in accordance with acceptable practices as utilized in the private industry for determining the fair value. Adjustments may be made to the appraised value taking into consideration all of the judgmental factors regarding reasonable profit.

The third type of fee is referred to as a flat fee and is used with permits as opposed to contracts. Most permits, being simpler and smaller operations, do not need the detailed franchise calculations discussed above. Instead, a single annual fee will be established which replaces both the percentages and building use fees. This fee will still consider the same type of factors discussed in relation to contracts.

Fees are paid to the U.S. Department of Treasury in a miscellaneous receipt account. Public Law 97-433 (January 8, 1983) in Section 3 states that "there is hereby established in the Treasury of the United States, the National Park Service



Facilities Fund. There should be credited to the fund an amount equal to all National Park System concession fees, including franchise fees and building fees paid to or due and owing to the U.S. after October 1, 1982, for the privilege of providing visitor accommodations and services in units of the National Park System." Section 8 of that same Act states "the authorities contained in this Act shall expire on September 30, 1989. After that date any moneys previously credited to the fund under this Act which has not been appropriated, or if appropriated, which have not been obligated or expended, shall be transferred to miscellaneous receipts of the Treasury" (Concessions Management Guideline, 1986).

Concessioners pay a franchise fee to NPS for the privilege of operating a business within a National Park. Because franchise fees are another cost of conducting business, the amount of the fee could affect the charges to the public and the concessioners fair rate of return. To assure that the franchise fee is consistent with the intent of the other sections of this Act, franchise fees are subordinate to preservation of the resources, the service to the visitor, and the opportunity of the concessioner to realize a profit on his operation as a whole.

#### Section 4. Preferential right to provide additional services

The Secretary may authorize the operation of all accommodations, facilities, and services for visitors, or of all such accommodations, facilities, and services of generally similar

character, in each area, or portion thereof, administered by the National Park Service by one responsible concessioner and may grant to such concessioner a preferential right to provide such new or additional accommodations, facilities, or services as the Secretary may, in his discretion, grant extensions, renewals, or new contracts to present concessioners, other than the concessioner holding a preferential right, for operations substantially similar in character and extent to those authorized by their current contracts or permits.

Congress authorizes the Secretary to permit one responsible concessioner to operate several operations within a given Park. This is only to be permitted when the Secretary deems that it is in the best interest of the general public. This incentive has been referred to as the "principal concessioner concept." Although the use of one principal concessioner is discretionary, it has been widely used. The benefits include less land will be used in the absence of competition. Within a National Park all the usual aspects of competition may not be desirable. What is desirable, however, is reliable and uniform public service at the standards and costs to the public which is mandated by NPS. The Park Service generally maintains that in most instances it would not be economical to have one concessioner providing (for example) a service station, another food service, and a third, lodging. NPS also generally finds it more convenient to oversee fewer concessioners per Park. Relying on the principal concessioner concept, better allows NPS to ask concessioners to provide facilities and/or services which have

been deemed necessary but would not be profitable if that were the only facility and/or service that concessioner operated.

To facilitate this principal concessioner concept, the Secretary may ". . .grant extensions, renewals, and new contracts to present concessioners, other than the concessioner holding a preferential right, for operations substantially similar in character and extent to those authorized by their current contracts or permits."

The preferential right to provide additional service is discretionary and should be included in a contract only upon a specific determination that granting such a right is in the public interest. This right has been defined by the Solicitor's Office as a "right of first refusal" to provide such additional concession accommodations, facilities, and services of the same character as required and authorized by the concession contract (Concessions Management Guideline, 1986). If a concessioner doubts the necessity, or desirability, of such new or additional accommodations, or fails within a reasonable time to comply with the designation of the Secretary, then the Secretary, in his discretion, may contract with another interested party.

#### Section 5. Preference in the renewal of contracts

The Secretary shall encourage continuity of operation and facilities and services giving preference in the renewal of contracts or permits to the concessioners who have performed their obligations under prior contracts or permits to the satisfaction of the Secretary. To this end, the

Secretary, at any time in his discretion, may extend or renew a contract or permit, or may grant a new contract or permit to the same concessioner upon the termination or surrender before expiration of a prior contract or permit. Before doing so, however, and before granting extensions, renewals, or new contracts pursuant to the last sentence of Section Four of this Act, the Secretary shall give reasonable public notice of his intention so to do and shall consider and evaluate all proposals received as a result thereof.

This section provides that the Secretary shall "encourage continuity of operation" by granting a preference in the renewal of a new authorization to a concessioner that has performed his obligations satisfactorily under a previous authorization. The right of preference in renewal, in effect, grants an existing satisfactory concessioner the right to meet the terms of responsive offers for a proposed new contract/permit and a preference in the award of the contract/permit, if, thereafter, the offer is substantially equal to others received. This law also provides that reasonable public notice of intent must be given and all offers received, as a result of the notice, shall be considered and evaluated. These provisions, without exception, are applicable to all existing concessioner authorizations (contracts and permits).

At least one year prior to contract or permit expiration, the Park should begin developing a factsheet and proposed contract stating the terms and conditions under which NPS

intends to negotiate a new concessions contract or permit with the existing satisfactory concessioner. The factsheet must represent the needs of NPS and should not be tailored to reflect the needs or capabilities of existing concessioners.

The goal of this policy is to assure that the type, quantity, and quality of services and accommodations for the visiting public will be established by NPS, based on the requirements of the Park area. This incentive also should give the concessioner reason to maintain his staff, facility, and level of performance.

#### Section 6. Possessory Interest

Section 6 of Public Law 89-249 grants to concessioners a possessory interest in any structure, fixture, or improvement which they acquire or construct with the approval of the Secretary on land owned by the United States within the National Park System. Possessory interest, in effect, is the concessioner's partial ownership (compensable interest) in government acquired or constructed buildings, structures and facilities and/or concessioner acquired or constructed buildings, structures and facilities and, as such, is a potential liability of the United States. This possessory interest includes all incidents of ownership except legal title which is vested in the United States (Concessions Management Guideline, 1986).

Even though legal title to improvements is vested in the

United States, the Concessions Act specifically states that the (concessioner's) possessory interest may be assigned, transferred (sold), and encumbered (mortgaged for concession construction and/or provide collateral for loans used to purchase the concession operation) by the concessioner. In addition, possessory interest "shall not be extinguished by the expiration or other termination of the contract and may not be taken for public use without just compensation." Possessory interest does not include or imply an authority, privilege or right to operate or engage in any business or other activity.

It is important for the reader to understand that NPS recognizes only those assets which are affixed to the real estate (fixed assets) and considered to be part of the real estate as defined by the law of each state wherein located or in which specific approval was given by the Secretary or his designee. Possessory interest does not include personal property, viz, automobiles, knives, forks, linens, freely moveable tables, chairs, etc.

The Office of the Solicitor has interpreted Section Six to mean that concessioners have possessory interest in concessioners' improvements which, by law, cannot be waived or extinguished except in special circumstances. In that opinion, the Solicitor states in part ". . . the just compensation for taking of the possessory interest may be defined by the contract to be other than reproduction

(reconstruction) cost less depreciation. A compensation for the unamortized balance in the event of termination prior to expiration, represents, the abstract, an acceptable measure of compensation" (Concessions Management Guideline, 1986). The foregoing is one example of a "special circumstance."

To solve special problems at certain Parks, the Service has negotiated special concession contracts in which, among other things, standard possessory interest compensation as set forth in Public Law 89-249 was replaced by provisions requiring amortization of the possessory interest over the life of the contract. While this procedure can be an appropriate solution to special problems, each of those special contracts was closely guided by the Washington Office. As a matter of policy, however, possessory interest should be used as provided for in standard contract language. Exceptions to amortizing possessory interest should be enumerated on a case-by-case basis where a service is being discontinued or improvements are additions to government improvements. Adjustments to possessory interest compensation should occur only after thorough analysis by field personnel and written justification sent to the Director for his written approval (Concessions Management Guideline, 1986).

One of the major difficulties in obtaining a thorough understanding of possessory interest results largely from the terminology exhibited throughout this section. Below is a list of definitions which are important to understand.

Government improvements. Improvements constructed or acquired by the government that are provided (assigned) to the concessioner for use in the concession operations. This may include buildings, structures, utility systems, fixtures, equipment, and other improvements affixed to the assigned government land and are part of the reality.

Concessioner improvements. Improvements constructed or acquired by the concessioner with written consent of the Secretary, for the purpose of the contract on assigned government land. This does not include improvements the concessioner makes to government improvements. The concessioner has no interest in the assigned land. Such improvements include buildings, structures, fixtures, equipment, and other improvements affixed to the assigned government land and are part of the realty.

Just compensation. Reconstruction cost less depreciation, not to exceed fair market value, unless otherwise provided by agreement of the parties. This definition is also referred to as "sound value." Unless otherwise agreed, just compensation equals sound value at the time of taking based on reconstruction cost less depreciation evidenced by its conditions and prospective serviceability in comparison with a new unit of like kind, but not to exceed fair market value.

Sound value. As set forth in Public Law 89-249, sound value of structures, fixtures, or improvements at the time of



taking by the United States is determined upon the basis of reconstruction cost less depreciation evidenced by its condition and prospective serviceability in comparison with a new unit of like kind, but not to exceed fair market value.

Book value. This is the value of property shown on the books of a business operator (concessioner). Simply stated, it is determined to be the cost of property less depreciation.

Fair market value. The amount a willing buyer is willing to pay a willing seller in the open market.

The concessioner holding a possessory interest may receive some form of "just compensation" in the event that the following circumstances transpires (Concessions Management Guideline, 1986).

A. Contract expiration or termination where operations are to be continued.

The concessioner must sell his possessory interest in government-owned improvements to a successor to the extent of book value. The successor will not be permitted to revalue such possessory interest. For possessory interest in concessioner improvements, the successor will pay the sound value thereof not to exceed fair market value. If the concessioner and the successor, excepting government agencies, cannot agree upon the fair market value of any item or items, either party may serve a request for arbitration upon the other party pursuant to established arbitration procedures.

B. Contract expiration or termination where operations are to be discontinued.

If for any reason, including contract expiration or termination, the Secretary no longer requires the concessioner to conduct the authorized operations, or substantial part thereof, and operations are to be discontinued, and the Secretary chooses to abandon, remove, or demolish any of the concessioner's improvements, the Secretary will take necessary action to compensate the concessioner for its possessory interest in government and concessioner's improvements in the amount of book value (unrecovered cost as shown in Federal Income Tax returns).

C. Contract termination for default for unsatisfactory performance where operations are to be continued.

If the Secretary terminates a contract for default for failing to maintain and operate the concession to the satisfaction of the Secretary, the concessioner will be compensated at book value for any possessory interest in concessioner's improvements.

In all circumstances compensation to a concessioner for his possessory interest in government improvements, paid by the government or a successor concessioner, will be in the amount of book value (Concessions Management Guideline, 1986).

Section Six of Public Law 89-249 (possessory interest), specifically mentions "contracts" and not "permits." Yet, the term "permit" is generally interlaced throughout the rest of the laws. Because of its conspicuous absence from Section

Six, it is NPS's conclusion, and that of the Solicitor's Office, that Congress, in legislating Public Law 89-249, did not intend that concession permittees have a possessory interest.

Special definitions for concession contracts and permits are incorporated in 36 CFR Part 51.3(a). ". . . Concession permits are generally utilized where the authorized concession operations are not expected to gross more than \$100,000 annually, where the term is less than five years, where no possessory interest is to be granted to the concessioner, . . ." (Emphasis added). Simply put, if a proposed concession authorization will require the granting or recognition of a possessory interest, it should be a concession contract authorization.

Possessory interest in effect provides a measure of security to the investor in lieu of title to the property. This incentive does not give the concessioner additional authority to engage in any other business or activity as a result of a possessory interest. NPS's right to change a concessioner's operation is retained, provided that if these changes lead to the elimination of the concessioner's right, or the property is acquired for public use, NPS (or another organization) will provide the concessioner just compensation for his investment. The concept of possessory interest evolved from the fact that concessioners could not have title in the buildings which they built on federal land. This

resulted in increased difficulties for concessioners attempting to obtain a loan from lending institutes. To make borrowing more accessible for concessioners to build facilities which NPS decided were necessary and appropriate, the concept of possessory interest was created.

Possessory interest is, however, not limited to just those concessioners who would require a mortgage to make improvements or additions to a facility. It was realized that even where a concessioner has such financial resources that he does not need to mortgage, he is still incurring a true cost for the use of that money tied up in the improvement. Thus, such use of capital must compete against other potential uses, and for the needed improvements to be a reality, a level of security must be offered for the investment.

In addition to creating the potential for raising capital, possessory interest also places the concessioner more in the position of a normal business and creates incentives so that the advantages of the free enterprise system operate. For example, if the concessioner is strictly limited to depreciated book value rather than some concept of fair value, his incentive to carry out repairs and maintenance in the final years of his contract will be limited. In a free enterprise system, operators of properties expend the cash flows created by depreciation to repair, maintain, and enhance their properties. Another aspect of possessory interest is the possibility of appreciation of the value of the property.

With possessory interest the concessioner could benefit from the appreciation of the value of the property he helped maintain and enhance.

#### Section 7. The Economy Act of 1932

The provisions of section 321 of the Act of June 30, 1932 (47 Stat. 412; 40 U.S.C. 303(b)), relating to the leasing of buildings and properties of the United States, shall not apply to privileges, leases, permits, and contracts granted by the Secretary of the Interior by the National Park Service, for the purpose of providing accommodations, facilities, and services for visitors thereto, pursuant to the Act of August 25, 1916 (39 Stat. 535), as amended, or the Act of 16 USC 1, August 21, 1935, chapter 593 (49 Stat. 666; 16 U.S.C. 461-467), as amended.

Section 321 of the Act of June 30, 1932, (the Economy Act of 1932) states that the leasing of buildings and properties owned by the U.S. Government "shall be for money considerations only." This proved to be somewhat problematic for NPS because of a long-standing practice in the contract negotiation process. Specifically, since about 1954 the Park Service has reduced the amount of the franchise fees charged certain concessioners upon the agreement that they construct facilities or make other capital improvements on government-owned property. This practice of obtaining facilities by means of a reduction in franchise fees for building commitments was construed by the Comptroller General of the United States as circumventing the appropriation process, since such a practice indirectly prevents the Congress from

exercising control over significant expenditures of funds for Park Service construction. Normally these funds would have been deposited into the Treasury as miscellaneous receipts. This type of reduction in franchise fees is considered to result in the government's indirectly subsidizing a substantial portion of the construction cost of facilities which, under the terms of the concession contract, are beneficially owned by the concessioner. In addition, NPS is still contractually committed to purchase the concessioner's permanent possessory interest in those facilities.

Subsection 3(d) of Public Law 89-249 provides in part that consideration of revenue to the United States from franchise fees shall be subordinate to the objectives of protecting and preserving the areas involved in concession contracts and of providing adequate and appropriate services for visitors at reasonable rates. In this connection, Subsection 3(d) of Public Law 89-249 exempts concession contracts from the provisions of Section 321 of 1932, as amended, 40 U.S.C. 303b. The Department of the Interior Office of the Solicitor has held that concession contracts cannot be considered so narrow an arrangement as a lease for a money consideration only. He further maintained that contracts are a contractual arrangement contemplated by specific statutory language by which the program responsibility of NPS is managing an area for the benefit of the visiting public. Implementation of NPS mandates are

accomplished, in part, by private concessioners operating under appropriate contract controls which assure that National Parks will be managed in the public, rather than private, interest (Concessions Management Guideline, 1986). Thus, Section 7 states that the provisions of Section 321 of the Economy Act of 1932 does not apply to the reduction of franchise fees.

#### Section 8. Leasing of historical buildings

Subsection (h) of section 2 of the Act of August 21, 1935, the Historical Sites, Buildings, and Antiquities Act (49 Stat. 666; 16 U.S.C. 462(h)), is amended by changing the proviso therein to read as follows: "Provided, that the Secretary may grant such concessions, leases, or permits and enter into contracts relating to the same with responsible persons, firms, or corporations without advertising and without securing competitive bids."

This section authorizes the Secretary to lease historic structures for the purpose of providing commercial services for Park visitors. The Solicitor's Office has contended (as of February 1, 1985) that the lease of historic structures to provide commercial services for substantial numbers of Park visitors shall be authorized and administered pursuant to Public Law 89-249. Whereas, the lease of a historic property to provide services for incidental numbers of visitors may be authorized and administered under Section II of the National Historic Preservation Act of 1966 without regard to applicable concession authorities. The authority of Section III of the

National Historic Preservation Act may be utilized as a supplement to concession authorities which would enable NPS to utilize certain benefits of Section III for the preservation of historic properties while complying with applicable concession requirements (Concessions Management Guideline, 1986).

To assure that the leasing of a historic structure is administered under the proper authority, the superintendent of that Park unit will determine what uses are permissible and what are not. Based on that decision, the NPS Director will determine if the contract will be executed under the authority of the National Historic Preservation Act of 1966, as amended, or P.L. 89-249 as may be appropriate.

#### Section 9. Records

Each concessioner shall keep records as the Secretary may prescribe to enable the Secretary to determine that all terms of the concession contract have been and are being faithfully performed, and the Secretary and his duly authorized representatives shall, for the purpose of audit and examination, have access to said records and to other books, documents, and papers of the concessioner pertinent to the contract and all the terms and conditions thereof. The Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of five (5) calendar years after the close of the business year of each concessioner or subconcessioner have access to and the right to examine any pertinent books, documents, papers, and records of the concessioner or subconcessioner related to the negotiated contract or contracts involved.



This section states that the Secretary will establish the guidelines in which all business records are to be documented. In addition, the Secretary, the Comptroller General, and all of their duly authorized representatives are allowed access to the concessioner's records. It is the policy of the Department of the Interior to make the records of the Department available to the public to the greatest extent possible, keeping with the spirit of the Freedom of Information Act (FOIA) (Concessions Management Guideline, 1986).

As a result of the Court's opinion in National Parks and Conservation Association vs. Morton, Civ. No. 436-70 (D.D.C.) the following financial information must be provided when requested pursuant to the FOIA request.<sup>2</sup>

1. The franchise fee amount (except for the supporting details used in computing the amount).
2. The prepaid expense amount.
3. The annual report of statistical information (except, occupancy percentages).

As a result of the Court's opinion, the Service must continue to handle FOIA requests for concessioner financial information on a case-by-case basis. Each request must be analyzed on its own merits with respect to the particular information sought. For each request, the affected concessioner should be contacted to solicit his impact on

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<sup>2</sup> The full procedure NPS follows upon receiving a written request is outlined in 43 CFR, Subtitle A, Part 2, Subpart B.

whether the requested information is publicly available elsewhere or previously made available by the concessioner and whether its disclosure would be likely to cause substantial competitive harm. The concessioner should be requested in detail to articulate the precise bases for the alleged harm. This information must be carefully analyzed, since the decision to withhold and the rationale for withholding is an NPS decision, not a concessioner decision. Accordingly, the Service must examine the requested information and segregate for disclosure information that has been made public elsewhere or information that is of a noncompetitive nature.

### III. OPERATING ENVIRONMENT

#### Introduction

To understand concessions management and current controversies surrounding the Concessions Policy Act it is imperative to grasp the historical development and evolutionary role of concession operations. This is referred to as the operating environment. This section focuses not only on the role of concessions but also the major issues associated with this aspect of Park management, policies governing the management of concession operations and the resulting effects of those policies.

#### The Beginning Years: 1872-1915

Private groups supported Congress's creation of National Parks prior to 1916 (Newell, 1990). Public sentiment rallied around the idea of preserving the nation's first National Park, Yellowstone, in 1872. Lobbying over five years by such groups as the Sierra Club, the National Geographic Society, and the American Association of the Advancement of Science resulted in the designation of Mount Rainier in Washington state as the nation's fifth National Park in 1899.

The business community, both local and national, was another vital source of support for specific National Parks. Private businessmen offered lodging to visitors in Yosemite in 1864 and in Yellowstone in 1871, before these areas had been

reserved as a National Park. The efforts of local horsepacker and hotelier Enos A. Mills were instrumental in convincing Congress to designate Rocky Mountain National Park in Colorado in 1915 (Everhart, 1983). Perhaps the most important national industry group to support the reservation of Park lands were the owners of railroads (Newell, 1990). The Northern Pacific's efforts at Yellowstone, including the investment in lodging facilities at Mammoth Hot Springs, drew thousands of Americans to this remote corner of northwestern Wyoming. Similarly, the Great Northern Railroad under the leadership of Louis Hill played an integral role in the establishment and development of Glacier National Park in Montana.

March 1, 1872 marked the legislative act which established Yellowstone National Park. This act also signifies the first legislation pertaining to concessions management within a National Park.

... Sec. 2. The Secretary (of the Interior) may in his discretion, grant leases not exceeding ten years, of small parcels of ground, at such places in said Park as shall require the erection of buildings for the accommodation of visitors; all of the proceeds of said leases, and all other revenues that may be derived from any source connected with said Park, to be expended under his direction in the management of the same, ...

This vaguely worded sentence, which constituted the only legal instruction for many years, contributed to the confusion that followed (Everhart, 1983). What is important to note

here is the role in which Congress intended for concessioners within Yellowstone National Park. Congress, at that time, harbored the thought that the Park could be operated at no cost to the national treasury, reasoning that necessary tourist services would be supplied by entrepreneurs who would pay the government for the privilege of doing business within the Park.

### Attempting to Locate a Balance: 1916-1933

By the time the National Park Service (NPS) was established in 1916, concession operations in the Parks were disruptive and uneconomical; many were of the "dog-eat-dog" variety that tried to lure tourists from one another with tactics borrowed from a carnival midway (Everhart, 1983). In Yellowstone, one company operated a hotel and restaurant at each of the five major features. It had considerable competition from three permanent camp companies, all providing a camp (canvas sleeping quarters on wooden frames) and lunch station at each of the five centers. In addition, there were three competing stagecoach lines. The situation was similar in Yosemite where more than two dozen concessioners provided accommodations, meals, and transportation.

It was reported that a hotel concessioner within Yellowstone National Park was cutting away large sections of the forests surrounding his hotels to fuel their fireplaces. In a like manner, concession employees were assigned "market

fishing" duty, which supplied trout for the dining tables from the Yellowstone lakes and rivers. Even though all facilities were badly overcrowded and in need of extensive repairs, this concessioner invested as little money as possible into the operation, while extracting the maximum profit. In addition to these activities, the concessioner had neglected to obtain a permit or to make payment to the government.

Throughout much of 1916, Stephen T. Mather (NPS Director) struggled with the concessions in Yellowstone Park. Such miserable performance, Mather firmly believed, weakened the popular support necessary to justify more Parks and bigger budgets (Blodgett, 1990). He felt that if competition fragmented the limited pool of customers, then each enterprise would be encouraged to skimp on service or engage in competitive "bloodletting" to avoid financial ruin. Similarly, Mather reasoned, unrestrained competition among Park concessioners would drain off the patronage necessary to earn a return upon investment, thus threatening the economic well-being of all competitors. Furthermore, the public would receive poor service and be subjected to all kinds of unscrupulous tactics. To forestall such chaos, Mather proposed to ensure order by creating "regulated monopolies." Armed with the power to rewrite and cancel leases, he pressured many of Yellowstone's concessioners into mergers. The Park's stage lines were amalgamated under one operator, horses were replaced by motorcars, and several notably

incompetent operators were dispossessed.

Under Mather's direction, a concessioner might hold a monopoly on transportation or lodging, but in return had not only to deliver excellent service but demonstrate adaptability in the face of a rapidly changing tourist industry (Ise, 1961; Everhart, 1983). In managing Park concessions, the Service would insist upon "businesslike" operations that devoted every effort to satisfying the needs and wants of Park visitors. The federal government would accept private enterprises, but not free enterprise, within the Parks (Blodgett, 1990).

Regulated monopolies meant that the NPS would regulate the rates concessioners charged to the public. Also, NPS would gauge each concessioner's success by how well he fulfilled the needs of the visiting public and in how well the concessioner preserved the Parks "in essentially their natural state." Operators would be protected by franchises that would provide "the reasonable security and protection necessary to attract investment capital" and ensure a "fair return on capital." At the same time, because no operators held "irrevocable permits," they could lose their franchises if they failed to furnish "satisfactory service to the public at reasonable rates." Franchises would protect the operators from competition inside the Parks as long as they met the needs of the visitors, but the franchises would not, in themselves, constitute a monopoly. NPS retained the right to issue additional franchises, should it be believed to be in

the public's interest to do so. Mather's early efforts to improve the state of affairs in Yellowstone, then, marked the opening of a concerted drive to improve conditions in every Park (Blodgett, 1990).

The Organic Act of 1916 (the NPS Establishment Act) marked the second piece of legislation to address the use of concession operations:

... Sec. 1. The service thus established shall promote and regulate the use of the Federal areas known as national Parks, monuments, and reservations hereinafter specified by such means and measures as conform to the fundamental purpose of the said Parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such a manner as will leave them unimpaired for the enjoyment of future generations.

... Sec. 3. (The Secretary of the Interior) may also grant privileges, leases, and permits for the use of land for the accommodation of visitors in the various parks, monuments, or other reservations herein provided for, but for periods not exceeding thirty years; and no natural curiosities, wonders, or objects of interest shall be leased, rented, or granted to anyone on such terms as to interfere with free access to them by the public...

Throughout Park Service history, there has been a dichotomy within the agency between the purist, wanting the least possible amount of Park development, and the recreationalist, dedicated to development and expanded use within the limits of the Service's conservation and preservation concept (The Outdoor Recreation Resources Review Commission, 1962). Indeed, to some extent, this durability is



evident in the above enabling legislation in section one. The general public, too, has been divided, and the Service has been under pressure from both sides. NPS has steered something of a "middle course", rejecting the gaudier sort of concession, while agreeing to developments such as winter ski-tour operations in a number of Parks. At the same time, the Service has consciously tried to preserve wilderness areas.

In the early history of National Park areas and the National Park Service, it was difficult to attract private capital to make substantial investments in public accommodation facilities in the West (Carver<sup>3</sup>, 1964). Construction crews had to be housed and fed in the Parks, travel by stage was slow and uncertain, and delays were experienced in obtaining needed supplies and materials. Additionally, private capital had to be relied upon to provide visitor accommodations.

Accordingly, it was necessary that the concession authorizations granted to private parties certain inducements to encourage the investment of substantial amounts of capital and to stimulate the growth of the operation as the public needs demanded. These inducements included (1) a preferential right to provide additional services, if and when required, (2) recognition of the concessioner's equity which more recently has been defined as "possessory interest" in the

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<sup>3</sup> John A. Carver, Jr. (Assistant Secretary of the Interior), provided this information as testimony in hearings held before the committee on Interior and Insular Affairs, 1964.

facilities provided by him, (3) the right to be reimbursed for the facilities if someone else was granted the privilege of operating such facilities, (4) the opportunity to earn a reasonable profit on the overall operation, and (5) a franchise fee provision under which concessioners would be entitled to earn net profits equal to six percent of their investment before paying a franchise fee. This "priority" of net profits was to be cumulative from year to year if not earned. In addition, it was necessary to assure the concessioner, although it could not be included in the contract, a preferential opportunity to negotiate a new contract if he had provided satisfactory services during his previous contract (Carver, 1964).

#### **The War Years: 1942-1946**

By the end of 1941 (the year of operation before World War II), concessioners had invested more than 30 million dollars of fixed assets in the Parks. Visitation to many of these areas had increased, largely because of greatly increased automobile travel, to a point that the concessioners had prospects of sufficient business to overcome the more hazardous business potentials experienced during the stage and early train travel to the areas. Nevertheless, between 1938-41, concessioners averaged less than a 6 percent return on their net worth (Carver, 1964).

Many large concession operations were forced into drastic

curtailment in scope or even complete closure during World War II. This resulted in some cases in substantial "unearned priorities" developing during the war years. In the ensuing years little, and in some cases, no franchise fees were paid to the government as a consequence of the built-up unearned priorities, although the profits and gross receipts of the concessioners were the highest they had ever experienced. This caused criticism of such a franchise fee basis by the Department of Interior in 1946. Alternate franchise fee basis, with definite profit limitations, were proposed by the Department for new contracts, but were not acceptable to the concessioners whose contracts were up for renewal.

According to Carver (1964), the cooperative relationship that had existed theretofore between the concessioners and the Department of the Interior was adversely affected as a result of a legal opinion by the Solicitor of the Department. It was ruled that upon the expiration of a concession contract (Sequoia and Kings Canyon National Parks Co.), the concessioner had no property right in the facilities erected on the government-owned land, and that all that could be claimed by the concessioner was a right of reimbursement for the current market value of the facilities if a successor concessioner took over the operation. At the same time the Department sought to place into effect several departures from past policies which were unfavorable to the concessioners, who therefore, refused to enter into new contracts or enlarge

their operations.

Post War Years: 1948-1955

In this impasse the Secretary appointed the Concessions Advisory Group consisting of five private citizens representing the accounting profession, travel industry, hotel industry, the general public, and conservation interests, to make a comprehensive study and report on concession policies and practices in national Park areas. That report, dated February 9, 1948, recommended among other things that the National Parks should not be regarded as revenue producing and that franchise fees should be abolished insofar as practicable; investment by private capital was considered preferable to Government ownership; contracts should provide for the concessioners to have equitable title to all property acquired through the investment of their funds; contracts should be awarded to selected operators with satisfactory records and known reliability and, upon satisfactory services, their contracts should be renewed; the public interest would be served best by granting preferential contracts to concessioners; concessioners should be entitled to an opportunity to earn a minimum return on investment with a further right to additional earnings to compensate for risks assumed and to provide an incentive for good operation; and rates to the public should be as reasonable as possible, consistent with the costs of furnishing the services.

On the basis of these findings from the Concessions Advisory Group, the problem of recognizing the concessioners' property rights upon the expiration of their contracts was submitted to the Comptroller General on October 28, 1948. He ruled that, in connection with any proposed new concession contracts with former concessioners, there could be a recognition of the capital investment of the concessioners in the facilities developed by them. Also, that they were entitled to reimbursement for the facilities if a successor concessioner took over an operation.

Hearings pursuant to H.R. 66, 81st Congress, on various legislative proposals regarding the matter of providing facilities and services for the accommodation of the public in the National Parks and Monuments were held by the House Public Land Committee.

At this time the concessioners, who were represented by an association known as the Western Conference of National Park Concessioners, and the Department of the Interior presented their arguments with respect to the proposed policies.

After considering all of the recommendations which were made by the concessions Advisory Group, the National Park Service, the Western Conference of National Park Concessioners, and numerous individual concessioners, the Secretary of the Interior approved on May 6, 1950, certain general principles relating to concession activities which, in

major part, re-established the previously long-existing policies of the Department. The policy is titled "Concession Policies of the National Park Service, 1950." This policy, which superseded all previous concessioner policy statements, was adopted as the concessions' policies of the National Park Service. It should be noted that this policy was a National Park Service departmental policy and not statutory legislation. The following is a brief analysis of that policy:

1. Preservation and Use

The act of August 25, 1916, creating the National Park Service, prescribes both preservation and use of areas administered by that Service. To harmonize these two objectives to the greatest extent possible, it shall be the policy of the Department to permit the development of accommodations within the areas administered by the National Park Service only to the extent that such accommodations are appropriate and necessary. Where accommodations exist or can be developed by private enterprise outside of such areas, accommodations shall not be provided within those areas.

The number of sites and locations and sizes of the tracts of land assigned for necessary accommodations shall be held to the minimum essential to the proper and satisfactory operation of the accommodations authorized to be installed and operated. Moreover, such developments as are permitted shall be constructed so as to be as harmonious as possible with their surroundings. To this end, plans and specifications for buildings and other structures to be erected by the concessioners shall be prepared at the expense of the concessioners and submitted to the National Park Service for approval before construction is begun.

Where the public is served adequately by facilities

provided under existing contracts, no additional applications for providing similar accommodations in an area will be approved. Moreover, experience has demonstrated that, as a general rule, it is more efficient to have a single concessioner operating the major facilities in each area. For this reason and in order to enable essential, but non-profitable, operations to be subsidized in a limited way by profitable operations, it shall be the policy of the Department, generally, to grant to a concessioner a preferential opportunity to conduct new operations of like character in the same area.

NPS interprets Park legislation to respond to Park management issues (Lemons and Stout, 1982). Section One of this policy attempted to relate the fundamental purposes of the National Park System (i.e., preservation and use) with the methodologies of how to manage concession operations. There appeared to be a realization among the decision-makers that through the management of concession operations, the goals of both preservation and use could be obtained.

The first three paragraphs of this policy set the criteria for which concessions was permitted to function. Visitor accommodations were to be limited to those "appropriate and necessary." To be considered appropriate and necessary, three requirements had to be met. First, a similar accommodation could not already exist or feasibly be able to be developed by private enterprise outside of the Park boundary. Secondly, "The number of sites and locations and sizes of the track of land assigned" for an accommodation must be kept at a minimum. To assist in accomplishing this second criterion, no additional accommodations will be approved when

existing accommodations are adequately serving the public. Lastly, the accommodations must be constructed in a manner which is visually "harmonious as possible with the surroundings."

To further facilitate obtaining the desired concession climate, section one states a preference for utilizing a single concessioner with all major facilities in each area. It was felt that limiting the number of concessioners per Park unit was more efficient for both the operating concessioner and NPS. It also enabled the NPS to obtain essential, but non-profitable accommodations by subsidizing that loss with allowing the same concessioner to operate a profitable facility.

As a mechanism to limit the number of concessioners, concessioners were given a "preferential opportunity to conduct new operations of like character in the same area." This simply meant that already existing concessioners were given the first opportunity to operate any new needed facilities within that same area. "Same area" could be defined as the same district within that Park (in the case of large Parks), or in other cases that entire Park. Interestingly, there was no mention of preference given to an already existing concessioner operating within one Park who might also consider operating a business in a different Park as well.

## 2. Merchandising



Merchandising within the areas administered by the National Park Service shall be limited, in general to those items and services appropriate or necessary for the public use and enjoyment of the areas. All such merchandising shall be subject to the right of the National Park Service to determine and control the nature and type of merchandise sold in an area.

NPS is responsible for governing both the nature and type of merchandise sold by concessioners. "Merchandise" in this context refers to the types of products and services sold within a National Park. "In general those items and services" must also be "appropriate or necessary." This wording was intended to give the Park Service some latitude when deciding specifically the type of facility to be operated. In this section "appropriate or necessary" have somewhat of a different meaning than "appropriate and necessary" in section one. There is an understanding that to have appropriate and necessary accommodations which are simultaneously unprofitable, it becomes necessary to allow the operator of that accommodation to also operate a facility in which there exists a profit. In such a circumstance, it then becomes either "appropriate or necessary" to allow the concessioner to operate a facility which the public might not need to enjoy the Park (i.e., souvenir shops, and the sale of alcoholic beverages).

### 3. Automotive Transportation - Saddle and Pack Horse Operations

Automotive transportation service shall be authorized in the areas administered by the

National Park Service only to the extent necessary to make the areas and their features available to the visiting public. To insure the availability of adequate transportation service to and within the areas, preferential privileges to provide such service may be granted: Provided, that the granting of such privileges shall not be construed as a bar to charter buses operating through the areas in accordance with the rules and regulations of the National Park Service.

Saddle and pack horse operations shall be encouraged. Preferential privileges to base saddle and pack horse operations within the areas shall be granted, however, only to the extent necessary to insure that such service is available. Saddle and pack horse operations, based outside of the areas, may be authorized by the National Park Service under permit, to operate over the trails within the areas, but as a general rule they shall not solicit patronage within the areas.

The intent of the above paragraph established an expressed preference for concessioners as opposed to "outfitters." An outfitter is defined as a private person or corporation whose business is based outside of a Park boundary but provides a service within the Park boundary. This preference exists even though Section One clearly states a preference for out-of-Park free market businesses. This is not contradictory in meaning. The difference between an outfitter and other private businesses lies in the fact that outfitters physically bring their customers into a Park area and impact, in some way, the resources of that Park. Moreover, outfitters were not governed by this departmental policy.

#### 4. Acquisition and Ownership of Facilities by the Government

It shall be the policy of the Department of the Interior to provide necessary accommodations and basic facilities only in the event that private capital is not obtainable and where government appropriations can be made available. In cases where facilities are provided for with government funds, they are to be made available, under contract, for operation by concessioners. There is no intention that the government should operate government-owned concession facilities. The Department believes that such facilities should be operated under contract with private concessioners, including non-profit distribution corporations.

It is the desire of the Department of the Interior to assure the concessioners of the security of investments in buildings, structures, and other improvements provided by them on federally owned lands for the purposes of a concession contract to the fullest extent of the existing authority of the Department. Accordingly, while reserving in the U.S. formal legal title to such buildings, structures, and other improvements, for the purpose of insuring that they remain on the federally owned lands for the duration of their useful life, it shall be the policy of the Department to recognize that the concessioners have substantial property rights in them and appropriate provisions on this subject be included in concession contracts.

The intent of this section is to simply state that those facilities (accommodations and services) which NPS have deemed necessary are to be provided by concessioners. It was realized that the major obstacle to accomplishing that goal lied in the difficulty of obtaining a loan to invest in a facility in which the legal title of that facility was owned by the Federal Government.

This section states that the Department of the Interior

recognizes that concessioners have "substantial property rights" in those facilities. To this end, the Department assured the concessioner he will have security in his investment. What was exactly meant by the Department's recognition was not stated. However, it did establish the fact that the Department did prefer concessioners to operate and, where feasible, construct needed facilities and that the Department intended to meet the needs of concessioner whenever possible.

#### 5. Awarding Contracts

This section grants a concessioner with three incentives which are intended to provide continuity in the operation of a service and/or facility. The first incentive is "it shall be the policy of the Department [of the Interior] to permit the National Park Service to procure new concessioners without the requirement of public advertising, except as provided in the Historic Sites Act (16 U.S.C. 462(h), 1946 ed.), which, in certain limited cases, specifically requires public advertising in the leasing of contracts for concession operations."

The second incentive is that "existing concessioners shall be granted a preferential opportunity to negotiate new contracts in the event they have rendered satisfactory service during the life of their existing contracts." This refers to obtaining a new contract operating the same facility.

The third incentive granted in section five states that "When sufficient additional benefits or considerations accrue or pass to the Government and the operations of the concessioner have been entirely satisfactory during the term of the existing contract, it shall be policy of the Department [of the Interior] to cancel existing contracts prior [emphasis added] to the expiration of the term for which originally granted and to grant new contracts to the same parties for an additional term." The reasoning behind this incentive is to install a mechanism to allow a concessioner to provide additional facilities and/or services at any time during the existing contract. Also through early negotiations if it were determined that a concessioner was unwilling to make improvements or provide additional facilities and/or service, this could permit NPS the time needed to locate a new concessioner without having a lapse in the operation.

#### 6. Franchise Fees

It shall be the policy of the Department that franchise fees be commensurate with the value to the concessioners of the opportunities granted to them to do business within the areas administered by the National Park Service and the services and facilities furnish them by the government for which no separate fee is charged. Accordingly, as a general policy, franchise fees to be negotiated by the parties to the contract shall consist of a reasonable flat charge for ground rent, plus an additional fee based on percentage of gross revenues.

Since the concession operations vary greatly in size, location, seasons, and other pertinent respects, the Department will, however, negotiate franchise fee provisions differing from that

mentioned above, when circumstances justify such action. ... The Department recognizes a primary obligation to provide for the furnishing of accommodations and services to the visiting public at reasonable rates. It shall be the policy of the Department, therefore, that concessioners shall be required to pay franchise fees only if, and to the extent that such fees, except for ground rent, can be paid from net profits of the current year. ... In cases where it is desirable, contracts may provide for either party to the contract to reopen the subject of franchise fees each five years with a view to reaching an agreement upon revised franchise fee provisions. In the absence of such agreement, the existing franchise fee provisions shall remain applicable.

It is important to note here that for there to be a change in the amount of the franchise fee, both NPS and the concessioner must agree on the change. Although not referred to in this section, franchise fees are paid to the Department of the Treasury. No type of funding from concession operations is paid directly to the National Park Service.

## 7. Rates

Based upon the assumption that rates charged to the public should be reasonable, it shall be the policy of the Department to permit the National Park Service to approve rates to be changed by the concessioners to the public primarily on the basis of charges for comparable services and in accordance with general custom for similar operations outside of the areas administered by the National Park Service, with due regard to, and not inconsistent with, a reasonable profit, taking into account the difficulty and risk of the enterprise, length of season, accessibility, cost, book value and current market value of the assets as may be appropriate, and other significant factors.

In determining what is a reasonable profit, as provided in the above paragraph, the following criteria shall be considered: (1) a rate of return

which is sufficiently large enough to encourage the investment of private capital in the enterprise and (2) a rate of return which is sufficiently large enough to justify the risk assumed or the hazard of attaching to the investment in the particular type business.

In regard to rates, NPS has the responsibility to meet the needs of two separate groups - the general public and concessioners. The intent of section seven was to outline a formula which will facilitate that responsibility.

#### 8. Duration of Contracts

In general, it is in the best interest of the government and the concessioner to grant relatively long term contracts, subject to statutory limitations. The length of the contract term should, in general, be commensurate with the size of the investment.

This policy did not designate an upper limit as to the length of a contract. However, standard operating procedure in the 1950's was a maximum of 20 years.

#### 9. Labor Standards and Salaries

Concessioners shall comply with the labor standards regulations of the Department governing employees of the National Park Service concessioners.

Only such salaries and bonuses paid and benefits allowed officers and employees by the concessioners as may be determined by the National Park Service to be reasonable on the basis of services rendered shall be allowed for rate approving purposes and in determining the liability of the concessioners to make payments under the contracts.

Section nine stated that concessioners must pay their

employees a reasonable salary. This section placed NPS in the role of determining labor standards and salaries.

#### 10. Winter Use

Many important recreational benefits are available during the winter months in the areas having a heavy snowfall and not too severe a climate. Accordingly, it shall be the policy of the Department to encourage a winter use program under proper controls to be established by the National Park Service, which will result in a maximum use of these areas by the largest number of people. Concessioners will not be required to provide overnight accommodations in such areas at a loss, however, unless their overall profits justify it.

The intent of this section was to state that it is the policy of the Department of the Interior to encourage Park use during the winter months. Increased winter use holds three basic benefits: (1) Corresponds with a board mandate of NPS - make Parks available to the public for their enjoyment. (2) Increased winter use would serve as a basis for requesting additional funding from Congress. (3) Increased winter use would increase the profitability potential of certain facilities.

#### 11. Souvenirs

It shall be the policy of the Department to encourage (1) the sale of appropriate souvenirs which are of authentic handy craft and labeled as to the origin; and (2) the sale of articles associated with or interpretative of the areas administered by the National Park Service.

Section 11 should not be interpreted to mean that the only type of souvenirs which a concessioner could sell are



authentic handy crafts and/or those items which are related to that Park area. However, it is those types which will be encouraged.

#### 12. Scenic Views

It shall be the policy of the Department to provide government owned viewers free of charge to the visiting public.

#### 13. Low Price Accommodations

It shall be the policy of the Department that concessioners maintain a reasonable proportion of their accommodations as low priced accommodations. The concessioners should exercise the maximum degree of ingenuity in reducing construction and operation costs on all accommodations, and they are urged to do so, particularly in respect to the lower priced accommodations.

#### 14. Utilities Services

The Service will, as a general policy, construct, operate, and maintain utility services within such areas to the extent that circumstances warrant and funds are available. The concessioners shall procure from the National Park Service, when available, at rates to be determined by the Service, water, electric energy, telephone, telegraph, garbage, and waste disposal services at and between its various operations, unless other arrangements are approved by the National Park Service.

Since NPS is responsible for providing and determining utility rates, it gives them an opportunity to subsidize this cost of business to the concessioner. In this case, utility services can be used as an incentive to attract needed concessioners.

#### 15. Alcoholic Beverages

The sale of alcoholic beverages by concessioners may be permitted by the National Park Service in

accordance with the rules and regulations as prescribed by the Department from time to time. No saloons will be permitted.

#### 16. Procurement of Goods and Equipment

It shall be the policy of the Department, and concession contracts shall appropriately provide, that concessioners shall not be permitted to divert or conceal the profits to be earned from the operations authorized under the contract by means of affiliated companies, groups, associations, or other devices.

#### 17. Insurance

It shall be the policy of the Department to require concessioners to carry such insurance against losses by fire, public liability, employee liability, and other hazards as is customary among prudent operators of similar businesses under comparable circumstances. Also the National Park Service may require additional insurance protection in special instances.

Depending on the type of operation, insurance can be a major cost of doing business. This cost is somewhat deferred because most Parks have structural fire fighting capabilities in house. However, the cost of insurance must be incurred by the concessioner.

#### 18. Audits, Accounting Records, and Accounting Reports

It shall be the policy of the Department to audit the concessioners' books and records in order to protect the public interest. The Department recognizes that only through adequate audits and prescribed reporting of financial and operating data can the financial condition and the results of the concessions operations be determined. These data are recognized as essential in planning the expansion of facilities and services with concessioners and carrying out the principle of providing a maximum of services to the public at a minimum of cost.

The concessioners shall be required to maintain such permanent books of account and records, including inventories, as may be prescribed by the National Park Service and as are sufficient to show specifically the items of gross income and expense, receipts and disbursements, and such other information as will correctly reflect the financial condition and results of operations. ...

(1) Each concessioner shall submit annually a report showing his financial condition and the results of his operations, and such other information about his business and operations under the contract as may be prescribed by the National Park Service. The report shall be filed with that Service on or before 30 days following the close of the calendar year.

(2) Each concession shall also be required to submit other reports and data as required by the National Park Service.

(3) Each concessioner shall file, for the approval of the Secretary after audit, a balance sheet showing his assets, liabilities, and capital at the beginning of operations under the contract.

Where the scope and scale of operations by concessioners warrant, the Department may require that the concessioners provide for an annual audit of their books by public accounting firms. In such instances, copies of audit reports shall be made available to the Department.

## 19. Rules and Regulations

All concessioners will be required to comply with the rules and regulations issued from time to time by the Secretary governing the administration and management of areas administered by the National Park Service.

This somewhat vaguely worded sentence attempted to convey the message that the Secretary of the Interior has the authority to establish policy. Also, concessioners are

required to comply with those policies. It becomes important to note that the rules and regulations does not only refer to those directly related to the concessioner's business. This is especially prevalent in the cases where a large number of concession employees live within a Park.

## 20. Implementations

Within the general framework of the policies enunciated herein, the Director of the National Park Service may, from time to time, implement and amplify the provisions thereof as may be necessary for the effective administration and management of concession activities within the areas administered by the National Park Service. This established the right of the Director to change any of the above policies.

### Mission 66 and ORRRC: 1956 - 1963

The next major event which drastically affected Park concessions was "Mission 66." Ten years after the war, the Park System was still short of funding. In spite of a resurgence of visitation to the National Parks, problems of inadequate maintenance, protection, and development during the war and postwar years were still ever present in the mid-1950s. Mission 66 was conceived in 1956 and was designed to overcome the inroads of neglect and to restore to the American people a National Park System adequate for their needs (Wirth, 1980). This was to be accomplished within ten years, by 1966 (the Fiftieth Anniversary of the Establishment of the National Park Service).

A lot could be written on the conditions that existed in the areas of the National Park System in 1955, but an article

in the Reader's Digest (Stevenson, 1955) described them bluntly:

One out of three persons in the United States will visit some part of the National Park System during 1955. To these visitors, I must pass along a warning: Your trip is likely to be fraught with discomfort, disappointment, and even danger.

It is not possible to provide essential services. Visitor concentration points can't be kept in sanitary condition. Comfort stations can't be kept clean and serviced. Water, sewer, and electrical systems are taxed to the utmost. Protective services to safeguard the public and preserve Park values are far short of requirements. Physical facilities are deteriorating or are inadequate to meet public needs. Some of the camps are approaching rural slums. We actually get scared when we think of the bad health conditions.

NPS field forces conducted several visitor polls during the summer of 1955 at the request of the Mission 66 Committee. The results followed very closely to those of a poll made by an outside organization that was not financed by the National Park Service funds. Of approximately 1,750 persons interviewed, a total of 718 had visited National Parks in the preceding five years. Of those, 69 percent had complaints of one kind or another. Many complaints concerned the facilities available in a Park and the general condition of the Parks. About one-third mentioned overcrowding, and about one-half referred to overnight accommodations. Practically all Park visitors wanted either cabin or motel accommodations, very few wanted hotel accommodations, and only 14 percent wanted campgrounds (Wirth, 1980).

On January 5, 1956, the President of The United States included a statement on the Parks in his message to Congress on the State of the Union. Very seldom has the Park Service been mentioned in such an important document. The President said: "During the past year, the areas of our National Parks have been expanded and new wildlife refuge have been created. The visits of our people to Parks have increased much more rapidly than have the facilities to care for them. The administration will submit recommendations to provide more adequate facilities to keep abreast of the increasing interest of our people in the great outdoors."

The guidelines that had been worked out by the Mission 66 Committee (Wirth, 1980), which directly addressed concession operations, were as follows:

1. Adequate and appropriate developments are required for public use and appreciation of an area, and for prevention of overuse. Visitor experiences, which derive from the significant features of the Parks without impairing them, determine the nature and scope of developments.
2. Concession-type services should be provided only in those areas where required for a proper, appropriate Park experience, and where these services cannot be furnished satisfactorily in neighboring communities. Exclusive franchises for concessioners services within a Park should be granted only where necessary to insure provision for dependable public service.
3. Operating and public-use facilities of both government and concessioners which

encroach upon the important Park features should be eliminated or relocated at sites of lesser importance, either within or outside the Parks.

4. Living quarters for government and concessioner employees, when located within the Park, should be concentrated in a planned residential community out of public view.
5. The use of a Park for organized events, organized competitive sports, or spectator events which attract abnormal concentrations of visitors and which require facilities, services, and manpower above those needed for normal operation should not be permitted except in the national capital Parks.

Generally speaking, Mission 66 improved the operation of Parks by giving them inadequate facilities and by giving maintenance high priority. One important result of Mission 66 was an increased contract term from 20 to 30 years. This was to better facilitate the securing of loans by the concessioner and to better facilitate their financial operations in general. Further, Mission 66 was able to stimulate better cooperation between concessioners and the government through such arrangements as providing utilities on a rental basis (Wirth, 1980). The concessioners invested more than \$33 million of private funds during the Mission 66 period for new and improved cabins, lodges, motels, stores, curio shops, service stations, marinas, and other installations. An example was the building of the new Canyon Village and Grant Village in Yellowstone National Park and removal of old Canyon

complex for that. At best it is a troublesome climate due to factors beyond the control of government or anyone else -- the brief recreation season in many areas, high costs of construction due to isolated locations, and the shifting desires of consumers. The climate is made all the more troublesome by contradictory government attitudes, the supervision of public agencies, the occasional intrusion of political considerations, changes in public policies, vaguely worded contracts, and legal concepts that are novel to the world of orthodox finance.

The central goal of public policy should be to reduce these difficulties as much as possible while still protecting the paramount interests of the public. To the degree that such steps are successful, an increased flow of funds may be expected from the private sector. Personal capital resources going into concessions would also increase. Cash flow from successful concessions -- historically a fruitful source of expansion capital -- would too increase.

At the Federal level, the general policy is to attract private capital into the concession system where possible, and to employ Government funds for the construction or operation of facilities as a last resort. The concession system is geared to profit, or the hope of profit. It therefore must be supplemented by other means when for any reason a decision is made to acquire uneconomic facilities and operate them at a loss. This is a problem that confronts the NPS almost exclusively among the Federal agencies. It comes about in a number of ways. When a new Park is established, local residents, backed by their spokesmen in Washington, press for facilities whether they can be operated profitably or not. In established Parks, efforts to close down or move uneconomic facilities are likely to be resisted. In still other cases, it may be decided as a matter of public policy to establish



facilities at a loss in a new Park in the belief that they will become profitable later. These are all situations in which the political factor becomes more important than the economic factor.

The ORRRC listed six considerations for policy makers:

1. A clear statement of Federal policy toward the concession system is badly needed. Such a statement should set forth the role of concessions in a national recreational program as precisely and forthrightly as possible. A statement of policy was drawn up in 1950 concerning only the National Park Service. Conditions have changed markedly since then. The statement would have to be general in nature to cover the wide variety of concessions and to maintain the necessary degree of flexibility. But it could set forth a general philosophy in which the useful role of concessions is recognized, the basic rights of concessioners described, and the form of a joint resolution by Congress, after proper studies and considerations.
2. The language of contracts, leases, and permit made with concessioners could usefully be examined by a study group consisting public officials, attorneys, and financial experts. The goal would be to rewrite the agreements in terms that would fully protect the public interest but which would be more reassuring to prospective investors and lenders. The present legal forms seem unduly-weighted on the side of the government and unnecessarily stringent in light of actual operating conditions (emphasis added).
3. As a direct means of aiding the concession system, government insurance of loans made to concessioners should be

considered.

4. Concessioners themselves and financiers interested in recreation should explore the possibility of organizing small business investment corporations to specialize in concession finance. The tax loss provisions are especially interesting.
5. The possibility of obtaining government loans through the newly established Area Development Program should be explored.
6. Camper fees should be charged in National Parks. Campers everywhere accept such fees as reasonable and their use would likely stimulate increased private investment in campgrounds, already a growing factor in recreation.

In June of 1963, the Comptroller General of the United States reported to the Congress in an audit of the administration of concession contracts for National Park Areas of the NPS. The report was entitled "Certain Deficiencies in the Negotiation and Administration of Concession Contracts for National Park Areas." The Comptroller General was critical of National Park Service policies toward concessioners and objected to instances in which the NPS had reduced concessioner franchise fees in consideration of the construction of additional facilities. In this report, the Comptroller General also criticized: granting possessory interests at fair market value without clear amortisation provisions; a lack of adequate financial reporting by

concessioners; and a lack of provision for the settlement of disputes on the amount of fees to be paid the government by concessioners.

**Passage of the Concessions Policy Act: 1964-1965**

On February 27, 28 and March 19, 1964, hearings were held before the Subcommittee on National Parks of the Committee on Interior and Insular Affairs in the House of Representatives. The hearings were to introduce, for possible passing, legislation which would place into statutory law a Concessions Policy Act. The major contributors at this hearing included, concessioners (represented by the Western Conference of National Park Concessioners), the Comptroller General of the United States and the NPS.

During this hearing, the Comptroller General of the United States made various recommendations concerning policies and practices of concessions. His comments are summarized as follows:

Since about 1954, the Park Service has reduced the franchise fees charged certain concessioners upon the condition that they construct buildings or make capital improvements on government-owned property. The practice of obtaining facilities by means of a reduction of franchise fees for building commitments circumvents the appropriation process, since such a practice indirectly prevents Congress from exercising control over significant expenditures or funds

for Park Service construction. These funds should have been deposited into the Treasury as miscellaneous receipts. This type of reduction in franchise fees also results in the Government's indirectly subsidizing a substantial portion of the construction cost of facilities which, under the terms of the concession contract, are beneficially owned by the concessioner. In addition, under certain circumstances, the Government remains contractually committed to purchase the concessioner's permanent possessory interest in the same facilities. Also, the Park Service had reduced concessioners' franchise fees without an adequate review and evaluation of the need for the reduction. Concessioners were not required to submit adequate financial information in support of requests for fee reductions. In the Comptroller General's opinion, if the Park Service had required the concessioners to submit adequate financial information and if such information had been evaluated properly, the Service could have determined that a reduction of the franchise fees was unjustified.

The Comptroller General stated that the percentage franchise fee charged to concessioners is based on gross receipts. The minimum fees established as a guide by the Park Service are based upon what is considered to be the concessioner's primary source of income. However, the Comptroller General has found that substantial portions of concessioners receipts are derived from services other than that on which the fees are based. The Comptroller General

believed that the fees charged to concessioners should have been negotiated on an individual basis taking into consideration all significant factors affecting the individual concessioner's operation.

The Comptroller General's report also pointed out that the Park Service adhered to the policy of granting concessioners a preferential right to construct additional facilities even in instances where it had been detrimental to operation of the Parks. The Comptroller General's review of contracts disclosed that the practice of granting concessioners possessory interest at current fair value in capital additions of improvements, when coupled with the concessioner's preferential right to construct additional facilities determined to be required by the Park Service, places the Government in an unfavorable bargaining position. "Concessioners have been offering to sell their possessory interests at prices so high as to discourage prospective purchases and that the Park Service has had difficulty upon expiration or termination of concession operations in reaching agreement with concessioners on the value of possessory interest." Regarding future contracts, it is recommended that the Secretary of the Interior require concessioners to amortize the cost of concessioner-constructed facilities over a realistically estimated useful life of the facilities and that the amortization rate to be used by concessioners for recognition of possessory interests should be specifically

stated in the contract.

The Comptroller General further stated that concession contracts used by the Park Service appear to provide ample protection to the concessioners for his investment and should therefore create the necessary security to encourage lending institutions to provide long-term loans for financing economically sound Park facilities required. The Comptroller General also felt that the concession contract furthermore provides assurance that the concessioner shall have the opportunity to earn a reasonable return on his investment.

In response to this General Accounting Office (GAO) report, Don Hummel, chairman of the Western Conference of National Park Concessioners, submitted the following comments in a document dated March 14, 1964 (this was presented during the hearings).

We [Western Conference of National Park Concessioners] find in the [GAO report] a disturbing number of errors and omissions of fact, misleading financial figures, inconsistencies, and unsupported conclusions. The GAO fails to discuss or to recognize the objectives of present concession policies and does not attempt to relate its recommendations to those objectives.

From the beginning of the National Park System, private enterprise has been relied upon to provide necessary facilities for visitors and concession policies have been adapted to the needs of private capital, with the approval of this committee and its predecessor. GAO cites these established policies as "deficiencies" and recommends drastic changes unfavorable to concessioners on possessory interests, preferential operating rights, preferential opportunity of renewal and franchise fees. GAO does not examine the probable effects of these recommendations on the availability of

private capital nor does it frankly express a preference for the alternative objective of Government financing of visitor facilities.

GAO recommends that, if private capital cannot be found under the proposed new policies, the Secretary should ask Congress for appropriations to build facilities and to acquire existing possessory interest. No attempt is made to forecast the results of such a request from the Secretary. Experience in 1946 to 1950 suggests and that Congress would not adopt the legislation required for a successful program of government ownership. The threat of Government acquisition would paralyze further private investment in urgently needed improvements and additions. If Congress should decide to buy the concessioners' improvements, there would remain the difficult problems of who would operate them and on what terms. No estimates are made of what revenues the Government might expect as returns on the large appropriations needed to acquire and construct facilities. The GAO has not thought its proposal through.

GAO seems to be primarily concerned with the amount of revenue received by the Government from franchise fees. It mentions but does not comment on the provision in the bills that revenue "shall be subordinate to the objectives . . . of providing adequate and appropriate services for visitors at reasonable rates." Here again GAO makes recommendations on a complex subject without first defining its objectives. Whatever a concessioner pays in fees reduces the amount otherwise available for reinvestment, for repayment of loans, for attracting equity capital, for improving service, or for reducing rates. It is a question of what is more important in our National Parks.

NPS also had an opportunity to present testimony. This revealed how the NPS viewed the concession's management situation. The following is a review of statements given by George B. Hartzog (Director of the NPS at the time of this hearing) and Thomas F. Flynn, Jr. (who was the Chief of the Division of Concessions Management for the NPS).

According to Hartzog, the salient points of the proposed legislation are preferential rights to provide services within a Park, preferential opportunity of satisfactory concessioners to negotiate renewal contracts, possessory interest, reasonable opportunity for the concessioner to earn a profit, franchise fees, and exemption of concession contracts and permits from the provisions of section 321 of the act of June 30, 1932 (which states that leases of buildings and properties of the United States shall be for money considerations only). Hartzog addressed each of these points and gave the NPS's position for each:

The policy of granting concessioners preferential rights within a Park to provide public accommodations, facilities, and services is of long standing. This policy has withstood the test of time and we [the NPS] believe that it should be continued. The preferential right carries with it the obligation of the concessioner to provide new and additional facilities when required by the Secretary. If a concessioner is unwilling or unable to provide such new and additional facilities a prospectus is issued and all persons known to be so interested are given an opportunity to submit an offer to provide them.

The preferential opportunity for concessioners who have provided satisfactory services during the lifetime of their contracts to negotiate renewal contracts was adopted as the policy of the Public Lands Committee in 1956 and reaffirmed as the policy of this committee in 1960. The importance of such a policy is that it is desirable to continue the satisfactory services of a proven concessioner rather than to secure a new concessioner who has yet to demonstrate his satisfactory performance. Such continuity of operating authority also encourages the continued maintenance of a satisfactory level of service to the public.



It has been recognized that legal title to buildings, structures, and other improvements upon federally owned lands is vested in the United States. It has likewise been recognized that the concessioners have a vested interest in the facilities they provide which, under the concession contracts, is recognized and defined as a possessory interest. The question of possessory interest has been challenged in certain quarters. However, unless the concessioners are entitled to rights in the facilities they install, their ability to secure commercial financing would be reduced to the personal credit of the concessioners involved. As a matter of practice, under the present standard contract language, if it is determined that a concession operation is no longer needed and that it therefore should be discontinued, the concessioner would receive book value for his remaining investment. However, where the operation is to be continued and the facilities provided by a concessioner are to be used by a new concessioner, the retiring concessioner is entitled to receive payment at the sound value of the improvements as determined by an appraisal if an otherwise mutually agreeable purchase price is not reached. To do otherwise might permit a new concessioner to reap a windfall.

A reasonable opportunity for the concessioner to earn a profit and the amount of franchise fees he is required to pay are somewhat inseparable, since the costs of operation - franchise fees are definitely a cost of operation - have a material bearing on rates to the public. As a result of the recommendations of the House Appropriations Committee of March 28, 1963, the NPS has made a thorough review of our franchise fee policy and the Department is taking steps to insure that higher franchise fees will be paid to the Government when negotiating new contracts and when franchise fees are reconsidered at appropriate dates during the lifetime of existing contracts.

October 9, 1965 marked the signing of the Concessions Policy Act (P.L. 89-249) into law. The principal purpose of the Act was to place into statutory form policies, with certain exceptions, which have been previously followed by NPS

in administering concessions. The "certain exceptions" refers to exempting concession contracts from the provisions of Section 321 of the Economy Act of 1932, providing the GAO with the right to review concessioners' records, and amending the Historic Sites Act of August 21, 1935 (49 stat. 666, 16 U.S.C. 461 (h)) to allow lease of historic sites and building without using a competitive bidding process.

**P.L. 89-249 Implementation Review: 1975-1979**

Ten years after the passing of P.L. 89-249, a new series of reviews were initiated. This review process resulted in two major reports (the Stanford Research Institute Report and The Committee on Government Operations and The Committee on Small Business Joint Report), Oversight hearings held before both the Senate and the House committees, and additional Congressional hearings were held before the Subcommittee on Energy and Environment of the Committee on Small Business in the House of Representatives.

First, the Stanford Research Institute (SRI) was contracted by the Conference of National Park Concessioners to conduct a study concerning the management of concessions within National Parks. The objectives of this study were to provide a basic review of the concessioner concept and the degree of service being performed by the concessions system, administer a survey to determine the general public's attitudes toward concession facilities, and to examine impacts

of potential alternatives to the concession system (Cullinan and Mathews, 1976).

The most revealing aspect of this research resulted from data collected from two surveys administered to the visiting public at different National Parks. The surveys indicated that the general public visiting the Parks wanted no significant change in the availability of a broad spectrum of concession facilities. The central questions posed to those leaving the Park involved the need for and desirability of providing facilities in the Parks to serve visitors. A very substantial majority, 87%, of all Park visitors were opposed to the removal of all campgrounds from national Parks, with only 7.1% favoring such removal. When it was proposed that only some campgrounds be removed, negative response remained high, 75.8%, with support for this idea less than 15%. It should be noted that the precise wording Cullinan and Matthews (1976) used in defining "some" was that "one out of two occasions, campers could not get a place to stay in the Park, compared to the present situation."

A significant majority of Park visitors interviewed also indicated opposition to having all or some hotel and lodge type facilities removed from Parks surveyed. A total of 75.3% opposed removal of all such facilities, with 15.1% in favor; 62.7% opposed removal of even some hotel/lodge facilities, with 23.4% in favor. Of persons who had actually stayed in the hotels and lodges, 90% opposed removal of all, and 81%

opposed removal of some, hotels.

The report concluded by noting that it appeared that Congress has repeatedly and thoroughly examined the alternatives to the basic present concessioner system and has chosen consistently to continue with the existing concessioner system. "Without the ability to generate large-scale funding for change, major changes do not appear fiscally feasible." The report did not foreclose other solutions; it did suggest, however, that any proposed major change should be based on (a) the weight of new objective and (b) concrete indication of substantially changed attitudes among the general public.

On February 26, 1976, the Committee on Government Operations and the Committee on Small Business approved and adopted a report entitled "National Park Service Concession Policies Discourage Competition, Give Concessions Too Great A Voice In Concession Management." This report stated that "there is a growing trend, encouraged by the Park Service, toward single-concessioner Parks." These committees voiced their concern that the larger conglomerate based concessioners were exerting influence over the NPS in increasing amounts as a result of the Public Law 89-249. The report stated, "NPS control and supervision of Park operations have diminished. In certain instances it appears that the concessioner, not the Park Service, operates the Park area." The report also charges that small business participation in concession operations within the Park System has been hindered by NPS

policies, specifically Public Law 89-249. In addition, Public Law 89-249 has stifled the competitive free enterprise in the National Park System and has hindered effective management of concession operations.

Of particular concern, the committees outlined specific components within Public Law 89-249 which they felt were inadequate in meeting the needs of the small business operator and/or the general public. Below is a summary of those concerns listed under the appropriate policy component. Preferential right for one concessioner to provide all public accommodations within a Park unit (Sec. 4).

"NPS prefers to contract with big business rather than small business because big businesses have greater financial resources. Although [Public Law 89-249] authorizes this preferential right, it does not require that it be granted to every concessioner. Instead [Public Law 89-249] allows NPS the discretion to grant this preferential right selectively and on a case-by-case basis." The committees suggested that NPS has not properly considered the appropriate role of the small business operator in the concession management scene.

Possessory Interest (Sec. 6). The committees felt that the possessory interest could result in a "windfall profit" to the concessioner and severely discourages NPS from terminating a concession operation or receiving bids from a possible competitor when the existing contract was being considered for

renewal. They also questioned the need for a possessory interest based on the fact that other federal agencies do not provide concessioners with that incentive. Their recommendation was to repeal the possessory interest provision and in lieu, provide payment to the concessioner for only the portion of invested in the improvement which has not been amortized when a contract has been terminated or otherwise not renewed. Their other alternative included making available appropriated funds for construction of needed facilities.

Length of Contract. The committees stated that the long-term contracts (10 to 30 years) create conditions which make it difficult for a small business to bid on concession contracts.

Franchise Fees (Sec. 3.d). "NPS has not established adequate criteria for setting the franchise fees payable by concessioners, or for determining when, and the extent to which, the Park Service will waive franchise fee payments."

Rates (Sec. 3.c). The committees concluded that the Park Service has no sufficient guidelines or criteria for determining the reasonableness of rates which concessioners charge the public for goods and services. They further stated that because of this, these rates are approved or disapproved by NPS on a hit-or-miss basis and are not adequately monitored.

On May 21, 24, 25, and June 7, 1976, Oversight Hearings were held before the Subcommittee on National Park and Recreation. This subcommittee consisted of members from the committee on Interior and Insular Affairs of the House of Representatives. The session focused on Public Law 89-249 and concession operations in the National Park System. Before and since the passing of Public Law 89-249, concession policies and implementation has been the subject of considerable debate, discussion, and review. The intent of these hearings was to look closely at each of the provisions of the 1965 Act in light of various results of the past 11 years, while also considering current and expected future conditions and trends which could impact concession operations (Committee on Interior and Insular Affairs, 1976).

The hearings could be viewed as containing two distinct elements: traditional opposition of P.L. 89-249 and its components, and (as a result of implementation) new concerns with the Act.

Traditional Opposition of P.L. 89-249 and its Components.

Representative Jack Brooks testified that he issued a report in 1963, outlining "serious problems" encountered in the NPS's management of concessions in the National Park System. He further stated that the situation "is not only any better but worse." Specifically, Brooks voiced the following concerns.

Concessions contracts are still being granted for lengthy periods of time - many for 20 years or

longer. Concessions contracts, renewal of contracts, and even assignment of concession rights are still being entered into without competition or public advertising. Preferential treatment continues to be provided to existing concessioners in renewing contracts. In fact, a trend toward monopolization seems to be developing.

Since concessioners hold a possessory interest in the facilities they operate - valued at a reconstruction rate - minus some depreciation - there is generally no realistic way for the Park Service to terminate a contract. In order to do so, the Park Service or a third party would have to come up with a large sum of money to buy out the possessory interest. Few have the incentive or means to compete under these circumstances. In effect, the existence of such possessory interest paralyzes the NPS's freedom to manage the Park System in accordance with congressional directives. The losers in this scheme are the public, small businessmen, and the dedicated Park Service employees who undoubtedly feel frustrated over their inability to assure quality services and facilities.

Representative Brooks recommended competition in the bidding process of both new concession contracts and their renewal. He further stated that terms of concessions should be limited to the time it takes a concessioner to amortize his investment to get a return on his investment and thereafter, to a maximum of five years. "Possessory interests and preferential rights should be abolished." Also, if a lease is terminated before amortization is completed, a third party should be able to assume the outstanding balance or NPS could pay it off - subject to recompensation by the succeeding concessioner. To accomplish this, he said, Congress should consider authorizing NPS to establish a revolving loan fund to handle such contingencies.



Other Congressmen also voiced opposition which, too, existed before the passing of P.L. 89-249. Congressman John Dingell, for example, stated that the policies which make up P.L. 89-249 were born out of an era when Park visitation was minimal and concessions were small and ill-financed. "But that was not the case in 1965, nor is it the case today." In addition to the testimonies of Congressmen Brooks and Dingell, the National Parks and Conservation Association (NPCA) also supported these same concerns.

NPCA administrative assistant T. Destry Jarvis, gave testimony reflective of this organization's interests. NPCA has become the largest vocal special interest group to oppose P.L. 89-249 and its implementation. This is largely due to their mission statement, which is "to defend the National Parks and National Monuments fearlessly against the assaults of private interests and aggressive commercialism." A basic NPCA philosophy and policy has been that whenever possible, these facilities should be located outside the Park boundary. They feel that to provide the Park Service with a measure of control or influence into the conduct of such "external concessioners" (those located outside of a Park), the Park Service should grant the privilege of operating public transit systems into the Park on the basis of providing utility-type monopoly transportation for Park visitors who utilize these "external concessioner" facilities. NPCA notes that this would require cooperative efforts on the part of the Park

Service to encourage the development of these facilities. They further suggested that there should be a contract granted to external concessions which would include a guarantee that NPS would not expand facilities within the Park in order to provide a stable business foundation for the external accommodations and public transit systems. They stated that the results of this external contract would serve to phase down - but not phase out - private automobile transportation into and within the national Parks.

New Implementation Concerns. New concerns based on interpretation from the results of implementation basically can be categorized as opposition to NPS administration and an increase in the amount of perceived influence gained by concessioners. In times before this hearing, the only opposition voiced concerning how NPS administered concessions management, centered around a perceived need for NPS to hire more employees with specific training in the business management field (i.e., economics, hotel and restaurant management, management and budget). However, this hearing brought to light new concerns specific to NPS's administration and not just opposition to P.L. 89-249.

Congressman John Dingell stated that NPS is not supervising concessioners. "NPS is not requiring that the government-owned facilities be properly maintained. There is no audit, or review of concession activities." He further

stated that certain statutes were being disregarded and violated (i.e., franchise fees were not being reconsidered every 5 years). Dingell cited concession liquor stores as an example of mismanagement. Also, Congressmen Brooks, Moorehead and Dingell voiced concern about NPS lack of public participation in concession matters.

The second area of concern is the issue of perceived influence gained by concessioners. Dingell stated that increasing evidence (committee reports, hearings, and GAO reports) demonstrate that concessioners - not the Congress and NPS - appear to be setting concession policy for the National Park System. P.L. 89-249 was quoted as the prime example. He reported that the influence of this special interest group of government contractors has been clearly detrimental to the public interest and National Park System itself.

NPCA contested that proper concessions management within NPS is hampered by the fact that concessioners are well aware of their ability to influence decision-making by making direct appeals to political figures, higher levels of NPS and/or the Department of the Interior. As a result, they stated, decision-making does not reflect the views of lower managers. Another reported result was that decisions tend to be uninformed, if not wrong. Both administration and influence issues were the result of perceived outcomes from the implementation of P.L. 89-249. Moreover, they are issues which still are in existence in the 1992 operating

environment.

Hearings were also held before the Subcommittee on Energy and Environment of the Committee on Small Business House of Representatives on December 9, 1976. These hearings were held in response to the joint report (NPS concession policies discourage competition, give concessioners too great a voice in concession management) from the Committees on Government Operations, and on Small Business, and reports from GAO.

The hearing outlined a proposed bill (H.R. 15822). The stated purpose of this bill was to restore control of concession policies to NPS and the Parks to the people. Specifically the bill would accomplish the following: limit the length of contract to a 10-year term, establish an NPS concession fund to provide necessary revenues for the government to own all Park facilities, abolish all preferential rights held by existing concessioners to expand and renew concessions and required all concessions to be awarded on the basis of publicly advertised competition, provided that any possessory interest acquired after enactment of the bill shall be valued at actual cost of construction less amortization, review franchise fees every 3 years and provide a means of arbitration in case of dispute between it and the concessioner, provide opportunity for public comment at open hearings prior to the award of concession contracts, consider the interests of small business, develop effective conflict of interest procedures, and to notify Congress of

proposed concession contracts expected to gross more than \$50,000 annually. This bill was introduced by Congressmen Brooks and Dingell.

As a result of the joint report and the proposed bill, NPS Director Gary Everhardt proposed several changes in the standard contract language in an attempt to mitigate surrounding controversies. The proposed changes included; greater opportunity for public participation, further study to develop a formula(s) which can be utilized in better determining prices for goods and services provided by concessioners, more complete annual evaluations to ascertain if concessioners are performing in a satisfactory manner, increase the number of qualified employees to assist in this aspect of Park management (accomplished through a college cooperative education program), make contract language as unambiguous as possible, and place the Director [of NPS] in fuller control of establishing the amount of the franchise fee.

The mid 1970's marked a period of extensive review and added opposition against P.L. 89-249. However, this historic period ended with no legislative changes to the Act and only minimal administrative changes occurred within the Service.

#### **Increased Concessioner Role: 1980-1989**

With President Reagan's administration came an increase in privatization. As a nation, we witnessed traditional

government-provided services (i.e., prison operations, garbage collection, fire protection, and mail service) transfer, at least in part, to private management (Goodrich, 1988).

During this time period public land management agencies widened the opportunity for private investment as well (Fedkiw, 1986). For certain recreational activities, such as skiing, practically the entire investment was turned over to the private sector (Fedkiw, 1986; Cordell 1989).

During the 1980's, concessioners began partially expanding their service role in two unique areas. The first was in interpretive services. Interpretive services (i.e., guided walks and tours, and campfire programs) have long been associated with the National Parks. By the late 1970s, changing social values, strained government budgets, and the shift of public attention to other concerns all contributed to reductions in interpretive programming (Cordell, 1989). Additionally, visitors indicated a willingness to pay for interpretive services. Increasingly, user fees began being assessed for many types of interpretive programs. In exchange for paying user fees, users expect quality. The reductions in government funding and subsequent interpretive staff reductions have increased the need for alternative funding sources. As a result, guides, resort owners and other concessioners began incorporating interpretive programming in their offering.

The second "non-traditional" expansion occurred in the

operation of campgrounds. Camping, nationwide, almost doubled between 1960 and 1982 (Cordell, 1989). Throughout the 1980's, many Parks conducted economic feasibility studies to determine if concessioners could profitably operate NPS campgrounds (i.e., Blue Ridge Parkway). Campgrounds reflect an attractive partnership between NPS and concessioners. Generally, NPS absorbs all law enforcement, most interpretation services, and major maintenance costs. Concessioners are responsible for covering the cost of fee collection and minor maintenance. This shared combination of job duties allows concessioners the opportunity to realize a profit, while the cost of operation to NPS was greatly reduced.

However, even with an increased utilization of concessions, NPS was not free from opposition and criticism. A GAO report (July 31, 1980) entitled "Better Management of National Park Concessions Can Improve Services Provided to the Public", reported health and safety concerns, provided a case study of how possessory interest hindered effective Park management, and outlined a list of recommendations for the secretary's consideration.

This 1980 GAO report stated that the Park Service allowed concessioners to operate facilities with major safety deficiencies and did not take adequate steps to ensure these deficiencies were corrected. Also, NPS did not (1) conduct all required safety inspections, (2) always conduct follow-up inspections to ensure corrections were made, and (3) have

properly trained safety personnel. These concerns were expanded upon in a GAO report published later that same year ("Facilities in Many National Parks and Forests Do Not Meet Health and Safety Standards", 1980).

In a related 1975 GAO report (Concession Operations in the National Parks - Improvements Needed in Administration) they pointed out that having one large concessioner controlling all concession operations within a Park limits NPS's options for enforcing compliance with concessioner contracts. They also stated that it was difficult to obtain the necessary funds to buy out a large possessory interest concessioner which does not provide satisfactory service to the public. This difficulty was demonstrated by problems in managing the Yellowstone Park Company (GAO, 1980).

The GAO (1980) reported that in 1975 NPS began a serious effort to terminate its contract with Yellowstone Park Company (YPC) for failure to satisfactorily maintain the concession facilities and otherwise perform its contract obligations. It took NPS nearly 4 years to terminate YPC's contract. During this period, NPS thoroughly analyzed YPC's performance under its contract and made a comprehensive evaluation of YPC's concession facilities to justify terminating the contract (GAO, 1980). In the interim, the concession facilities deteriorated further and visitors received less than adequate service.

YPC's contract was terminated on October 31, 1979. NPS



agreed to pay YPC approximately 20 million dollars for their possessory interest and estimated that it would cost another 43.2 million dollars to rehabilitate the facilities to an acceptable level (GAO, 1980). In the opinion of the GAO, YPC's large possessory interest and the fact that it was the only concessioner providing lodging and related food service in the Park made it difficult for NPS to require the company to improve its facilities and services without a major disruption of visitor service.

The GAO (1980) made the following recommendations concerning changes to P.L. 89-249:

- 1) Congress should amend the Act to allow possessory interest only in those instances where no other alternative is available and then only under certain conditions. Specifically, possessory interest should be purchased by the Government at no more than the original cost to construct or improve the facility less amortization over a period no longer than the estimated useful life of the facility or the term of the contract, whichever is shorter. At the end of such periods, the possessory interest would be extinguished and the Government would have total ownership. Furthermore, satisfactory concessioners should be permitted to sell their possessory interest to third parties at the best price obtainable, provided that the operation is to be continued. However, the original cost should continue to be amortized. At the end of the amortization period, the possessory interest would be extinguished and the Government would gain total ownership. In the case of unsatisfactory concessioners, they should be required to sell their remaining possessory interest to the Government at no more than its unamortized value.

- 2) Congress should amend P.L. 89-249 to eliminate the right of preference for contract renewal. Also, preferential rights for new and additional services should be eliminated. GAO stated that they recognized the intent of the Act is to encourage continuity of concession operations. However, they felt that established concessioners already have a competitive advantage in seeking to continue to operate in the Park; additional legal advantages were not needed.
- 3) The Secretary should require the NPS Director to take action to ensure that Park visitors, NPS and concession employees are adequately protected against health and safety deficiencies at concession operations. Contracts of concessioners that habitually violate health and safety standards should be terminated. The policy for terminating concession contracts under such circumstances should be incorporated into NPS regulations. In addition, the Director should require that comprehensive annual safety inspections be conducted early in the operating season so that visitors and employees are not exposed to deficiencies during most of the operating season.
- 4) The Secretary should require the NPS Director to develop and implement, as part of the Concession Evaluation Program, procedures to obtain visitor comments and opinions on the quality of concession facilities and services. Comments should be considered in determining if concessioners are performing satisfactorily.
- 5) The Secretary should require the NPS Director to develop a new franchise fee rate system that reflects the value of privileges granted under concession contracts. The new systems should be easily understood with a minimum amount of subjective analysis required so that NPS concession personnel may apply it

properly. The system should be thoroughly supported and documented. In the future, the system should be reviewed periodically to determine if changes are needed.

- 6) The Secretary should require the NPS Director to require concessioners to notify NPS when they no longer want to operate in the Park and want to transfer their operation to a third party. NPS then should issue a prospectus to solicit interested in taking over the operation. In addition to normal distribution, NPS should then determine the parties best qualified and give their names to the concessioner so that they can negotiate the transfer.

The above recommendations outlined a wide variety of steps designed to improve management of concession operations. Most of these recommendations were suggested in or before the GAO's 1975 report. During the 1980's and even currently, these policy changes are still supported by the GAO.

A review of the existing 1980's operating environment cannot be considered complete without a discussion of the effects of former Interior Secretary James Watt. Watt utilized his position and close relationship with Ronald Reagan to liberalize the criteria for mining, timber harvesting, and other forms of economic development of federal lands. In this same vein, Watt supported an aggressive program with the private sector (Clarke and McCool, 1985). Watt's policy initiatives further demonstrated the political vulnerability of NPS. This type of Interior control is further demonstrated in the more current events of the 1990's.

### Secretary Involvement: 1990-1991

Thus far, concessions management headlines are dominated by the personal involvement of Interior Secretary Manuel Lujan. The 1990's appears to be the decade of increased concession management awareness. In late 1990, Music Corporation of America (MCA), which owned all concession operations in Yosemite National Park, was bought by the Japanese industrial giant, Matsushita Corporation (Winn, 1991). Pritchard (1991) refers to Yosemite National Park as the "battleground in a war over who runs the National Parks and their concessions." This event has become a widely covered media news story.

In July of 1990, hearings were held by the Subcommittee on Public Lands within the U.S. Senate. The purpose of the hearing was to examine P.L. 89-249 in light of two reports which addressed this subject. The reports were titled "Follow-up Review of Concessions Management: National Park Service" (Office of Inspector General, April 1990) and "Report of the Task Force on National Park Service Concessions" (National Park Service, April 9, 1990).

The reports included several findings. First, in many instances franchise fees paid to the Federal Government were perceived to be too low and not reflective of the value of doing business within a National Park. Second, the system by which franchise fees are reduced in exchange for capital improvements and other services performed by the concessioner

were reported to be flawed and in need of change. Third, the provisions in the law granting an existing concessioner who has performed in a satisfactory manner a preferential right to renew his contract and provide additional services are often times anti-competitive and severely limit the opportunity for other qualified individuals to compete for government contracts. Fourth, the current definition of possessory interest in most concession contracts as "sound value" (replacement cost less observed depreciation not to exceed fair market value) results in a huge burden of payment on the Government, limits competition and makes the removal of facilities almost prohibitively expensive. And finally, the reports concluded that in many cases, especially at the regional and Park level, Park Service personnel responsible for determining and renegotiating franchise fees and other elements of concession contracts do not have the training, educational background or expertise to deal effectively with the larger concessions.

In a memorandum dated March 29, 1990 written in response to the Inspector General Report, Director Redenour observed that some of the findings in the report may have been developed without the benefit of complete information. In addition he remarked that very limited contact was ever made at either the regional or Park levels of NPS and an adequate and fair survey of the concession policies cannot be fairly accomplished by such a practice.

The NPCA and Wilderness Society were in favor of the Secretary's proposed plan. George T. Frampton, Jr., President of the Wilderness Society further testified that there are two underlying problems with the current management of concessions. First of all, the intent of P.L. 89-249 is not being realized (i.e., concessions are not limited to those necessary and appropriate). Secondly, the current system prevents the Service from implementing resource protection plans.

The most revealing portion of the 1990 hearing was the submitted statement of the Interior Secretary Manuel Lujan. This statement fully outlined Lujan's recommended new concessions policy. Lujan stated that this new policy is designed to increase revenues to the parks, improve service to the Park visitor and ensure a fair return on concessioners' investments. The new policy, Lujan claimed, will allow for higher franchise fees in some Parks as concession contracts come up for renewal. In some cases, franchise fees now below five percent of gross revenues could be raised to 22 percent. Major policy reform should give NPS the ability to deal with concessioners, large and small, in a thoroughly professional and business-like manner. He further stated that NPS will benefit from the initiative and expertise of the American free enterprise system.

Lujan is recommending the use of private sector professionals to assist the National Park Service in analyzing

financial information statements, appraisals, performance standards and making other business-related assessments. In addition, significant efforts will be made to upgrade the business skills of the National Park Service employees working in concession management. Above all, he stated, NPS and the Department of Interior must be totally accountable to the American people for the protection of the National Park System and provide for fairness and equity in the relationships with concessioners.

Below is a review of specific policy recommendations. The recommendations include both drastic policy and internal administrative changes.

#### 1. Franchise Fees

Franchise fees, as a part of the total return to the Government, are expected to be increased, consistent with the current National Park Service concessions methodology. Franchise fees, when combined with other contractually obligated returns to the National Park Service, should represent the approximate level of receipts needed to attract investors and still provide adequate services.

Recent experience suggests that approximately 22 percent of expected gross revenue may be an appropriate standard in some instances. Where favorable circumstances exist - such as the use of Government structures - fees or equivalent benefits should be higher. Fees will be lower for concessions that are only marginally profitable. Other factors being equal, the concessioner's profit should be approximately equal to the median returns exhibited by similar industries.

#### 2. Charges For Concessioner Use of Park Facilities

The National Park Service should develop and implement policies which require concessioners to make a fair and equitable payment for the use of Park facilities. To the extent possible, these

payment should be used for maintenance and improvements to the Parks.

3. Preferential Right of Renewal

Preference rights to renew contracts will be redefined to the extent allowed under existing law to enhance competition in contract renewals. The opportunity to bid on contracts up for renewal will be widely advertised. Incumbent concessioners must submit offers which meet minimal National Park Service requirements. Those who fail to do so will be disqualified and the permit or contract will be awarded to the best responsive offer.

4. Preferential Right to Additional Services

The National Park Service will grant preferential rights for additional services only when compelling circumstances indicate it is in the public interest to do so. Any such grant must be approved by the National Park Service Director.

5. Possessory Interest

Improvements paid for by concessioners in exchange for direct franchise fee reductions should not create a possessory interest. Future concessions contracts should provide for book value compensation for new improvements and should provided that this value may not be increased when the contract is transferred.

6. Contract Transfers

All transfers proposed during the life of a contract must be approved by the National Park Service Director's Office. Transfers resulting in windfall profits will not be approved.

7. Contract Length

Contracts of more than five years must be approved by the Director. The use of mutual agreement clauses relating to changes in fees should be eliminated.

8. Park Facility Funding

The Department's Office of Congressional and Legislative Affairs will expedite review of proposed legislation to modify visitor facility



funding. The use of informal arrangements with concessioners for facility maintenance and rehabilitation will be eliminated. It will be replaced by a method that captures and considers concessioner investment in Park facilities in calculating the total return to the Government.

9. Decision Making and Negotiations

The Director will approve all contracts where the expected annual gross revenue exceeds \$1 million. Approval authority for contracts exceeding \$100,000 will be approved by the National Park Service Washington Office.

I have recommended the use of private sector professionals to assist National Park Service concessions staff in such areas as assessing prospective concessioner financial statements, performing appraisals, reviewing concessioner performance and assisting in contract negotiations.

10. Accountability and Internal Controls

In order to accomplish this, the National Park Service should be able to account for all forms of concessioner payments to the government. The National Park Service should reallocate priorities for FY 1991 to enhance its capabilities for standard accounting and management information systems.

11. Improve National Park Service Training, Education and Staffing

Within current funding levels and the President's budget, funds should be identified as soon as possible to develop a recruitment program to hire employees with education, appropriate experience and interest in concessions management. Wherever possible, the National Park Service should not assign concession management responsibilities as secondary duties to employees whose primary jobs are ranger, administrative officer, etc.

Concessions management employees at both entry and upper levels should receive training and perhaps certification in subjects relating to all phases of concessions operations. The National Park Service should consider an internship program to give employees exposure to the civilian hospitality sector.

Senator Dale Bumpers and Representative Frank Guarini introduced separate bills in the 1992 session which call for sweeping changes to the existing Act. Furthermore, Senator Malcolm Wallop is planning to introduce a bill which would reauthorize the Visitor Facilities Fund Act (P.L. 97-433). The National Park System Visitors Facility Fund Act of January 5, 1983, established a fund in the Treasury, into which were credited all fees received by the government from private concessioners in the National Park System.

These proposed changes come at a time when several major contracts are coming up for renegotiation soon (Pritchard, 1991). It would seem reasonable to project that these next few years will redefine the role of concessions management within the National Park System.

### **Discussion of the Operating Environment**

An investigation of the operating environment reveals that dating back to the 1800s, before National Parks and NPS existed, private individuals and businesses provided visitor services in areas now deemed National Parks. Once NPS was formed and its role was defined as preserving these scenic areas, while simultaneously providing for their enjoyment, a public/private partnership was established. With the Director's arrival, the concessioners role was redefined to address some of the early abuses. The role of concessions is one of evolutionary change. To an extent, evolving roles

coincide with changing issues. For example, the major issue in earlier years was one of private versus public operation of facilities. In more recent times, this issue has evolved into defining the controls, and performance measurements which the private operator will be governed. The outcome of this current issue will have direct impacts on stakeholder roles.

Today, concession operations represent the most visible aspect of Park management. It has been and continues presently to be viewed as a "gauge" which detects trends (directions) in the concept of preservation and use. Also, it is used as a yardstick to measure the overall health of NPS's administration. Concessions, in a very real sense, exhibited profound impacts on the value society places on a Park and the administering agency. Thus, the importance of how concessions are managed cannot be overstated.

Before effective management can be implemented, the stakeholders must have clearly defined roles. Likewise, once those roles change, different management strategies must be realized and executed. From a somewhat generic viewpoint, the role of concessioners within a National Park is to serve as a supplier to NPS in providing services, which the Park Service deems as being necessary and appropriate, for the public. Concessioners provide those services which can be delivered more economically and effectively while still operating in strict accordance to those standards set by NPS. It is through those standards (i.e., control) that NPS is able to

utilize concessions in obtaining their goals of preservation and use. Thus, concessioners become an implementation arm of public policy within a National Park.

Congress - a stakeholder - also possesses a role. Congress, through hearings, subcommittee findings and GAO reports, establishes the goals and objectives, sets policy guidelines, gives the administering agency the authority necessary for implementation, and then maintains oversight hearings to ensure proper implementation (Convery and Davis, 1977). Congressional influence is well illustrated through the review of the operating environment. A major reason for the continued existence of a concession system lies in the fact that Congress is not willing to establish a policy whereby total ownership and operation of recreational facilities and services are vested as a sole government responsibility. On the opposite side of the spectrum, Congress has always perceived a need to ensure that Park visitors have certain services provided to them.

Based on evidence presented in the operating environment, a fairly clear NPS role can be derived. As the land management agency, NPS is virtually responsible for everything that transpires in the National Park System. NPS employees are both public servants and stewards of the resource. They are charged with implementing policies which must benefit the public and public's resource.

To accomplish agency goals when managing concessions, NPS

must define proper stewardship practices and public interests. This must be translated into specific objectives in terms that concessioners can understand and respond to. To successfully accomplish this, NPS must possess the necessary technical and political expertise to influence not only concessioners, but also Congress and the general public.

The implementing agency's role is not only of paramount importance but is also an indicator of how successful that policy (based on its implementation) becomes. Specifically, policy implementation occurs in an evolutionary way: Legislation generally produces goals and mandates that are vague and open to interpretation. Agency administrators play key roles in their perception of policy intent and implementation. These perceptions are amplified as the policy filters down to the implementation level. Resulting activities may produce results that vary considerably from intent as originally perceived. Although implementation may be hampered by poor policy design or lack of commitment by policy makers, once responsibility for the policy passes to the hands of the administrators, other factors come into play (Buck, 1991). The fact of the matter is that a bureaucracy is more than a mere conduit through which the values and aspirations of various segments of the community are incorporated into public policy (Rourke, 1984). Buck (1991) noted that it is in the implementation process that an agency shows its greatest influence. Review of the operating

environment surrounding concessions management would strongly suggest that NPS's ability to implement P.L. 89-249 is in fact an issue of concern.

The initial source of NPS's influence comes from their legal authority to implement legislation. Bureaucratic power is also enhanced by technical expertise, constituencies, and discretionary actions. Rourke (1984) observed that all administrative agencies have at least some of the professional and political assets upon which bureaucratic power depends, although agencies vary a great deal in their capacity to influence policy decisions. The Park Service demonstrates a significant lack in both of the above areas. For example, NPS has, throughout its history, admitted to having a void in the field of technical expertise as it relates to the managing of concession operations. Also, of the Park Service's two primary constituencies, one group - the summer visitors - is broad, diverse, and largely unaware of the political and funding problems facing the agency (Clarke and McCool, 1985). The general public tends to demand a great deal from Park management, yet offers very little constituency support. Environmentalists (the second constituency) do offer limited support, but they often are perceived as extremists who support the agency's preservation mandate but not its public-use one. NPS has been unable to rely on its own interest groups to support and protect them throughout its concession management efforts. This has further created a reluctance for

the Park Service to upset the stable relationship they have developed with concessioners.

Finally, discretionary powers give an agency leeway to fit policy decisions to individual cases, to humanize the governmental process. It enhances their flexibility, allowing administrative changes to occur incrementally and without the fanfare that accompanies legislative activity (Buck, 1991). P.L. 89-249 lends itself rather freely to administrative changes. However, NPS has apparently developed an aversion to utilizing its powers. This enormous problem can, at least in part, be traced to their hierarchial organization structure and position within the Department of the Interior. The ebb and flow of this agency throughout history can be directly related to the Director. The employees actually working in the "trenches" of concessions management have rarely had an opportunity to even express their observations. This situation is further compounded by the agency's placement in the Interior. Here NPS must compete with other agencies that have well-organized support, that offer pork barrel programs (Clarke and McCool, 1985) and whose missions even contradict and are diametrically opposed to that of NPS (Pritchard, 1991). Even worse, each new administration adds more layers of appointed bureaucracy between the Director of NPS and the Secretary of the Interior. As a result, shifting political and ideological winds that accompany each new administration prevent NPS from exercising its potential discretionary power.

The sum total of these inadequacies add up to a situation whereby other institutions (i.e., GAO and Congress) must fill that existing influence void with the necessary authority to resolve issue conflicts. Additionally, special interest groups - NPCA for example - have greater opportunity to penetrate the system and accomplish their goals (this includes both stated and hidden agenda goals). This situation could also result in special interest groups perceiving that concessioners are exerting influence over NPS, which has lead to over commercialization. While concessioner influence does exist, this review suggests that internal NPS problems contribute significantly to concession management difficulties.



## IV. METHODS

### Stakeholders Studied

A stakeholder can be defined as an individual or collective group who possess an interest in an issue and is affected by the actions or results of that issue. The three broad categories of stakeholders involved in the management of concessions include the NPS, concessioners, and the general public. This study directly relates to the perceptions held by the NPS and concessioners. A mail survey instrument was developed to obtain data from both stakeholder groups. Because P.L. 89-249 affects all concession operations in every area managed by the NPS, the study encompassed the entire U.S. with the exception of Alaska, Hawaii, and the Virgin Islands. The study area was subdivided by National Park Service regions (nine regions which included 92 separate Park units that utilized private concessioners).

#### Concessioners

With this stakeholder group, a complete list of the population was obtained from a publication by the Conference of National Park Concessioners ("National Parks Visitor Facilities and Services", 1985). The listing contained approximately 300 different concession operators. One hundred concessioners were randomly chosen from the population to be

## Survey Instrument

A mail survey instrument was developed for the analysis (Appendix B). Because of the area this study encompassed, the nature of the targeted study group's business schedule, and the availability of current mailing lists, a mail survey was chosen as being more desirable than telephone or personal interview methods. The questionnaire was designed specifically to accomplish the objectives of this study.

The survey instrument was constructed using the Total Design Method (TDM) developed by Dillman (1978). There are two facets of TDM. The first is to identify each aspect of the survey process that may affect the quality or quantity of response and to shape each of them in such a way that the best possible responses are obtained. The second is to organize the survey efforts so that the design intentions are achieved (Dillman, 1978).

A two-phase pretest was conducted for each study group. First, a draft of the survey instrument was sent to both NPS officials and concessioners. The survey was sent to six concessioners located in both the Southeastern and Northwestern United States, as an attempt to detect possible regional biases. Four NPS officials were pretested in the same geographical areas as the concessioners with an additional respondent from the Washington D.C. area. Respondents were requested to complete the survey and identify any difficulties with regard to wording, construction defects

and/or other perceived inadequacies. The second pretest phase, consisted of contacting each respondent by telephone to discuss the survey in greater detail. Respondents were specifically asked questions about their interpretation of survey questions. For example, was the survey's wording of specific components reflective of respondent terminology? Respondents were also asked if the survey created a positive impression which would motivate others to answer it. Additionally, they were also asked if any aspect of the survey suggested a bias on the part of the researcher. The telephone interview gave the researcher an opportunity to obtain a greater appreciation of the various aspects of concessions management.

### Survey Characteristics

NPS officials and concessioners were asked a total of 124 questions (Appendix B). The intent of the survey was to solicit both groups' perceptions concerning Public Law 89-249 and the result of its implementation. Questions were categorized into five independent sections. Section one's intent was to determine perceptions concerning how important specific policy components were in today's operating environment.

Questions in section two attempted to determine the impact of the concessions management program (as a whole) on certain outcomes and results. The outcomes and results

listed, actually fell into three headings: 1) congressionally intended outcomes (i.e., reduction in the difficulty of obtaining a concessioner), 2) the amount of influence each stakeholder group (NPS, concessioners, and the general public) possess in the decision-making process, and 3) the degree to which implementation protects the interest of each stakeholder.

Section three's questions focused on impacts of implementing specific components of P.L. 89-249 on certain outcomes. Much the same as section two, the outcomes could be placed under two headings: 1) congressionally intended outcomes, and 2) the degree to which implementation protects the interest of each stakeholder. This also included determining if there was a perceived difference between the amount of protected interest received by both larger and smaller concession operations. Thus, these two headings were much the same as the headings for section two. However, these headings dealt with specific components as opposed to the overall impacts of the Act.

The intended purpose of section four was to determine stakeholder perceptions of specific issues surrounding concessions management. This section consisted of only four questions. Section five attempted to gauge the degree to which each individual component was interconnected to other components. Due to an editing error in this section, preferential right of extensions and renewals could only be

compared to preferential right to provide new facilities and protection against loss of investment. Specifically, there was one question which was inadvertently deleted from this section.

### **Response Rate**

The response rate for the concessioners was 68 percent. The sample size was 100, and there were 68 usable responses<sup>5</sup>. The response rate of NPS officials was 70 percent. All 20 NPS officials in the population received the instrument; 14 responded.

### **Statistical Techniques**

Means separation techniques were used via the General Linear Models (GLM) of SAS with the Hochberg (1974) extension. The Hochberg technique was used to make comparisons within a single group of stakeholders and between NPS officials and concessioners. The Hochberg method was chosen because cell sizes were unequal. The Hochberg technique is an extension of the T-method for multiple comparisons (Hochberg 1974).

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<sup>5</sup> Useable responses were the total number of surveys which were at least 50% completed.

## V. RESULTS AND DISCUSSION

### NPS Responses

#### Important Policy Components

NPS officials were asked to indicate the importance of eight specific policy components as reflected in the current operating environment (Appendix B). Thirteen respondents answered this section. NPS officials perceived "opportunity to realize a profit" to be significantly more important (at the 0.05 level) than the seven other listed components (Table 1). Protection against loss of investment, possessory interest, and franchise fees were not significantly different from one another and were more important than the remaining four listed components. Moreover, preferential right to provide new facilities, length of contract, the use of one concessioner per Park were not significantly different and were not perceived as being important in today's operating environment.

A possible explanation for NPS's response is the existence of a perception that the other listed incentives encompass enough inducement that those three components were no longer needed. The results suggest a possible indication by NPS officials that sections of P.L. 89-249 are outdated.

#### Results of Implementing P.L. 89-249

NPS officials were asked to rank the degree to which possible outcomes were obtained as a result of the Act's

Table 1. Importance of specific policy components as perceived by NPS officials

Components	Importance Level			Mean Rank <sup>1</sup>	Std. Dev.	n <sup>2</sup>
	Very Important (1)	Moderately Important (2)	Not Important (3)			
	----- (Relative Frequency) <sup>3</sup> -----					
Opportunity to realize a profit	.923	.077	.000	1.077 <sup>a</sup>	0.277	13
Protection against loss of investment	.615	.308	.077	1.462 <sup>b</sup>	0.660	13
Possessory interest	.462	.538	.000	1.538 <sup>b</sup>	0.519	13
Franchise fees	.538	.385	.077	1.538 <sup>b</sup>	0.660	13
Preferential right of extensions/renewals	.385	.308	.308	1.923 <sup>c</sup>	0.862	13
Preferential right to provide new facilities/services	.000	.385	.615	2.615 <sup>d</sup>	0.506	13
30-year length of contract	.077	.231	.692	2.615 <sup>d</sup>	0.650	13
Use of one concessioner per park	.000	.308	.692	2.692 <sup>d</sup>	0.480	13

1 Mean ranks are based on a 3-point response format, where 1 = very important and 3 = not important. The mean rank is the average value of the 3-point response format. Means with the same superscript are not significantly different at the 0.05 significance level, using the Hochberg test as a means-separation technique.

2 n = Number of respondents that ranked the result. n does not include a "No Opinion" response.

3 The values given represent the number of respondents for each category divided by n.

implementation. The survey listed specific probable outcomes (Appendix B - Section Two). This question required the respondent to consider the Act as a whole as opposed to relating the possible outcome(s) to a single component. Outcomes ranged from the intended results as conceived by Congress (i.e., reducing the difficulty of obtaining a concessioner) to the effects of implementation on the stakeholders interest (i.e., protects the interest of the general public).

NPS officials indicated that implementation is moderately attaining all the listed outcomes. There was no significant difference between the ten outcomes (Table 2). The largest difference in means associated with importance level was 0.769. The minimum significant difference was 0.7865.

Interpretation of this result is that, through the implementation of P.L. 89-249, "congressionally intended outcomes"<sup>6</sup> were being moderately attained (i.e., reduces the difficulty in obtaining a concessioner, reduces the difficulty of securing loans, and enables the concessioner to realize a profit on the operation as a whole). Implementation was also moderately protecting the interest of the general public, NPS, and the concessioner. Additionally, those three stakeholder groups were moderately receiving enough influence under the current concessions management program. Also, NPS officials

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<sup>6</sup> Congressionally intended outcomes are consequences which have occurred as a result of the implementation and were considered desirable by Congress.



Table 2. Results of implementing P.L. 89-249; as perceived by NPS officials

Results	Degree to Which Results Are Being Attained			Mean Rank <sup>1</sup>	Std. Dev.	n <sup>2</sup>
	A High Degree (1)	A Moderate Degree (2)	Not At All (3)			
	----- (Relative Frequency) <sup>3</sup> -----					
Provides the concessioner with enough influence	.538	.462	.000	1.462 <sup>a</sup>	0.519	13
Provides the NPS with enough influence	.615	.308	.077	1.462 <sup>a</sup>	0.660	13
Protects the interest of the general public	.385	.615	.000	1.615 <sup>a</sup>	0.503	13
Protects the interests of the concessioner	.385	.615	.000	1.615 <sup>a</sup>	0.506	13
Enables the concessioner to realize a profit on the operation as a whole	.385	.538	.077	1.692 <sup>a</sup>	0.630	13
Protects the interests of the NPS	.308	.615	.077	1.769 <sup>a</sup>	0.599	13
Fosters the effective management of larger concessioner operations	.308	.538	.154	1.846 <sup>a</sup>	0.689	13
Reduces the difficulty in obtaining a concessioner	.154	.615	.231	2.077 <sup>a</sup>	0.641	13
Reduces the difficulty of securing loans	.231	.462	.308	2.077 <sup>a</sup>	0.760	13
Provides the general Public with enough influence	.000	.769	.231	2.231 <sup>a</sup>	0.439	13

1 Mean ranks are based on a 3-point response format, where 1 = a high degree and 3 = not at all. The mean rank is the average value of the 3-point response format. Means with the same superscript are not significantly different at the 0.05 significance level, using the Hochberg test as a means-separation technique.

2 n = Number of respondents that ranked the result. n does not include a "No Opinion" response.

3 The values given represent the number of respondents for each category divided by n.

perceived that the implementation was moderately fostering the effective management of larger concession operations. This result suggests that NPS officials perceived the overall functioning of P.L. 89-249 to be moderately attaining its intended goals.

#### Impacts of specific components of the Act

NPS officials were asked to indicate the degree to which each of the six listed policy components contributed to a specified outcome. Outcomes ranged from congressionally intended results to how that specific component contributed to (or detracts from) a stakeholders interest. The outcomes listed in this section were similar to those listed in the previous sections. The present section, though, focused the respondents attention on the impact(s) of a single component as opposed to the Act as a whole (Appendix B - Section Three). This series of questions encompassed 72 individuals questions. The data are represented in Tables 3 through 8. Below is an examination of the results as perceived by NPS officials. The response rate varied between 12 and 14 according to the individual question. Data are organized by policy component.

Possessory Interest. Possessory interest significantly contributed more to the outcomes of reduction in the difficulties of obtaining a loan, continuity of concessions operation, and the ability of the concessioner to provide and

operate facilities, than it did in reducing the difficulties of obtaining a concessioner, and contributing to the quality of the service offered to the public (Table 3a). There was no significant difference in the mean responses among: reduction in difficulties of obtaining a loan, continuity of the operation, and the ability of the concessioner to provide and operate facilities. There were no significant differences between: reduction in the difficulties of obtaining a concessioner, and the quality of the service offered to the public. Based on mean response, possessory interest contributed to some degree to all five outcomes.

Table 3b shows that possessory interest contributed significantly more to the well being of the concessioner and the small business operator (also a concessioner) than it did to the well being of NPS. More importantly, NPS officials indicated that possessory interest moderately contributed to placing them and the general public at a disadvantage.

The above responses indicated that possessory interest may be a multidimensional component. NPS officials perceived possessory interest as a component which to some degree contributed to the accomplishment of those elements which are deemed necessary (i.e., ability to attract concessioners and enable them to procure loans) for the very existence of private sector involvement. Possessory interest also impacts the well being of Park stakeholders. The well being of the concessioner was enhanced through the use of possessory

Table 3. Perceptions of possessory interest by NPS officials

Possible Outcomes	Contribution Scale			Mean Rank <sup>1</sup>	Std. Dev.	n <sup>2</sup>
	Highly Contributes To(1)	Moderately Contributes To(2)	Does Not Contribute To(3)			
- - - - (Relative Frequency) <sup>3</sup> - - - -						
a. Impacts of <u>possessory interest</u> on possible outcomes						
Reduction in difficulties of obtaining a loan	.857	.143	.000	1.143 <sup>a</sup>	0.363	14
Continuity of concessions operation	.786	.143	.071	1.286 <sup>a</sup>	0.611	14
The ability of the concessioner to provide and operate facilities	.429	.571	.000	1.571 <sup>a b</sup>	0.514	14
Reduction in the difficulties of obtaining a concessioner	.214	.429	.357	2.143 <sup>b c</sup>	0.770	14
The quality of the service offered to the public	.214	.286	.500	2.286 <sup>c</sup>	0.825	14
b. Impacts of <u>possessory interest</u> on stakeholder interests						
The interest of the concessioner	.929	.071	.000	1.071 <sup>a</sup>	0.267	14
The interest of the small business operator	.643	.286	.071	1.429 <sup>a</sup>	0.646	14
Placing the NPS at a disadvantage	.286	.571	.143	1.857 <sup>b</sup>	0.663	14
Placing the general public at a disadvantage	.143	.429	.429	2.286 <sup>b</sup>	0.286	14
The well being of the NPS	.071	.286	.643	2.571 <sup>c</sup>	0.646	14
Placing the concessioner at a disadvantage	.000	.214	.786	2.786 <sup>c</sup>	0.426	14
Placing the small business operator at a disadvantage	.071	.143	.786	2.846 <sup>c</sup>	0.376	13

1 Mean ranks are based on a 3-point response format, where 1 = very important and 3 = not important. The mean is the average value of the 3-point response format. Means with the same superscript are not significantly different at the 0.05 significance level, using the Hochberg test as a means-separation technique.

2 n = Number of respondents that ranked the result. n does not include a "No Opinion" response.

3 The value given represent the number of respondents for each category divided by n.

interest. NPS and the general public were placed at a moderate disadvantage. This result suggests that NPS officials perceived that the implementation of possessory interest is not in the public's best interest. One possible explanation for this perception would be due to the difficulties NPS has experienced in attempting to purchase a possessory interest.

Franchise Fees. The mean response of the contribution made by franchise fees were not significantly different for the five congressionally intended outcomes (Table 4a) or for the effect it has on the well being of the individual stakeholder (Table 4b). For there to have been a difference in the congressionally intended outcomes, there would have needed to be a minimum significant difference between any two means of 0.6553 or greater. The minimum significant difference in the influence category was 0.8306. The responses indicated that franchise fees play only a minimal role in the management of concession operations. This perception may be attributed to the actual small amount that concessioners are required to pay. If the amount were to be raised by a significant rate, the importance and role of franchise fee might change.

One Concessioner Per Park. NPS officials indicated no significant difference (Table 5a) among any of the five congressionally intended outcomes. Responses indicated that on the average, one concessioner per Park moderately

Table 4. Perceptions of franchise fees by MPS officials

Possible Outcomes	Contribution Scale			Mean Rank <sup>1</sup>	Std. Dev. <sup>2</sup>	n <sup>3</sup>
	Highly Contributes To(1)	Moderately Contributes To(2)	Does Not Contribute To(3)			
----- (Relative Frequency) <sup>4</sup> -----						
a. Perceptions of franchise fees on possible outcomes						
The ability of the concessioner to provide and operate facilities	.071	.571	.357	2.286 <sup>a</sup>	0.611	14
Reduction in difficulties of obtaining a loan	.071	.357	.571	2.500 <sup>a</sup>	0.650	14
Reduction in the difficulties of obtaining a concessioner	.071	.286	.643	2.571 <sup>a</sup>	0.646	14
Continuity of concessions operation	.071	.214	.714	2.643 <sup>a</sup>	0.633	14
The quality of the service offered to the public	.000	.214	.786	2.786 <sup>a</sup>	0.426	14
b. Impacts of franchise fees on stakeholder interests.						
The interest of the concessioner	.357	.357	.286	1.929 <sup>a</sup>	0.829	14
The interest of the small business operator	.286	.286	.429	2.143 <sup>a</sup>	0.864	14
Placing the concessioner at a disadvantage	.143	.500	.357	2.214 <sup>a</sup>	0.699	14
Placing the small business operator at a disadvantage	.143	.429	.429	2.286 <sup>a</sup>	0.726	14
The well being of the MPS	.143	.357	.500	2.357 <sup>a</sup>	0.745	14
Placing the general public at a disadvantage	.000	.429	.571	2.571 <sup>a</sup>	0.514	14
Placing the MPS at a disadvantage	.000	.286	.714	2.714 <sup>a</sup>	0.469	14

1 Mean ranks are based on a 3-point response format, where 1 = very important and 3 = not important. The mean rank is the average value of the 3-point response format. Means with the same superscript are not significantly different at the 0.05 significance level, using the Hochberg test as a means-separation technique.

2 n = Number of respondents that ranked the result. n does not include a "No Opinion" response.

3 The values given represent the number of respondents for each category divided by n.

Table 5. Perceptions of one concessioner per park unit by NPS officials

Possible Outcomes	Contribution Scale			Mean Rank <sup>1</sup>	Std. Dev.	n <sup>2</sup>
	Highly Contributes To(1)	Moderately Contributes To(2)	Does Not Contribute To(3)			
----- (Relative Frequency) <sup>3</sup> -----						
a. Impacts of one concessioner per park unit on possible outcomes						
The ability of the concessioner to provide and operate facilities	.385	.462	.154	1.769 <sup>a</sup>	0.725	13
Continuity of concessions operation	.385	.385	.231	1.846 <sup>a</sup>	0.801	13
Reduction in difficulties of obtaining a loan	.308	.462	.231	1.923 <sup>a</sup>	0.760	13
The quality of the service offered to the public	.429	.214	.357	1.929 <sup>a</sup>	0.917	14
Reduction in the difficulties of obtaining a concessioner	.231	.462	.308	2.077 <sup>a</sup>	0.760	13
b. Impacts of one concessioner per park unit on stakeholder interests						
The interest of the small business operator	.769	.154	.077	1.308 <sup>a</sup>	0.630	13
The interest of the concessioner	.615	.308	.077	1.462 <sup>a</sup>	0.660	13
Placing the NPS at a disadvantage	.357	.286	.357	2.000 <sup>b</sup>	0.877	14
Placing the general public at a disadvantage	.333	.167	.500	2.167 <sup>b</sup>	0.937	12
The well being of the NPS	.154	.385	.462	2.308 <sup>b</sup>	0.751	13
Placing the small business operator at a disadvantage	.231	.154	.615	2.385 <sup>b</sup>	0.870	13
Placing the concessioner at a disadvantage	.000	.000	1.000	3.000 <sup>c</sup>	0.000	13

1 Mean ranks are based on a 3-point response format, where 1 = very important and 3 = not important. The mean rank is the average value of the 3-point response format. Means with the same superscript are not significantly different at the 0.05 significance level, using the Hochberg test as a means-separation technique.

2 n = Number of respondents that ranked the result. n does not include a "No Opinion" response.

3 The values given represent the number of respondents for each category divided by n, the quality of the service offered to the public.

contributed to all of the following: continuity of the concessioner operation, reduction in the difficulties of obtaining a concessioner, the quality of the service offered to the public, reduction in difficulties of obtaining a loan, and the ability of the concessioner to provide and operate facilities.

NPS officials indicated (Table 5b) that the component, one concessioner per Park, significantly contributed more to the well being of the small business operator and the concessioner than it did to NPS. There did not appear to be any effect of this component on NPS. This observation was drawn because there was no significant difference among the possible outcomes of placing the NPS at a disadvantage and the well being of NPS.

Preferential Right to Provide Extensions/Renewals. NPS officials (Table 6a) indicated that preferential right of extensions contributed significantly more to the outcome of "continuity of the concessioner operation" than it did to "the quality of the service offered to the public." However, this preferential right still moderately contributes to increasing The following components were highly to moderately contributed to by "the preferential right to provide extensions and/or renewals": continuity of the concessions operation, reduction in the difficulties of obtaining a concessioner, reduction in the difficulties of obtaining a loan, and the ability of the concessioner to provide and operate facilities.



Table 6. Perceptions of preferential right of extensions by NPS officials

Possible Outcomes	Contribution Scale			Mean Rank <sup>1</sup>	Std. Dev.	n <sup>2</sup>
	Highly Contributes To(1)	Moderately Contributes To(2)	Does Not Contribute To(3)			
- - - - (Relative Frequency) <sup>3</sup> - - - -						
a. Impacts of preferential right of extensions on possible outcomes						
Continuity of concessions operation	.786	.143	.071	1.286 <sup>a</sup>	0.611	14
Reduction in difficulties of obtaining a loan	.643	.286	.071	1.429 <sup>ab</sup>	0.646	14
The ability of the concessioner to provide and operate facilities	.357	.571	.071	1.714 <sup>ab</sup>	0.611	14
Reduction in the difficulties of obtaining a concessioner	.500	.143	.357	1.857 <sup>ab</sup>	0.949	14
The quality of the service offered to the public	.143	.571	.286	2.143 <sup>b</sup>	0.663	14
b. Impacts of preferential right of extensions on stakeholder interests						
The interest of the concessioner	.857	.071	.071	1.214 <sup>a</sup>	0.579	14
The interest of the small business operator	.786	.143	.071	1.286 <sup>a</sup>	0.611	14
Placing the NPS at a disadvantage	.214	.571	.286	2.143 <sup>b</sup>	0.633	14
Placing the general public at a disadvantage	.154	.538	.308	2.154 <sup>b</sup>	0.689	13
The well being of the NPS	.071	.571	.357	2.286 <sup>b</sup>	0.611	14
Placing the small business operator at a disadvantage	.143	.143	.714	2.571 <sup>b</sup>	0.756	14
Placing the concessioner at a disadvantage	.000	.214	.786	2.786 <sup>c</sup>	0.426	14

1 Mean ranks are based on a 3-point response format, where 1 = very important and 3 = not important. The mean rank is the average value of the 3-point response format. Means with the same superscript are not significantly different at the 0.05 significance level, using the Hochberg test as a means-separation technique.

2 n = Number of respondents that ranked the result. n does not include a "No Opinion" response.

3 The values given represent the number of respondents for each category divided by n.

NPS officials indicated (Table 6b) that the preferential right to provide extensions/renewals highly contributed to the well being of the concessioner and the small business operator. This response was significantly different from the well being of NPS. However, there was no significant difference between this component placing NPS at a disadvantage and contributing to the well being of NPS. This would suggest that this component did not have a real effect on the well being of NPS. NPS officials also indicated that this component moderately contributed to placing the general public at a disadvantage. This is the second component NPS has held this perception.

Preferential Right to Provide Additional Facilities. NPS officials perceived that this component contributed moderately to accomplishing all five congressionally intended outcomes (Table 7a). Also, the right to provide additional facilities appeared to have no significant impact on the NPS (Table 7b). This conclusion is drawn from the fact there was no significant difference between the well being on NPS and placing NPS at a disadvantage components. NPS officials did perceive this component as being beneficial to the concessioner and the small business operator.

Length of Contract. Length of contract demonstrated characteristics similar to the previous component (Table 8a). This component, based on NPS mean response, highly contributed

Table 7. Perceptions of preferential right to provide additional facilities by MPS officials

Possible Outcomes	Contribution Scale			Mean Rank <sup>1</sup>	Std. Dev.	n <sup>2</sup>
	Highly Contributes To(1)	Moderately Contributes To(2)	Does Not Contribute To(3)			
----- (Relative Frequency) <sup>3</sup> -----						
a. Impacts of preferential right to provide additional facilities on possible outcomes						
Continuity of concessions operation	.429	.214	.357	1.929 <sup>a</sup>	0.914	14
Reduction in difficulties of obtaining a loan	.308	.308	.385	2.077 <sup>a</sup>	0.862	13
Reduction in the difficulties of obtaining a concessioner	.286	.286	.429	2.143 <sup>a</sup>	0.864	14
The ability of the concessioner to provide and operate facilities	.154	.462	.385	2.231 <sup>a</sup>	0.725	13
The quality of the service offered to the public	.214	.286	.500	2.286 <sup>a</sup>	0.825	14
b. Impacts of preferential right of extensions on stakeholders interests						
The interest of the concessioner	.286	.714	.000	1.714 <sup>a</sup>	0.469	14
The interest of the small business operator	.385	.385	.231	1.846 <sup>a</sup>	0.801	13
Placing the MPS at a disadvantage	.143	.357	.500	2.357 <sup>a</sup>	0.745	14
The well being of the MPS	.154	.308	.538	2.385 <sup>a</sup>	0.768	13
Placing the small business operator at a disadvantage	.077	.308	.615	2.538 <sup>b</sup>	0.660	13
Placing the general public at a disadvantage	.154	.154	.692	2.538 <sup>b</sup>	0.776	13
Placing the concessioner at a disadvantage	.000	.154	.846	2.846 <sup>b</sup>	0.376	13

1 Mean ranks are based on a 3-point response format, where 1 = very important and 3 = not important. The mean rank is the average value of the 3-point response format. Means with the same superscript are not significantly different at the 0.05 significance level, using the Hochberg test as a means-separation technique.

2 n = Number of respondents that ranked the result. n does not include a "No Opinion" response.

3 The values given represent the number of respondents for each category divided by n.

Table 8. Perceptions of length of contract by NPS officials

Possible Outcomes	Contribution Scale			Mean Rank <sup>1</sup>	Std. Dev.	n <sup>2</sup>
	Highly Contributes To(1)	Moderately Contributes To(2)	Does Not Contribute To(3)			
----- (Relative Frequency) <sup>3</sup> -----						
a. Impacts of length of contract on possible outcomes						
Reduction in difficulties of obtaining a loan	.714	.286	.000	1.286 <sup>a</sup>	0.469	14
Continuity of concessions operation	.786	.143	.071	1.286 <sup>a</sup>	0.611	14
Reduction in the difficulties of obtaining a concessioner	.571	.214	.214	1.643 <sup>a</sup>	0.842	14
The ability of the concessioner to provide and operate facilities	.429	.429	.143	1.714 <sup>a</sup>	0.726	14
The quality of the service offered to the public	.385	.385	.231	1.846 <sup>a</sup>	0.801	13
b. Impacts of length of contract on stakeholder interests						
The interest of the concessioner	.643	.286	.071	1.429 <sup>a</sup>	0.646	14
The interest of the small business operator	.429	.500	.071	1.643 <sup>a</sup>	0.633	14
Placing the NPS at a <u>dis</u> advantage	.214	.571	.214	2.000 <sup>a</sup>	0.679	14
Placing the small business operator at a <u>dis</u> advantage	.308	.385	.308	2.000 <sup>a</sup>	0.816	13
The well being of the NPS	.143	.500	.357	2.214 <sup>a</sup>	0.699	14
Placing the general public at a <u>dis</u> advantage	.154	.385	.462	2.308 <sup>b</sup>	0.751	13
Placing the concessioner at a <u>dis</u> advantage	.154	.385	.462	2.308 <sup>b</sup>	0.751	13

1 Mean ranks are based on a 3-point response format, where 1 = very important and 3 = not important. The mean rank is the average value of the 3-point response format. Means with the same superscript are not significantly different at the 0.05 significance level, using the Hochberg test as a means-separation technique.

2 n = Number of respondents that ranked the result. n does not include a "No Opinion" response.

3 The values given represent the number of respondents for each category divided by n.

to all five of the outcomes which congress intended for the Act. The well being of the stakeholders are not significantly different (Table 8b). There did not appear to be an effect by the use of this incentive component. One possible explanation for there being no NPS effect was that this component was perceived in section one to not be important.

Interconnectedness of Policy Components

The intent of the survey questions (Appendix B - Section Five) were to determine perceptions concerning the interconnectedness<sup>7</sup> between specific components within P.L. 89-249. A total of nine components were included, encompassing both regulatory and inducement components. Below is a listing of those components (Figure 1). Table 9 displays the results.

Figure 1.

<b>Components Included in the Interconnectedness Question</b>	
<b>Inducement</b>	<b>Regulatory</b>
Preferential right to provide new facilities Protection against loss of investment Preferential right of extensions/renewals Possessory interest Opportunity to realize a profit Length of contract	Concessioner review program Availability of records Franchise fees

<sup>7</sup> Interconnectedness was defined as the association, relation, or logical linking of different components in a manner which if one of the components were changed (altered) in some way, the other component(s) would also experience a change.

Table 9. Interconnectedness as perceived by NPS

	Preferential Right To New Facilities	Protection Against Loss Of Investment	Concessioner Review Program	Possessory Interest	Availability Of Records	Opportunity To Realize A Profit	Length Of Contract
Protection against loss of investment	2.143 <sup>d</sup> (0.535)	—	2.231 <sup>d</sup> (0.599)	1.385 <sup>a</sup> (0.650)	2.692 <sup>b</sup> (0.630)	1.462 <sup>d</sup> (0.519)	1.615 <sup>d</sup> (0.650)
Preferential right of extensions/renewals	2.643 <sup>d</sup> (0.633)	1.962 <sup>ab</sup> (0.751)	—	—	—	—	—
Concessioner Review Program	2.231 <sup>a</sup> (0.927)	2.231 <sup>b</sup> (0.599)	— (0.825)	2.286 <sup>b</sup> (0.825)	2.286 <sup>ab</sup> (0.475)	2.071 <sup>b</sup> (0.893)	2.214 <sup>b</sup>
Possessory interest	2.231 <sup>d</sup> (0.725)	1.385 <sup>a</sup> (0.650)	2.286 <sup>a</sup> (0.825)	— (0.864)	2.143 <sup>a</sup> (0.519)	1.500 <sup>d</sup> (0.611)	1.714 <sup>d</sup>
Availability of Records	2.769 <sup>d</sup> (0.599)	2.692 <sup>c</sup> (0.630)	2.286 <sup>a</sup> (0.825)	2.143 <sup>b</sup> (0.864)	—	2.462 <sup>b</sup> (0.660)	2.692 <sup>b</sup> (0.840)
Opportunity to realize a	1.923 <sup>d</sup> (0.760)	1.462 <sup>d</sup> (0.519)	2.071 <sup>a</sup> (0.475)	1.500 <sup>d</sup> (0.519)	2.462 <sup>b</sup> (0.660)	— (0.646)	1.571 <sup>a</sup>
Length of contract	2.077 <sup>a</sup> (0.862)	1.615 <sup>a</sup> (0.650)	2.214 <sup>a</sup> (0.893)	1.714 <sup>ab</sup> (0.611)	2.692 <sup>b</sup> (0.840)	1.571 <sup>a</sup> (0.646)	—
Franchise fees	2.308 <sup>d</sup> (0.751)	2.077 <sup>b</sup> (0.760)	2.643 <sup>d</sup> (0.633)	2.286 <sup>b</sup> (0.611)	1.923 <sup>d</sup> (0.760)	1.357 <sup>a</sup> (0.497)	2.143 <sup>b</sup> (0.535)

This table should be read vertically not horizontally.

The upper number in each box is the mean (arithmetic average) response. Standard deviation is indicated in parenthesis beneath the mean.

Means with the same superscript in a column are not significantly different at the 0.05 significance level, using the Hochberg test as a means-separation technique.

Scale used was 1 = very interconnected, 3 = not interconnected.

Preferential Right to Provide New Facilities. Preferential right to provide new facilities was moderately interconnected to the eight other components with no significant difference indicated among components.

Protection Against Loss of Investment. There was a significant difference in the amount of interconnectedness among the following components: possessory interest, opportunity to realize a profit, length of contract, preferential right of extensions/renewals, and franchise fee, concessioner review program, availability of records. The former four components were significantly more interconnected than the latter three components. The division here was between the incentive and regulatory components.

Concessioner review program. The data indicated that there was no significant difference in the degree to which this component was interconnected to the other eight components. The concessioner review program was moderately interconnected to the other listed components.

Possessory Interest. Possessory interest was highly interconnected to both protection against loss of investment and opportunity to realize a profit. Based on mean response rate, there was no significant difference between the amount of interconnectedness between those two components. Also,

there was no significant difference among availability of records, franchise fee, and preferential right to provide new facilities. They were all moderately interconnected to possessory interest. Length of contract was highly to moderately interconnected to possessory interest.

Availability of Records. Availability of records showed more interconnectedness among franchise fee, possessory interest, and the concessioner review program as compared to the remaining components. There did not appear to be any interconnectedness between this component and preferential right to provide new facilities and protection against loss of investment. A possible explanation for this response would be that the amount concessioners pay in the form of franchise fees and the value of their facility (reflected in the possessory interest) is information, that if made available, could place the concessioner in an unfavorable negotiation position when attempting to sell to another party.

Opportunity to Realize a Profit. Concessioner review program and availability of records were significantly less interconnected to opportunity to realize a profit than were the other components. This component was interconnected to all other components. A possible explanation for this response is a perception that the other listed components were intended to assist in realizing a profit. the concessioner



review program and the availability of records were designed for different purposes.

Length of Contract. This component was significantly less interconnected to the availability of records and the Concessioner Review Program than the other components.

What is important to note here is that the results indicated that NPS officials perceived the components were overall moderately interconnected to one another. Interconnectedness, from the position of the NPS officials who deals with concessions, should be considered before implementing changes.

### **Concessioner Responses**

Concessioner responses were analyzed using the same method as NPS responses. Also, to determine if differing perceptions existed within concessioner responses, concessioners were subdivided by the National Park Service Region and grouped according to a larger geographic division (labeled as Eastern and Western regions). This was necessary because the number of concessioners (n) per each NPS region was not large enough to make comparisons (Figure 2).

Figure 2.

<b>Concessioner Subdivision</b>	
<u><b>Eastern Concessioners</b></u> Mid-Atlantic Region Midwest Region North Atlantic Region National Capital Region Southeast Region  n = 26	<u><b>Western Concessioners</b></u> Pacific Northwest Region Rocky Mountain Region Southwest Region Western Region  n = 42

**Important Policy Components**

Concessioners were asked (Appendix B - Section One) to indicate the importance of eight specific components of P.L. 89-249 as reflected in the current operating environment. The data indicate that there was no significant difference among the following four components: preferential right of extensions and renewals, opportunity to realize a profit, protection against loss of investment, and possessory interest (Table 10). The above four components were perceived as being very important in the current operating environment. Preferential right to provide new facilities and services, and franchise fees were considered to be less important than the above mentioned four components. Moderately important were

Table 10. Importance of specific policy components as perceived by concessioners

Components	Importance Level			Mean Rank <sup>1</sup>	Std. Dev.	n <sup>2</sup>
	Very Important (1)	Moderately Important (2)	Not Important (3)			
	----- (Relative Frequency) <sup>3</sup> -----					
Preferential right of extension/renewals	.940	.045	.015	1.075 <sup>a</sup>	0.317	67
Opportunity to realize a profit	.836	.149	.015	1.179 <sup>ab</sup>	0.437	67
Protection against loss of investment	.833	.136	.030	1.197 <sup>ab</sup>	0.471	66
Possessory interest	.741	.190	.069	1.328 <sup>ab</sup>	0.604	58
Preferential right to provide new facilities/services	.687	.224	.090	1.403 <sup>b</sup>	0.653	67
Franchise Fees	.635	.254	.111	1.476 <sup>b</sup>	0.692	63
30-year length of contract	.300	.500	.200	1.900 <sup>c</sup>	0.706	60
Use of one concessioner per park	.281	.281	.439	2.158 <sup>c</sup>	0.841	57

1 Mean ranks are based on a 3-point response format, where 1 = very important and 3 = not important. The mean rank is the average value of the 3-point response format. Means with the same superscript are not significantly different at the 0.05 significance level, using the Hochberg test as a means-separation technique.

2 n = Number of respondents that ranked the result. n does not include a "No Opinion" response.

3 The values given represent the number of respondents for each category divided by n.

30-year length of contract and the use of one concessioner per Park. The responses indicated that concessioners perceived all eight listed components, to be important in the operating environment of the concessioner.

There was one significant difference (at the 0.05 level) between Eastern and Western concessioners. Eastern concessioners perceived franchise fees to be moderately important (mean = 1.720), while Western concessioners ranked franchise fees as being highly important (mean = 1.316).

#### Results of Implementing P.L. 89-249

Section two of the survey (Appendix B) asked concessioners their perception of the impact(s) of the current concessions management program on certain possible outcomes and results. Concessioners were asked to rate the degree to which ten possible outcomes were currently being attained. Responses indicated that providing NPS with enough influence, protecting the interest of NPS, and protecting the interest of the general public was being attained to a high degree (Table 11). There was no significant difference between the three categories at the 95% significance level. The data suggest that concessioner perceived the system was protecting their interest between a high and moderate level. Concessioners also perceived the system was only moderately providing them with enough influence. The system was also moderately providing the general public with enough influence. All ten

Table 11. Results of implementing P.L. 89-249; as perceived by concessioners

Results	Degree to Which Results Are Being Attained			Mean Rank <sup>1</sup>	Std. Dev.	n <sup>2</sup>
	A High Degree (1)	A Moderate Degree (2)	Not At All (3)			
	----- (Relative Frequency) <sup>3</sup> -----					
Provides the NPS with enough influence	.892	.108	.000	1.108 <sup>a</sup>	0.312	65
Protects the interests of the NPS	.778	.206	.016	1.238 <sup>a</sup>	0.465	63
Protects the interest of the general public	.667	.254	.080	1.413 <sup>a</sup>	0.638	63
Protects the interests of the concessioner	.431	.446	.123	1.692 <sup>ab</sup>	0.683	65
Fosters the effective management of larger concessioner operations	.373	.529	.098	1.725 <sup>ab</sup>	0.635	51
Enables the concessioner to realize a profit on the operation as a whole	.286	.540	.175	1.889 <sup>b</sup>	0.675	63
Provides the general public with enough influence	.262	.541	.197	1.934 <sup>b</sup>	0.680	61
Reduces the difficulty in obtaining a concessioner	.265	.490	.245	1.980 <sup>b</sup>	0.721	49
Reduces the difficulty of securing loans	.283	.415	.302	2.019 <sup>b</sup>	0.772	53
Provides the concessioner with enough influence	.239	.493	.269	2.030 <sup>b</sup>	0.717	67

1 Mean ranks are based on a 3-point response format, where 1 = very important and 3 = not important. The mean rank is the average value of the 3-point response format. Means with the same superscript are not significantly different at the 0.05 significance level, using the Hochberg test as a means-separation technique.

2 n = Number of respondents that ranked the result. n does not include a "No Opinion" response.

3 The values given represent the number of respondents for each category divided by n.

possible results were perceived to be attained at a high to moderate degree.

A second significant difference occurred in this section between eastern and western concessioners. Specifically, when asked to what degree the current concessions program protects the interest of the concessioner, eastern region concessioners (n=26) responded "to a high degree" (mean = 1.462). Western region concessions (n=39) ranked a response of only moderately protecting their interests (mean = 1.846).

#### Impacts of Specific Components of the Act

Concessioners were asked to indicate the degree to which each of the six listed policy components contributed to specific outcomes. Outcomes were analyzed in two broad

Possessory Interest. Possessory interest highly contributed to the following four outcomes: continuity of the concessions operation, the quality of the service offered to the public, reduction in the difficulties of obtaining a loan, and the ability of the concessioner to provide and operate facilities (Table 12a). This component was perceived to contribute moderately to highly in reducing the difficulties of obtaining a concessioner.

Possessory interest was perceived to highly contribute to the interest of both the concessioner and the small business operator (Table 12b). Concessioners perceived that the well

Table 12. Perceptions of possessory interest by concessioners

Possible Outcomes	Contribution Scale			Mean Rank <sup>1</sup>	Std. Dev.	n <sup>2</sup>
	Highly Contributes To(1)	Moderately Contributes To(2)	Does Not Contribute To(3)			
----- (Relative Frequency) <sup>3</sup> -----						
a. Impacts of <u>possessory interest</u> on possible outcomes						
Continuity of concessions operation	.847	.119	.034	1.186 <sup>a</sup>	0.473	59
Reduction in difficulties of obtaining a loan	.760	.140	.100	1.340 <sup>a</sup>	0.658	50
The ability of the concessioner to provide and operate facilities	.714	.196	.089	1.375 <sup>a</sup>	0.648	56
The quality of the service offered to the public	.672	.259	.069	1.397 <sup>a</sup>	0.620	58
Reduction in the difficulties of obtaining a concessioner	.500	.411	.089	1.589 <sup>b</sup>	0.644	56
b. Impacts of <u>possessory interest</u> on stakeholder interests						
The interest of the concessioner	.804	.196	.000	1.196 <sup>a</sup>	0.401	56
The interest of the small business operator	.808	.173	.019	1.212 <sup>a</sup>	0.457	52
The well being of the NPS	.491	.345	.164	1.673 <sup>b</sup>	0.747	55
Placing the concessioner at a <u>disadvantage</u>	.137	.078	.784	2.647 <sup>c</sup>	0.716	51
Placing the small business operator at a <u>disadvantage</u>	.118	.098	.784	2.667 <sup>c</sup>	0.683	51
Placing the NPS at a <u>disadvantage</u>	.038	.231	.731	2.692 <sup>c</sup>	0.544	52
Placing the general public at a <u>disadvantage</u>	.038	.115	.846	2.808 <sup>c</sup>	0.487	52

1 Mean ranks are based on a 3-point response format, where 1 = very important and 3 = not important. The mean rank is the average value of the 3-point response format. Means with the same superscript are not significantly different at the 0.05 significance level, using the Hochberg test as a means-separation technique.

2 n = Number of respondents that ranked the result. n does not include a "No Opinion" response.

3 The values given represent the number of respondents for each category divided by n.

being of NPS was moderately contributed to. Possessory interest was perceived not to contribute to the placing any of the four listed stakeholders at a disadvantage. It appears that concessioners perceived that because possessory interest highly moderately contributed to all five outcomes, it was an advantageous component to all stakeholders.

Franchise Fees. Franchise fees moderately contributed to all five outcomes listed in Table 13a. There was a significant difference (at the 0.05 level) between the outcomes, interest of the small business operator and placing the small business operator at a disadvantage (Table 13b). This would suggest that franchise fees moderately benefit the small business operator. The data would also suggest that franchise fees have no significant effect on NPS or concessioners. Franchise fees moderately place the general public at a disadvantage. A possible reason for this perception is the fact that franchise fees are a cost of conducting business and this cost is generally passed on to the consumer.

One Concessioner Per Park Unit. This component moderately contributed to all five possible outcomes (Table 14a). The results in Table 14b show there was no significant difference in how this component contributed to the well being of NPS, the well being of the concessioner, and the small business operator (Table 14b). Also, concessioners perceived that this



Table 13. Perceptions of franchise fees by concessioners

Possible Outcomes	Contribution Scale			Mean Rank <sup>1</sup>	Std. Dev.	n <sup>2</sup>
	Highly Contributes To(1)	Moderately Contributes To(2)	Does Not Contribute To(3)			
---(Relative Frequency)---						
a. Impacts of franchise fees on possible outcomes						
The ability of the concessioner to provide and operate facilities	.453	.321	.226	1.774 <sup>a</sup>	0.800	53
Reduction in the difficulties of obtaining a concessioner	.420	.360	.220	1.800 <sup>a</sup>	0.782	50
Continuity of concessions operation	.446	.304	.250	1.804 <sup>a</sup>	0.818	56
Reduction in difficulties of obtaining a loan	.463	.278	.259	1.815 <sup>a</sup>	0.870	54
The quality of the service offered to the public	.167	.208	.625	2.458 <sup>a</sup>	0.771	48
b. Impacts of franchise fees on stakeholder interests						
The well being of the MPS	.466	.310	.224	1.759 <sup>a</sup>	0.802	58
Placing the MPS at a disadvantage	.456	.281	.263	1.807 <sup>a</sup>	0.833	57
Placing the concessioner at a disadvantage	.377	.358	.264	1.887 <sup>a</sup>	0.800	53
The interest of the small business operator	.360	.280	.360	2.000 <sup>a</sup>	0.857	50
The interest of the concessioner	.308	.365	.327	2.019 <sup>a</sup>	0.804	52
Placing the general public at a disadvantage	.295	.273	.432	2.136 <sup>a</sup>	0.852	44
Placing the small business operator at a disadvantage	.113	.019	.868	2.755 <sup>b</sup>	0.648	53

1 Mean ranks are based on a 3-point response format, where 1 = very important and 3 = not important. The mean rank is the average value of the 3-point response format. Means with the same superscript are not significantly different at the 0.05 significance level, using the Hochberg test as a means-separation technique.

2 n = Number of respondents that ranked the result. n does not include a "No Opinion" response.

3 The values given represent the number of respondents for each category divided by n.

Table 14. Perceptions of one concessioner per park unit by concessioners

Possible Outcomes	Contribution Scale			Mean Rank <sup>1</sup>	Std. Dev.	n <sup>2</sup>
	Highly Contributes To(1)	Moderately Contributes To(2)	Does Not Contribute To(3)			
---(Relative Frequency) <sup>3</sup> ---						
a. Impacts of one concessioner per park unit on possible outcomes						
Continuity of concessions operation	.633	.184	.184	1.551 <sup>d</sup>	0.792	49
The ability of the concessioner to provide and operate facilities	.636	.136	.227	1.591 <sup>a</sup>	0.844	44
Reduction in difficulties of obtaining a loan	.595	.119	.286	1.690 <sup>a</sup>	0.897	42
Reduction in the difficulties of obtaining a concessioner	.543	.217	.239	1.696 <sup>a</sup>	0.840	46
The quality of the service offered to the public	.519	.250	.231	1.711 <sup>a</sup>	0.825	52
b. Impacts of One Concessions Per Park Units on Stakeholder Interests.						
The interest of the concessioner	.674	.283	.043	1.370 <sup>a</sup>	0.579	46
The interest of the small business operator	.674	.116	.209	1.535 <sup>a</sup>	0.827	43
The well being of the NPS	.532	.319	.149	1.617 <sup>a</sup>	0.739	47
Placing the small business operator at a disadvantage	.190	.071	.738	2.548 <sup>b</sup>	0.803	42
Placing the general public at a disadvantage	.128	.170	.702	2.574 <sup>b</sup>	0.715	47
Placing the NPS at a disadvantage	.061	.204	.735	2.673 <sup>b</sup>	0.591	49
Placing the concessioner at a disadvantage	.024	.098	.878	2.854 <sup>b</sup>	0.422	41

1 Mean ranks are based on a 3-point response format, where 1 = very important and 3 = not important. The mean rank is the average value of the 3-point response format. Means with the same superscript are not significantly different at the 0.05 significance level, using the Hochberg test as a means-separation technique.

2 n = Number of respondents that ranked the result. n does not include a "No Opinion" response.

3 The values given represent the number of respondents for each category divided by n.

component did not place the general public at a disadvantage.

Preferential Right to Provide Extensions and Renewals. There was no significant difference between the following outcomes: Continuity of the concessions operation, the ability of the concessioner to provide and operate facilities, and reduction in the difficulties of obtaining a loan (Table 15a). This component contributed more to the above three factors than it did to reducing the difficulties of obtaining a concessioner or the quality of the service offered to the public. However, preferential right to provide extensions and renewals contributed significantly to all five listed outcomes (Table 15a). This component also highly contributed to the well being of NPS, concessioner, and the small business operator (Table 15b). Additionally, concessioners did not perceive that the general public is not placed at a disadvantage as a result of this component.

Preferential Rights to Provide Additional Facilities. This highly contributed to all five outcomes (Table 16a). As with the previous preferential right, preferential right to provide additional facilities also highly contributed to the well being of NPS, concessioner, and the small business operator. This component did not contribute to placing the general public at a disadvantage (Table 16b).

Table 15. Perceptions of preferential right to extensions and renewals by concessioners

Possible Outcomes	Contribution Scale			Mean Rank <sup>1</sup>	Std. Dev.	n <sup>2</sup>
	Highly Contributes To(1)	Moderately Contributes To(2)	Does Not Contribute To(3)			
----- (Relative Frequency) <sup>3</sup> -----						
a. Impacts of preferential right to extensions and renewals on possible outcomes						
Continuity of concessions operation	.968	.032	.000	1.032 <sup>a</sup>	0.178	62
The ability of the concessioner to provide and operate facilities	.875	.054	.071	1.196 <sup>a</sup>	0.553	56
Reduction in difficulties of obtaining a loan	.830	.094	.075	1.245 <sup>b</sup>	0.585	53
The quality of the service offered to the public	.804	.125	.071	1.268 <sup>ab</sup>	0.587	56
Reduction in the difficulties of obtaining a concessioner	.714	.214	.071	1.357 <sup>b</sup>	0.616	56
b. Impacts of preferential right to provide extensions and renewals on stakeholder interests.						
The interest of the small business operator	.887	.075	.038	1.151 <sup>a</sup>	0.456	53
The interest of the concessioner	.845	.155	.000	1.155 <sup>a</sup>	0.365	58
The well being of the NPS	.685	.259	.056	1.370 <sup>a</sup>	0.592	54
Placing the small business operator at a disadvantage	.113	.019	.868	2.755 <sup>b</sup>	0.648	53
Placing the concessioner at a disadvantage	.038	.057	.906	2.868 <sup>b</sup>	0.440	53
Placing the general public at a disadvantage	.036	.055	.909	2.873 <sup>b</sup>	0.433	55
Placing the NPS at a disadvantage	.018	.182	.800	2.782 <sup>b</sup>	0.459	55

1 Mean ranks are based on a 3-point response format, where 1 = very important and 3 = not important. The mean rank is the average value of the 3-point response format. Means with the same superscript are not significantly different at the 0.05 significance level, using the Hochberg test as a means-separation technique.

2 n = Number of respondents that ranked the result. n does not include a "No Opinion" response.

3 The values given represent the number of respondents for each category divided by n.

Table 16. Perceptions of preferential right to provide additional facilities and/or services by concessioners

Possible Outcomes	Contribution Scale			Mean Rank <sup>1</sup>	Std. Dev.	n <sup>2</sup>
	Highly Contributes To(1)	Moderately Contributes To(2)	Does Not Contribute To(3)			
- - - (Relative Frequency) <sup>3</sup> - - -						
a. Impacts of preferential right to provide additional facilities and/or services on possible outcomes						
Continuity of concessions operation	.712	.271	.017	1.305 <sup>a</sup>	0.500	59
The ability of the concessioner to provide and operate facilities	.736	.208	.057	1.321 <sup>a</sup>	0.581	53
Reduction in difficulties of obtaining a loan	.653	.184	.163	1.510 <sup>a</sup>	0.767	49
The quality of the service offered to the public	.589	.321	.089	1.500 <sup>a</sup>	0.661	56
Reduction in the difficulties of obtaining a concessioner	.528	.415	.057	1.528 <sup>a</sup>	0.608	53
b. Impacts of Preferential Right to Provide Additional Facilities and/or Services on Stakeholder Interests.						
The interest of the concessioner	.722	.259	.019	1.296 <sup>a</sup>	0.500	54
The interest of the small business operator	.712	.250	.038	1.327 <sup>a</sup>	0.550	52
The well being of the NPS	.556	.352	.093	1.537 <sup>a</sup>	0.665	54
Placing the small business operator at a disadvantage	.100	.080	.820	2.720 <sup>b</sup>	0.640	50
Placing the concessioner at a disadvantage	.078	.059	.863	2.784 <sup>b</sup>	0.577	51
Placing the general public at a disadvantage	.057	.093	.849	2.792 <sup>b</sup>	0.532	53
Placing the NPS at a disadvantage	.020	.120	.860	2.840 <sup>b</sup>	0.422	50

1 Mean ranks are based on a 3-point response format, where 1 = very important and 3 = not important. The mean rank is the average value of the 3-point response format. Means with the same superscript are not significantly different at the 0.05 significance level, using the Hochberg test as a means-separation technique.

2 n = Number of respondents that ranked the result. n does not include a "No Opinion" response.

3 The values given represent the number of respondents for each category divided by n.

Length of Contract. Concessioners perceived that length of contract highly contributed to all five listed outcomes (Table 17a). Also, the length of a contract highly contributed to the well being of NPS, concessioner, and the interest of the small business operator. Length of contract did contribute to placing the small business operator at a moderate disadvantage (Table 17b).

Significant differences were indicated between eastern and western for only three answers. When asked to what degree do preferential right of extensions/renewals contribute to the reduction in the difficulties of obtaining a concessioner, eastern region concessioners (n = 21) responded that it highly contributed (mean = 1.095). Western region concessions (n = 35) indicated that it contributed moderately to resolving that difficulty (mean = 1.514). The second question was "How to franchise fees contribute to placing the small business operator at a disadvantage?" Eastern region concessioners (n = 19) had a response mean of 1.842. Western region concessioners (n = 23) had a lower response mean of 1.565. The last question of significant difference was, "How does length of contract contribute to reduction in the difficulties of obtaining a loan?" Western region concessioners (n = 32) had a response rate of 1.062 and eastern region concessions (n = 20) had a slightly more moderate response rate of 1.300.

Table 17. Perceptions of length of contract by concessioners

Possible Outcomes	Contribution Scale			Mean Rank <sup>1</sup>	Std. Dev.	n <sup>2</sup>
	Highly Contributes To(1)	Moderately Contributes To(2)	Does Not Contribute To(3)			
----- (Relative Frequency) <sup>3</sup> -----						
a. Impacts of length of contract on possible outcomes						
Continuity of concessions operation	.900	.083	.017	1.117 <sup>a</sup>	0.372	60
Reduction in difficulties of obtaining a loan	.865	.115	.019	1.154 <sup>a</sup>	0.415	52
The ability of the concessioner to provide and operate facilities	.750	.214	.036	1.286 <sup>a</sup>	0.530	56
Reduction in the difficulties of obtaining a concessioner	.732	.179	.089	1.357 <sup>a</sup>	0.645	56
The quality of the service offered to the public	.700	.200	.100	1.400 <sup>a</sup>	0.669	60
b. Impacts of length of contract on stakeholder interests						
The interest of the concessioner	.836	.164	.000	1.164 <sup>a</sup>	0.373	55
The interest of the small business operator	.792	.208	.000	1.208 <sup>a</sup>	0.409	53
The well being of the NPS	.690	.276	.034	1.345 <sup>a</sup>	0.548	58
Placing the small business operator at a disadvantage	.256	.170	.574	2.319 <sup>b</sup>	0.862	47
Placing the concessioner at a disadvantage	.204	.204	.592	2.388 <sup>bc</sup>	0.812	49
Placing the general public at a disadvantage	.054	.179	.768	2.714 <sup>c</sup>	0.563	56
Placing the NPS at a disadvantage	.019	.222	.759	2.714 <sup>c</sup>	0.563	65

1 Mean ranks are based on a 3-point response format, where 1 = very important and 3 = not important. The mean rank is the average value of the 3-point response format. Means with the same superscript are not significantly different at the 0.05 significance level, using the Hochberg test as a means-separation technique.

2 n = Number of respondents that ranked the result. n does not include a "No Opinion" response.

3 The values given represent the number of respondents for each category divided by n.

### Interconnectedness of the Policy's Components

Section five (Appendix B) concessioners were asked to indicate their perception of how the different components interconnected with each other. Table 18 shows the nine policy components and the degree to which each component is interconnected to other components.

Preferential Right to Provide New Facilities. Concessioners perceived this component as being highly interconnected to seven of the eight listed components. This component was moderately interconnected to the availability of records component.

Protection Against Loss of Investment. This component was perceived as being highly interconnected to the following five components: preferential right to provide new facilities, preferential right to provide extensions/renewals, possessory interest, opportunity to realize a profit, and length of contract. The data suggest that franchise fees fell between highly and moderately interconnected to protection against loss of investment. This component was also perceived as being moderately interconnected to the concessioner review program and the availability of records.

The Concessioner Review Program. This was perceived to be moderately interconnected to the other seven listed



Table 18. Interconnectedness as perceived by concessioners

	Preferential Right To New Facilities	Protection Against Loss Of Investment	Concessioner Review Program	Possessory Interest	Availability Of Records	Opportunity To Realize A Profit	Length Of Contract
Protection against loss of investment	1.333 <sup>a</sup> (0.572)	—	1.833 <sup>a</sup> (0.720)	1.203 <sup>a</sup> (0.406)	2.115 <sup>d</sup> (0.704)	1.233 <sup>a</sup> (0.465)	1.295 <sup>a</sup> (0.587)
Preferential right of extensions/renewals	1.426 <sup>a</sup> (0.694)	1.267 <sup>a</sup> (0.548)	—	—	—	—	—
Concessioner Review Program	1.655 <sup>a</sup> (0.690)	1.833 <sup>b</sup> (0.720)	—	1.804 <sup>b</sup> (0.796)	1.695 <sup>a</sup> (0.725)	1.683 <sup>b</sup> (0.676)	1.780 <sup>b</sup> (0.767)
Possessory interest	1.483 <sup>a</sup> (0.682)	1.203 <sup>a</sup> (0.406)	1.804 <sup>a</sup> (0.796)	—	1.941 <sup>ab</sup> (0.810)	1.362 <sup>a</sup> (0.520)	1.250 <sup>a</sup> (0.474)
Availability of Records	2.075 <sup>b</sup> (0.805)	2.115 <sup>b</sup> (0.704)	1.695 <sup>a</sup> (0.725)	1.941 <sup>b</sup> (0.810)	—	2.118 <sup>b</sup> (0.739)	2.180 <sup>b</sup> (0.774)
Opportunity to realize a profit	1.339 <sup>a</sup> (0.576)	1.233 <sup>a</sup> (0.465)	1.683 <sup>a</sup> (0.676)	1.362 <sup>a</sup> (0.520)	2.118 <sup>b</sup> (0.739)	—	1.156 <sup>a</sup> (0.444)
Length of Contract	1.443 <sup>a</sup> (0.696)	1.295 <sup>a</sup> (0.587)	1.780 <sup>a</sup> (0.767)	1.250 <sup>a</sup> (0.474)	2.180 <sup>b</sup> (0.774)	1.156 <sup>a</sup> (0.444)	—
Franchise Fees	1.678 <sup>a</sup> (0.797)	1.542 <sup>a</sup> (0.750)	1.931 <sup>a</sup> (0.792)	1.610 <sup>b</sup> (0.788)	1.959 <sup>b</sup> (0.763)	1.206 <sup>a</sup> (0.481)	1.609 <sup>b</sup> (0.769)

This table should be read vertically not horizontally.

The upper number in each box is the mean (arithmetic average) response. Standard deviation is indicated in parenthesis beneath the mean.

Means with the same superscript in a column are not significantly different at the 0.05 significance level, using the Hochberg test as a means-separation technique.

Scale used was 1 = very interconnected, 3 = not interconnected.

components. No significant difference was indicated (at the 0.05 significance level).

Possessory Interest. Concessioners perceived this component to be highly interconnected to the following four components: preferential right to provide new facilities, protection against loss of investment, opportunity to realize a profit and length of contract. Possessory interest was moderately interconnected to the concessioner review program, availability of records, and franchise fees. The later three components are considered to be regulatory. This response further demonstrated the importance of possessory interest. This component was considered to be the most interconnected of those listed.

Availability of Records. The component was perceived as being highly interconnected to the Concessioner Review Program. Data suggests possessory interest and franchise fees falls between being highly and moderately interconnected to this component. The remaining three components were perceived as being moderately interconnected to the availability of records. A possible explanation for the highly interconnectedness between availability of records and the Concessioner Review Program could be that it is part of the concessioner review process to generate the records which are made available.

Opportunity to Realize a Profit. This component was moderately interconnected to the Concessioner Review Program and availability of records. Opportunity to realize a profit was highly interconnected to the remaining four components.

Length of Contract. This component was highly interconnected to protection against loss of investment, possessory interest, and opportunity to realize a profit. Length of contract was moderately interconnected to the remaining three components.

Section five of the questionnaire revealed three significant differences among eastern and western concessioners. A difference in perception occurred with the question of how interconnected preferential right to provide new facilities was to protect against loss of investment. The western region concessioners (n=37) responded with a mean of 1.459. Eastern region concessioners (n = 23) had a more interconnected response of 1.130. Differences also occurred when asked about the degree of interconnectedness between protection against loss of investment and possessory interest. Response from the western region concessioners (n = 35) was 1.114. Eastern region concessioners (n = 24) had a higher mean of 1.333. The last questions where differences occurred (at the 0.05 level) was "How interconnected is possessory interest to the availability of records?" Western region concessioners (n = 30) had a response rate of 2.133. Eastern region concessioners (n = 24) response rate was 1.667.

Concessioners, both eastern and western, were asked a total of 120 questions. Of that total, a significant difference was indicated between the two subgroups in eight questions. This means that 93.33% of all questions asked did not indicate a significant difference. It can be concluded that, overall, there were no differences between eastern and western concessioners.

### **Comparisons Between NPS and Concessioner Responses**

#### Important Policy Components

Section one of the survey asked respondents to indicate the importance of eight listed components, which are found in P.L. 89-249. NPS officials' and concessioners' results are located in Tables 1 and 10. Figure 3 shows a synopsis of a comparison of the results.

Figure 3.

<b>Components where no significant differences were indicated</b>
<b>Protection Against Loss of Investment</b>
<b>Opportunity to Realize a Profit</b>
<b>Possessory Interest</b>
<b>Franchise Fees</b>

**Components where a significant difference was indicated**

Use of One Concessioner Per Park

Preferential Right to Provide New Facilities/Services

Preferential Right of Extensions/Renewals

30-Year Length of Contract

With the exception of one policy component, opportunity to realize a profit, concessioners consistently ranked each component as being more important than NPS officials. Moreover, NPS officials indicated that preferential right to provide new facilities, 30-year length of contract, and use of one concessioner per Park were not important policy components to today's operating environment. Concessioners viewed 30-year length of contract, and the use of one concessioner per Park as being moderately important. Concessioners ranked the other six components as very important in today's operating environment.

Results of Implementing P.L. 89-249

Three questions in section two of the survey dealt with the degree to which congressionally intended goals were being attained as a result of the Act's implementation. Specifically, to what degree does the concessions management program reduce the difficulty in obtaining a concessioner (1A), reduce the difficulty in securing loans (1B), and enable

the concessioner to realize a profit on the operation as a whole (1F). No significant difference was indicated between concessioners (Table 11) and NPS Officials (Table 2) in answering these questions. Both groups of respondents agreed that these outcomes were moderately being attained. It is unknown if this moderate rating was due to policy limitations, implementation methodology, and/or factors inherently related to the recreation business. Respondents also showed no difference in the degree that implementation of the Act protects the interest of the general public. The responses fell between highly and moderately being attained.

The most important differences in section two occurred with questions pertaining to protected interests of NPS and the amount of influence attained by NPS and concessioners. When asked to what degree the concessions management program protects the interest of NPS, concessioners responded "to a high degree." However, NPS officials indicated their interests were only moderately being protected. Respondents were also asked if they were receiving enough influence in the concessions management program. Concessioners responded that they were moderately receiving enough influence, while indicating that NPS was receiving a high degree of influence. NPS officials indicated that concessioners were highly receiving enough influence. Concessioners responded that NPS was obtaining more influence than NPS officials were claiming for themselves.

### Impacts of Specific Components of the Act

The intent of this section was to determine stakeholder perceptions concerning the impact(s) of specific policy components on a list of possible outcomes. This section of the questionnaire (Section Three - Appendix B) represented the largest number of questions (72) in the survey. In comparing the stakeholders' responses, several notable trends were discovered.

First, as shown in Table 19, concessioners perceived that each listed policy component contributed more to the possible outcome than viewed by NPS officials. This supports the data from the previous section: concessioners perceived P.L. 89-249 as functioning at a higher level of performance when compared to NPS officials. In no way should this be interpreted to mean that NPS officials perceived that P.L. 89-249 was not accomplishing its intended goals. The second major pattern is shown in Table 20. Significant differences occurred between each policy component and how it contributed to the well being of NPS. Concessioners viewed the components as being more of a contributing factor to the well being of NPS than was perceived by NPS officials. Also differences occurred in how two components contributed to placing the general public at a disadvantage. NPS officials perceived possessory interest, and preferential right of extensions and renewals, as components which moderately placed the general public at a disadvantage. Concessioners indicated that those

Table 19. Perceptions of component functioning

Outcomes	Components					
	Possessory Interests	Franchise Fees	One Concessioner Per Park Unit	Right Of Renewals	Right Of Additional Services	Length Of Contract
Continuity of Concessions Operation	n = 1.286 c = 1.186	n = 2.643 c = 1.804*	n = 1.846 c = 1.551	n = 1.286 c = 1.032	n = 1.929 c = 1.305	n = 1.286 c = 1.117
Reduction in Difficulties Of Obtaining a Concessioner	n = 2.143 c = 1.589*	n = 2.571 c = 1.800*	n = 2.077 c = 1.696	n = 1.857 c = 1.357	n = 2.143 c = 1.528	n = 1.643 c = 1.357
The Quality of the Service Offered To The Public	n = 2.286 c = 1.397*	n = 2.786 c = 1.807*	n = 1.929 c = 1.712	n = 2.143 c = 1.268	n = 2.286 c = 1.500	n = 1.846 c = 1.400
Reduction In Difficulties Of Obtaining a Loan	n = 1.143 c = 1.340	n = 2.500 c = 2.136	n = 1.923 c = 1.690	n = 1.429 c = 1.245	n = 2.077 c = 1.510	n = 1.286 c = 1.154
The Ability Of The Concessioner To Provide And Operate Facilities	n = 1.571 c = 1.375	n = 2.286 c = 1.887	n = 1.769 c = 1.591	n = 1.714 c = 1.196*	n = 2.231 c = 1.321	n = 1.714 c = 1.286

The above numbers represent the mean response of both MPS(n) and concessioners (c). The asterisk "\*" indicates where significant difference between the mean responses.

Scale = (1) Highly contributes to; (2) Moderately Contributes to; (3) Does not contribute to



Table 20. Perceptions of components' influence on stakeholders

Outcomes	Components					
	Possessory Interests	Franchise Fees	One Concessioner Per Park Unit	Right Of Renewals	Right Of Additional Services	Length Of Contract
The Well Being of NPS	n = 2.571 c = 1.673*	n = 2.357 c = 1.759*	n = 2.308 c = 1.617*	n = 2.286 c = 1.370*	n = 2.385 c = 1.537*	n = 2.214 c = 1.345*
Placing the NPS at a Disadvantage	n = 1.857 c = 2.692*	n = 2.714 c = 2.824	n = 2.000 c = 2.673*	n = 2.000 c = 2.782*	n = 2.357 c = 2.840*	n = 2.000 c = 2.741*
Placing the General Public at A Disadvantage	n = 2.286 c = 2.808*	n = 2.571 c = 2.458	n = 2.167 c = 2.574	n = 2.154 c = 2.873*	n = 2.538 c = 2.792	n = 2.308 c = 2.714*
The Interest Of The Concession	n = 1.071 c = 1.196	n = 1.929 c = 1.815	n = 1.462 c = 1.370	n = 1.214 c = 1.155	n = 1.714 c = 1.296	n = 1.429 c = 1.164
Placing the Concessioner At a Disadvantage	n = 2.786 c = 2.647	n = 2.214 c = 2.019	n = 3.000 c = 2.854	n = 2.786 c = 2.868	n = 2.846 c = 2.784	n = 2.308 c = 2.388
The Interest of the Small Business Operator	n = 1.429 c = 1.212	n = 2.143 c = 1.774	n = 1.308 c = 1.535	n = 1.286 c = 1.151	n = 1.846 c = 1.327*	n = 1.643 c = 1.208*
Placing the Small Business Operator at a Disadvantage	n = 2.846 c = 2.667	n = 2.286 c = 2.000	n = 2.385 c = 2.548	n = 2.571 c = 2.755	n = 2.538 c = 2.720	n = 2.000 c = 2.319

The above numbers represent the mean response of both NPS(n) and concessioners (c). The asterisk "\*" indicates where significant difference between the mean responses.

Scale = (1) Highly contributes to; (2) Moderately Contributes to; (3) Does not contribute to

same two components did not place the general public at a disadvantage. This is an important result. The NPS response could be interpreted to mean that the general public is not receiving deserved service from the National Park System.

Thirdly, concessioners and NPS officials did not differ in how the various components contributed to the interest of the small business operator. Stakeholders perceived that there was no significant difference between the interest of the small business operator and the large concessioner.

#### Interconnectedness of the Act's Components

The final section of the survey (section five) asked respondents to indicate their perceptions concerning the degree to which policy components were interconnected to one another (Tables 9 and 18). A total of 30 questions were asked. Out of those 30 questions, a significant difference was found in 20 of the questions. This translates to a slightly less than 67 percent disagreement rate. The most interesting aspect of the differences was that concessioners consistently ranked each of those 20 answers as being more interrelated than the NPS officials indicated. Of the 30 questions asked, concessioners ranked 29 of the questions as being somewhat more interconnected than NPS officials. The overall concluding result of this section is that both stakeholders view P.L. 89-249 as being a very interconnected system. Also, concessioners perceive the Act as overall being

more interconnected than NPS officials.

## VI. CONCLUSIONS AND POLICY RECOMMENDATIONS

### Introduction

The research objectives were to review literature with the intent of synthesizing comprehensive operating environment as a mechanism to better realize the impacts of concessions' management as it relates to its stakeholders, and determine NPS concession managers and concessioners perceptions as they pertain to P.L 89-249 and its implementation, the impact of individual components with the Act, and how these stakeholders perceived the individual components to be interconnected to one another. The hypotheses of this study are: (i) the implementation of P.L. 89-249 is very systemic<sup>a</sup>, and (ii) differences in perceptions do occur between NPS officials and concessioners.

### Major Findings

Results from the data analysis do not disprove the hypotheses. The study has indicated that differences in perceptions relating to P.L. 89-249 (implementation and individual components) do occur and that the Act's nine major components are interrelated. Additionally, the study revealed there were components which NPS officials perceived as not

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<sup>a</sup> Systemic refers to the relation or logical linking of different components in a manner which if one were changed in some way, the other component(s) would also experience a change.

being important in the current operating environment (i.e., preferential right to provide new facilities, 30-year length of contract, and the use of one concessioner per Park). This could be a possible indication that P.L. 89-249 is providing unnecessary incentives. This perception was not indicated by concessioners.

Another major difference occurred with questions pertaining to the protected interests of NPS. Specifically, NPS officials indicated that their interests were only moderately being protected. NPS officials also indicated that overall P.L. 89-249 was not performing at the level perceived by concessioners. In other words, NPS perceived the Act was not accomplishing its goals, as intended by Congress, to the level perceived by concessioners.

Significant differences occurred between each listed policy component and how it contributed to the "well being of NPS." NPS officials indicated that "possessory interest" and "preferential right of extension" contributed to placing them and the general public at a moderate disadvantage. This could be interpreted to indicate that there are certain components in the Act which hinder NPS from accomplishing their mission objectives. Thus, the public is not realizing their desired benefits as a further result. The literature review supported this finding and review provided some insight on possible reasons for the perceived lack of influence on the part of NPS. First, NPS has historically demonstrated a lack of

professional and political assets to build needed bureaucratic power. They have been denied a strong support constituency (Clarke and McCool, 1985). Evidence suggests this situation is further compounded by the agency's placement in the Department of the Interior. All these factors may significantly contribute to the difficulties in implementing or even obtaining a policy which could better enhance their ability to realize their mission statement. Further investigation may be warranted as a result of this study.

Both concessioners and NPS officials indicated that the components of the Act were interrelated to one another. However, concessioners consistently ranked each component as being more interrelated than the NPS officials.

### **Conclusions**

Evidence from this study suggests that concerns from NPS officials do exist. There appeared to be areas where policy improvements (e.g., in the implementation of possessory interest) are warranted. Below is a list of considerations which should be taken into account before effective change can occur.

- 1) Stakeholders possess very different perceptions concerning the current concessions management program. Thus, it is necessary to know and understand these perceptions. Perceptions concerning both policy functions and the effects that policy creates, through implementation, for each

stakeholder group should be determined.

2) In addition to determining perceptions, stakeholder roles must be clearly defined. The function each group of stakeholders maintains in the development and implementation of a policy should be understood.

3) P.L. 89-249 is an interconnected system. The relationship between the various components must be understood before changes are made. Externalities could be avoided by the understanding of how the nine major components are interconnected.

4) A policy is only as effective as the implementing agency. NPS needs to improve their level of management. They need more financial support from Congress and more highly trained staff to increase efficiency.

5) A healthy concession system is needed to satisfy the needs of the visiting public. A policy reform intended only to limit the incentives of the concessioner will not benefit NPS or the general public.

### **Policy Recommendations**

Specific policy recommendations can be offered. It is realized that changes must be based on increasing the ability of NPS to realize the full potential of their role as public lands stewards while protecting the interest of the general public and concessioners. Considerations must be cognizant of how policy components are interconnected to each other. With

this in mind, below is a list of recommended changes.

First, modify the meaning of possessory interest. Possessory interest serves a useful purpose in the current concessions management program. For example, both NPS officials and concessioners agreed that possessory interest contributed highly to the continuity of the concessions operation and to reducing the difficulties of obtaining a loan. However, NPS officials also indicated that this incentive moderately placed them and the general public at a disadvantage. The possible reason for this perception is due to the difficulties of purchasing a possessory interest. At least a partial remedy for this situation is to require the possessory interest to be amortized over a period no longer than the time required to repay the loan or the estimated useful life of the facility. At the end of such periods, the possessory interest should be extinguished and the government would have total ownership. Of course, length of contract should correspond with this. In cases where the facility has not been fully amortized, satisfactory concessioners should be permitted to sell their possessory interest to a third party at the best price obtainable. However, the Director should be given final discretionary authority as to the approval of any new concessioner. Also, the original cost should continue to be amortized. Unsatisfactory concessioners should be required to sell their remaining possessory interest to the Government at no more than the unamortized value. The same should hold



true when the facility has been deemed no longer necessary and needs to be discontinued. This modification in the current possessory interest application could assist in placing NPS in a better management position by increasing their options.

The second area of recommended change focuses on franchise fees. The most positive aspect of franchise fees is that they are subordinate to the concessioners' opportunity to realize a fair rate of return from their investment and the public's right to affordable facilities. In no way should National Parks be considered revenue producing institutions. However, some form of fee to assist NPS in financing the concessions program does seem appropriate. It is recommended here that concessioners pay a flat rate of ten percent of annual gross receipts. In addition, the concessioner should be responsible for all utility costs incurred by the concession's operation.

Other proposed reforms have called for greater increases in the franchise fee amounts (i.e., H.R. 943 would require a minimum of 22.5 percent). However, I feel that the current reform movement is not considering the fact that franchise fees are a real cost of doing business and costs are generally passed on to the consumer. To make the ten percent fee more beneficial to NPS and the general public, it is recommended that four percent stay in the Park to be used by the concessioner for needed improvements. These improvements and their cost should be approved by the Director. The remaining

six percent should go into NPS concessions fund. There it can be used to acquire possessory interests, as well as to build and/or maintain visitor facilities.

A real concern with this use of franchise fees by the Park Service is that Congress or the Department of Interior will then lower the NPS annual appropriated funding because of this other increased funding. If this were to happen, the consequences would be severe for NPS. This would give concessioners greater influence over NPS because they would be dependent on concessioners for continued funding. This is known as the "Theory of Capture," and must be avoided.

A third proposed area of change has to do with the need for qualified concessions managers. This will probably be accomplished only after NPS creates a new pay scale for concessions managers. The current pay scale is not at all compatible with private sector pay.

The above recommendations will not solve all the problems surrounding concessions management. No policy reform will. What has to be realized is that the concessions management program is a system involving certain factors not addressed in a concessions policy. Moreover, policy implementation is a result of bureaucracy (in this case NPS) culture. A fundamental source of power for bureaucratic organizations is the expertise they command - the varied skills that administrators bring to the policy process, necessary both for making decisions on policy and putting these decisions into

effect (Rourke, 1984). The culture of this agency has been a "stumbling block" to influencing and implementing policies which better supports the National Park Service's mission. This is exemplified by NPS's positioning in the Department of the Interior, the Director being a political appointee as opposed to a career NPS employee, and the difficulty with interpreting their own mission statement.

This presents a paramount problem, because what is needed is a cultural transformation. The end result of such a transformation should be a professional staff which has the ability to control its internal affairs. In other words, change should be directed at gravitating the agency from its reactive nature to a proactive bureaucracy. However, this type of internal change is extremely difficult to obtain. It requires transforming strategy and structure. With NPS this means changing from the existing "military style" of management (i.e., stringent hierarchical chain of command) to employee empowerment in the decision making process.

### **Study Limitations**

Before meaningful decisions can be made, the needs and desires of the general public must be known and incorporated into the decision-making process. This study did ask NPS officials and concessioners questions concerning the "interest of the general public." However, that should not be considered as an acceptable substitute. Also, due to this

study's limited definition of an "NPS official," the results cannot be considered representative of all Park Service employees. Furthermore, the use of a mail survey adds a degree of uncertainty as to the actual identity (in this case position) of the person completing the questionnaire. Response selectivity is another concern when using a mail survey (Dillman, 1978). There was no attempt to determine possible reasons which contributed to non-respondents.

#### **Future Research**

To gain a more complete understanding of this subject matter, further research is warranted. To fully grasp the dynamics of the concessions management program, the perceptions and roles of stakeholders must be realized. Future studies should focus on the general public, a wider sampling of NPS employees, and the private sector located outside of Park boundaries, as well as outfitters which utilize Park resources.

Additionally, the Park Service's culture should be further studied. The results of this study indicated that the existing culture may be a contributing factor for some of the Park Service's difficulty in acquiring and implementing policies which better protects their organization's missions.

DEPT. OF CHEMISTRY  
UNIVERSITY OF TORONTO  
LANGMUIR BOND

10.10.1964

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**APPENDICES**

ALBERTA  
LAND REFORM BOARD  
LAND REFORM BOND  
SIXTY-SIXTH FLOOR

[illegible] 4 FIBAL

**APPENDIX A**

**A. Public Law 89-249**

## CONCESSIONS

### Authority For Concession Authorizations

5. P.L. 89-249 (October 9, 1965)  
79 STAT. 969, 16 U.S.C. 20

Relating to the establishment of concession policies in the areas administered by National Park Service and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in furtherance of the Act of August 25, 1916 (39 Stat. 535), as amended (16 U.S.C. 1), which directs the Secretary of the Interior to administer national park system areas in accordance with the fundamental purpose of conserving their scenery, wildlife, natural and historic objects, and providing for their enjoyment in a manner that will leave them unimpaired for the enjoyment of future generations, the Congress hereby finds that the preservation of park values requires that such public accommodations, facilities, and services as have to be provided within those areas should be provided only under carefully controlled safeguards against unregulated and indiscriminate use, so that the heavy visitation will not unduly impair these values and so that development of such facilities can best be limited to locations where the least damage to park values will be caused. It is the policy of the Congress that such development shall be limited to those that are necessary and appropriate for public use and enjoyment of the national park area in which they are located and that are consistent to the highest practicable degree with the preservation and conservation of the areas.

National Park  
Service.  
Concession  
policies.

Sec. 2. Subject to the findings and policy stated in section 1 of this Act, the Secretary of the Interior shall take such action as may be appropriate to encourage and enable private persons and corporations (hereinafter referred to as "concessioners") to provide and operate facilities and services which he deems desirable for the accommodation of visitors in areas administered by the National Park Service.

"Concessioners."

Sec. 3. (a) Without limitation of the foregoing, the Secretary may include in contracts for the providing of facilities and services such terms and conditions as, in his judgment, are required to assure the concessioner of adequate protection against loss of investment in structures, fixtures, improvements, equipment, supplies, and other tangible property provided by him for the purposes of the contract (but not against loss of anticipated profits) resulting from discretionary acts, policies, or decisions of the Secretary occurring after the contract has become effective under which acts, policies, or decisions the concessioner's authority to conduct some or all of his authorized operations under the contract ceases or his structures, fixtures, and improvements, or any of them, are required to be transferred to another party or to be abandoned, removed, or demolished. Such terms and conditions may include an obligation of the United States to compensate the concessioner for loss of investment, as aforesaid.

Contracts.

(b) The Secretary shall exercise his authority in a manner consistent with a reasonable opportunity for the concessioner to realize a profit on his operation as a whole commensurate with the capital invested and the obligations assumed.

Profits.

(c) The reasonableness of a concessioner's rates and charges to the public shall, unless otherwise provided in the contract, be judged primarily by comparison with those current for facilities and services of comparable character under similar conditions, with due consideration for length of season, provision for peakloads, average percentage of occupancy, accessibility, availability and costs of labor and materials, type of patronage, and other factors deemed significant by the Secretary.

Rates.

79 STAT. 969  
79 STAT. 970

(d) Franchise fees, however stated, shall be determined upon consideration of the probable value to the concessioner of the privileges

Franchise  
fees.

CONCESSIONS

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- 2 -

October 9, 1965

granted by the particular contract or permit involved. Such value is the opportunity for net profit in relation to both gross receipts and capital invested. Consideration of revenue to the United States shall be subordinate to the objectives of protecting and preserving the areas and of providing adequate and appropriate services for visitors at reasonable rates. Appropriate provisions shall be made for reconsideration of franchise fees at least every five years unless the contract is for a lesser period of time.

Contracts, extension, renewals, etc.

SEC. 4. The Secretary may authorize the operation of all accommodations, facilities, and services for visitors, or of all such accommodations, facilities, and services of generally similar character, in each area, or portion thereof, administered by the National Park Service by one responsible concessioner and may grant to such concessioner a preferential right to provide such new or additional accommodations, facilities, or services as the Secretary may consider necessary or desirable for the accommodation and convenience of the public. The Secretary may, in his discretion, grant extensions, renewals, or new contracts to present concessioners, other than the concessioner holding a preferential right, for operations substantially similar in character and extent to those authorized by their current contracts or permits.

SEC. 5. The Secretary shall encourage continuity of operation and facilities and services by giving preference in the renewal of contracts or permits and in the negotiation of new contracts or permits to the concessioners who have performed their obligations under prior contracts or permits to the satisfaction of the Secretary. To this end, the Secretary, at any time in his discretion, may extend or renew a contract or permit, or may grant a new contract or permit to the same concessioner upon the termination or surrender before expiration of a prior contract or permit. Before doing so, however, and before granting extensions, renewals or new contracts pursuant to the last sentence of section 4 of this Act, the Secretary shall give reasonable public notice of his intention so to do and shall consider and evaluate all proposals received as a result thereof.

Possessory interest.

SEC. 6. A concessioner who has heretofore acquired or constructed or who hereafter acquires or constructs, pursuant to a contract and with the approval of the Secretary, any structure, fixture, or improvement upon land owned by the United States within an area administered by the National Park Service shall have a possessory interest therein, which shall consist of all incidents of ownership except legal title, and except as hereinafter provided, which title shall be vested in the United States. Such possessory interest shall not be construed to include or imply any authority, privilege, or right to operate or engage in any business or other activity, and the use or enjoyment of any structure, fixture, or improvement in which the concessioner has a possessory interest shall be wholly subject to the applicable provisions of the contract and of laws and regulations relating to the area. The said possessory interest shall not be extinguished by the expiration or other termination of the contract and may not be taken for public use without just compensation. The said possessory interest may be assigned, transferred, encumbered, or relinquished. Unless otherwise provided by agreement of the parties, just compensation shall be an amount equal to the sound value of such structure, fixture, or improvement at the time of taking by the United States determined upon the basis of reconstruction cost less depreciation evidenced by its condition and prospective serviceability in comparison with a new unit of like kind, but not to exceed fair market value. The provisions of this section shall not apply to concessioners whose current contracts do not include recognition of a possessory interest, unless in a particular case the

79 STAT. 970  
79 STAT. 971

CONCESSIONS

Authority For Concession Authorizations

October 9, 1965

- 3 -

Pub. Law 89-249

79 STAT. 971

Secretary determines that equitable considerations warrant recognition of such interest.

Sec. 7. The provisions of section 321 of the Act of June 30, 1932 (47 Stat. 412; 40 U.S.C. 303(b)), relating to the leasing of buildings and properties of the United States, shall not apply to privileges, leases, permits, and contracts granted by the Secretary of the Interior for the use of lands and improvements thereon, in areas administered by the National Park Service, for the purpose of providing accommodations, facilities, and services for visitors thereto, pursuant to the Act of August 25, 1916 (39 Stat. 535), as amended, or the Act of August 21, 1935, chapter 593 (49 Stat. 666; 16 U.S.C. 461-467), as amended. 16 USC 1.

Sec. 8. Subsection (h) of section 2 of the Act of August 21, 1935, the Historical Sites, Buildings, and Antiquities Act (49 Stat. 666; 16 U.S.C. 462(h)), is amended by changing the proviso therein to read as follows: "Provided, That the Secretary may grant such concessions, leases, or permits and enter into contracts relating to the same with responsible persons, firms, or corporations without advertising and without securing competitive bids."

Sec. 9. Each concessioner shall keep such records as the Secretary may prescribe to enable the Secretary to determine that all terms of the concession contract have been and are being faithfully performed, and the Secretary and his duly authorized representatives shall, for the purpose of audit and examination, have access to said records and to other books, documents, and papers of the concessioner pertinent to the contract and all the terms and conditions thereof. Records.

The Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of five (5) calendar years after the close of the business year of each concessioner or subconcessioner have access to and the right to examine any pertinent books, documents, papers, and records of the concessioner or subconcessioner related to the negotiated contract or contracts involved. Availability.

Approved October 9, 1965, 6:35 a. m.

THE  
LANDS AND ESTATE  
COMMISSION

**APPENDIX B**

**B. Survey Instrument**



## INTRODUCTION

As you well know, the use of concession operations within National Parks has always been an exciting and challenging aspect of National Park Service management. This is a critical time facing the future of how concessions will be managed. The intent of this research and survey is to document your perceptions concerning the Concessions Policy Act of 1965 (P.L. 89-249), including how this act is implemented, and the outcomes which result.

You are personally being asked to give your opinion concerning these paramount issues. You have been chosen to complete this questionnaire because of your knowledge and experience in the area of "concessions management". In order that the results will represent the situation which exists in each region, it is vital that you complete and return this survey. The questionnaire has been designed so that you can complete it in a limited amount of time. Also, a postage paid return envelope has been included for your convenience.

This survey was developed in consultation with National Park Service personnel, concession managers, and representatives from the Conference of National Park Concessioners. All parties have agreed that this is a needed and timely study. However, before the National Park Service and concession managers can benefit from this study, they will need your assistance in completing this survey.

All of the information you provide will be strictly confidential. The questionnaire has an identification number for mailing purposes only. Your name will never be placed on the questionnaire, or linked to any answers you provide.

The results of this research will be submitted to the National Park Service and the Conference of National Park Concessioners for their use. You too can receive a summary of the results by responding "yes" on the last question of this summary.

We would be most happy to answer any questions you might have. Please call or write.

Thank you for your assistance.

Sincerely,

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Sincerely,

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## SECTION I.

There are several important components provided for in the Concessions Policy Act of 1965 (P.L. 89-249). The intent of this section is to determine YOUR perception as to the importance of specific components TODAY.

**Q1.** Please indicate the importance of these components in "concessions management" today. CIRCLE the number which represents the extent each of the following components are important.

Components	No Opinion	Very Important	Moderately Important	Not Important
<b>A.</b> Protection against loss of investment	0	1	2	3
<b>B.</b> Opportunity to realize a profit	0	1	2	3
<b>C.</b> Use of one concessioner per park	0	1	2	3
<b>D.</b> Preferential right to provide new facilities/services	0	1	2	3
<b>E.</b> Preferential right of extensions/renewals	0	1	2	3
<b>F.</b> Possessory interest	0	1	2	3
<b>G.</b> 30-year length of contract	0	1	2	3
<b>H.</b> Franchise fees	0	1	2	3
<b>I.</b> Other (please specify) _____	0	1	2	3
_____	0	1	2	3

## SECTION II.

The concessions management program yields certain outcomes and results. This section attempts to determine YOUR perception of the impact of the current concessions management program on certain outcomes and results.

**Q1.** Please CIRCLE the number which represents the degree to which the following outcomes (results) are being attained.

Outcomes/Results	No Opinion	A High Degree	A Moderate Degree	Not At All
<b>A.</b> Reduces the difficulty in obtaining a concessioner	0	1	2	3
<b>B.</b> Reduces the difficulty of securing loans	0	1	2	3
<b>C.</b> Protects the interest of the general public	0	1	2	3
<b>D.</b> Protects the interests of the NPS	0	1	2	3
<b>E.</b> Protects the interest of the concessioner	0	1	2	3
<b>F.</b> Enables the concessioner to realize a profit on the operation as a whole	0	1	2	3
<b>G.</b> Provides the following groups with enough influence in the concessions management program:				
The Concessioner	0	1	2	3
The NPS	0	1	2	3
The General Public	0	1	2	3
<b>H.</b> Fosters the effective management of larger concession operations	0	1	2	3

**SECTION III.**

This section attempts to determine the impact(s) of specific "components" of the Concessions Policy Act on certain "outcomes." On both this page and the next, please indicate the degree to which each "component" (listed down the left hand column) contributes to the "outcomes" (listed across the top of the table). Use the scale given below in answering these questions. For example, if you feel that possessory interest highly contributes to the continuity of the concessions operation, you would write a "1" in the upper left box.

**SCALE**

- 0 = No Opinion                      2 = Moderately Contributes To  
 1 = Highly Contributes To        3 = Does Not Contribute To

**OUTCOMES**

<b>COMPONENTS</b>	Continuity of concessions operation	Reduction in the difficulties of obtaining a concessioner	The well being of the NPS	Placing the NPS at a disadvantage	The quality of the service offered to the public	Placing the general public at a disadvantage
<b>1.</b> How does possessory interest contribute to:						
<b>2.</b> How do franchise fees contribute to:						
<b>3.</b> How does one concessioner per unit contribute to:						
<b>4.</b> How does preferential right of extensions/renewals contribute to:						
<b>5.</b> How does preferential right of additional facilities/services contribute to:						
<b>6.</b> How does length of contract contribute to:						

### SECTION III, continued.

Questions 1-6 (in the left hand column) are the same questions as asked on the previous page. However, the outcomes (listed across the top of the table) are different. Please continue with the same format as the previous page.

#### SCALE

- 0** = No Opinion                      **2** = Moderately Contributes To  
**1** = Highly Contributes To        **3** = Does Not Contribute To

#### OUTCOMES

<b>COMPONENTS</b>	Reduction in difficulties of obtaining a loan	The interest of the concessioner	Placing the concessioner at a disadvantage	The ability of the concessioner to provide and operate facilities	The interest of the small business operator	Placing the small business operator at a disadvantage
<b>1.</b> How does possessory interest contribute to:						
<b>2.</b> How do franchise fees contribute to:						
<b>3.</b> How does one concessioner per unit contribute to:						
<b>4.</b> How does preferential right of extensions/renewals contribute to:						
<b>5.</b> How does preferential right of additional facilities/services contribute to:						
<b>6.</b> How does length of contract contribute to:						

## SECTION IV.

This section is intended to determine your perception of specific issues concerning the concessions management program. Please use the scale below to answer the following questions.

---

### SCALE

**0** = No Opinion                      **2** = Always  
**1** = In Some Circumstances      **3** = Never

---

**Q1.** Would a percentage-payment system (which would be self-adjusting according to the concessioners profits) work better than the current negotiations and periodic adjustment system?

\_\_\_\_\_

**Q2.** Would you approve of more competition in the bidding process

\_\_\_\_\_

**Q3.** Are concession operations limited to those "necessary and appropriate for public use and enjoyment"?

\_\_\_\_\_

**Q4.** Is it appropriate to reduce concessioner franchise fees in consideration of the additional construction and/or improvement of facilities?

\_\_\_\_\_

## SECTION V.

The intent of this section is to determine your perception of the interconnectedness between certain components in the Concessions Policy Act. Interconnectedness is defined as the association, relation, or logical linking of different components in a manner which if one of the components were changed (altered) in some way, the other component(s) would also experience a change.

Please CIRCLE the number which represents the extent to which the component in EACH question is interconnected with the components listed under the question.

	No Opinion	Very Interconnected	Moderately Interconnected	Not Interconnected
<b>Q1.</b> How interconnected is "preferential right to provide new facilities/services" to:				
a. Protection against loss of investment	0	1	2	3
b. Preferential right of extensions and renewals	0	1	2	3
c. Concessioner review program	0	1	2	3
d. Possessory interest	0	1	2	3
e. Availability of records	0	1	2	3
f. Opportunity to realize a profit	0	1	2	3
g. Length of contract	0	1	2	3
h. Franchise fee	0	1	2	3
<b>Q2.</b> How interconnected is "protection against loss of investment" to:				
a. Preferential right of extensions/renewals	0	1	2	3
b. Concessioner review program	0	1	2	3
c. Possessory interest	0	1	2	3
d. Availability of records	0	1	2	3
e. Opportunity to realize a profit	0	1	2	3
f. Length of contract	0	1	2	3
g. Franchise fee	0	1	2	3

## SECTION V, continued

Please continue this page with the same format as the previous page.

	No Opinion	Very Interconnected	Moderately Interconnected	Not Interconnected
<b>Q3.</b> How interconnected is "the concessioner review program" to:				
a. Possessory interest	0	1	2	3
b. Availability of records	0	1	2	3
c. Opportunity to realize a profit	0	1	2	3
d. Length of contract	0	1	2	3
e. Franchise fee	0	1	2	3
<b>Q4.</b> How interconnected is "possessory interest" to:				
a. Availability of records	0	1	2	3
b. Opportunity to realize a profit	0	1	2	3
c. Length of contract	0	1	2	3
d. Franchise fee	0	1	2	3
<b>Q5.</b> How interconnected is "availability of records" to:				
a. Opportunity to realize a profit	0	1	2	3
b. Length of contract	0	1	2	3
c. Franchise fee	0	1	2	3
<b>Q6.</b> How interconnected is "opportunity to realize a profit" to:				
a. Length of contract	0	1	2	3
b. Franchise fee	0	1	2	3
<b>Q7.</b> How interconnected is "length of contract" to:				
a. Franchise fee	0	1	2	3
<b>* Would you like a summary of the results of this survey?</b>	<input type="checkbox"/>	yes	<input type="checkbox"/>	no



## VITA

David Bruce Harrell earned a Bachelor of Science degree in Wildlife and Fish Management in December of 1987 at Lincoln Memorial University, Harrogate, Tennessee. After graduation he was employed for two consecutive seasons as a National Park Service ranger. Job duties included, law enforcement, fire-fighting, and search and rescue responsibilities. In January, 1989, he enrolled at the University of Tennessee, Knoxville and in August, 1992 received a Master of Science degree in Forestry.

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