

OCTOBER 31-NOVEMBER 1, 2001

asheville, nc

MINUTES
CONCESSIONS MANAGEMENT ADVISORY BOARD
6TH MEETING

WEDNESDAY, OCTOBER 31, 2001- 8:30 A.M.

Board Members Present were:

Richard Naille, III, Chairperson
Dr. James J. Eyster
Richard Linford
Philip H. Voorhees
Burt Weerts

NPS Staff in attendance:

Cindy Orlando
Sherrill Watson

Also Present were: Dee Highnote, Ned Woodward, Wally Hibbard, Henry Benedetti, Joe Rentfro, Patricia Parker, Art Hutchinson, Mike Gomel, Judy Jennings, Deidra Ciriello, Jill Moran, Ruth Summers, Phyllis Prevost, Bruce O'Connell, Curt Cornelssen, Rick Wyatt, Chris Campbell (PWC), Laura Huttenen.

Introduction

Ms. Orlando thanked Phyllis and Bruce O'Connell, the owners of the Pisgah Inn property for their hospitality. She then introduced Wally Hibbard, the Associate Regional Director from the Southeast Regional Office, and Rick Wyatt.

Welcome

On behalf of Superintendent Brown, Mr. Wyatt welcomed the NPS Concessions Management Advisory Board to the Blue Ridge Parkway.

Convene Business Meeting

Chairman Naille asked the Board members to introduce themselves, as well as all attendees present in the room.

Approval Of May 31/June 1, 2001 Minutes

A motion was made by Board Member Eyster, seconded by Board Member

Linford to adopt the minutes as presented. A correction was made changing the name Wink to Wenk. The motion carried.

Native American Handcraft Issue

Deidra Ciriello, representing Senator Kyle from Arizona, made a presentation to the Board concerning the Indian Native American handicraft issue and the authenticity issue associated with that. She discussed the Indian Arts and Crafts Act, and all that it entails.

Board Member Voorhees noted that this would be an extension of a discussion that was begun at the last meeting at Grand Canyon where the Board began to explore how to identify what qualifies as an Indian handcraft, what are the barriers to the goods being available to the concessioner, what are the concessioners' concerns. Central to a lot of this discussion was the position of the Indian Arts and Crafts Board and what role they might play.

Ms. Orlando commented that it might be helpful for the board, or interesting for the board and the group to know, Senator Kyle's relationship to this Act as well as his father's involvement.

Ms. Ciriello explained that the Native American handicraft issue is a big issue to Senator Kyle. His father was instrumental in getting the Board established. Senator Kyle was the original co-sponsor of the 1990 Indian Arts and Crafts Enforcement Act, which strengthened the enforcement possibilities, and provided definitions. His constituency in Arizona, the Hopi and the Navajo and many of the tribes depend on the handicrafts cottage industry for their livelihood.

Ms. Ciriello provided the Board with a power point presentation that included:

- A very broad mission statement to promote the American Indian and Alaska Native economic development through the expansion in the arts and crafts market.
- The structure of the board, composed of five commissioners appointed by the Secretary. The headquarters staff
- Advertising and advertising budget.
- Budget funding.
- Board Activities
- Listing of Native American artisans.

Ms. Ciriello described the source directory containing a listing of native craftspersons as well as information on the board or the Act in general. She explained that the list is quite limited and would like to see it expanded. There followed a description of the criteria required for a listing. Nobody would be able to be listed in a source directory, that was not in compliance with the Act, because it has to

be really an Indian or native business or person or entity to be listed in there. The Act does not cover or does not address native Hawaiians. At this point it only covers the lower 48 and Alaska. The formal name of the Directory is the American Source Directory of American Indian- and Native Alaskan-Owned Businesses.

Ms. Ciriello next described the advantages of being listed in the Source Directory. The congressional priority right now is enforcement of the Indian Arts and Crafts Act, which is what the board has been directed to do, and they definitely take their direction from Congress. The act of 1990 was intended to protect the Indian artists crafts people in businesses. The Indian Arts and Crafts Act specifically speaks to a truth in advertising law, and it says that one cannot sell one's work as Indian or Native American or Native Alaskan if in fact a person is not Indian, Native American or Native Alaskan.

A discussion concerning this subject followed on the example of Kachina dolls as it relates to truth in advertising. Ms. Ciriello further explained that the 2000 amendment expanded the liability to indirect marketers so that if you own a warehouse and you are distributing to retail establishments the wholesaler would be held liable. The 2000 amendment also expanded the civil provisions, and stated that Indian arts and crafts organizations and individuals can now sue under the Indian Arts and Crafts Act.

Ms. Orlando asked for a clarification concerning the mass-produced greenware where a native artisan paints the mass-produced pots.

Ms. Ciriello thought that maybe the provision could be rewritten and stated she would discuss this further at her office.

With regard to the certification provision, the proposed regs came out in May and the comment date closed in August. The regs define what an Indian product is and they were arrived at after going through a tribal consultation and multiple teleconferences.

There are three main definitions under the Indian Arts and Crafts Act that are really important. The first is Indian, as defined by congress, would be an Indian enrolled in either a federal- or state-recognized tribe. For example, to be listed in the source directory a person must be enrolled. A person can still make Indian-style products if not enrolled. That work could be sold as Yakima-style or in the tradition of Yakima. An individual also has the option of becoming a certified Indian artisan under the Act. A lot of tribes have not heavily picked up on this yet.

Under the Act one can be certified as an Indian artisan by the tribe from which one is descended. All the tribe has to do is sit down and say, "This is what we consider to be a certified Indian artist." This has to be in writing, and it has to be approved by the governing body of the tribe or a body within the tribe that is delegated that function. There has to be documentation that shows one is lineally descended from that tribe. At this moment there are only one or two certification programs even functioning within all 573 federally

recognized tribes.

A discussion followed on the standard for proof of lineal descendance. Congress does not get involved because it would be a violation of sovereignty. No one has yet been classified as a certified Indian artist. There is also an Indian arts and crafts organization, and this definition becomes important now that they have standing to sue also. The organization is composed of the members of federally- or state-recognized tribes.

Ms. Ciriello next discussed the regulations in regards to Indian product. The regs will come out in a few months and they will address how much the labor of the Indian actually changed the nature and quality of the product. The definition of what a product is was very challenging and it revolved around the significant amount of Indian labor involved. A discussion followed on this subject.

Mr. Voorhees asked if there was any criteria, assumption or assertion on the part of the board or some other requirement that the crafts that are produced be reflective of the culture of the tribe.

Ms. Ciriello indicated a work does not have to be reflective of the heritage per se, although the definition of an Indian product traditionally has been Indian arts and crafts or handicrafts in a traditional or non-traditional way. The First Amendment right under the U.S. Constitution does not give anyone the right to dictate that one can or cannot make this. If an Indian makes a product and it is in fact an arts or crafts product it is protected by the Indian Arts and Crafts Act. It does not define what art is.

Chair Naille brought up the question of the concession franchise fee and asked if a product is offered wholesale to a concessionaire, does a certification come with it.

Ms. Ciriello indicated it should and explained that if someone were certified Navajo, but could not enroll and was certified as an Indian artist, what the tribe would do is say, "This person is certified."

Ms. Orlando noted that, ideally, if the park service were enforcing this, NPS would be asking the concessioner to show their certifications to validate the franchise fee exemptions.

Ms. Ciriello reiterated that certification means you certified as an Indian artist and that is all.

Ms. Orlando explained that the NPS has an obligation because these are fees that go to the government. NPS has an obligation and a fiduciary responsibility, if not collecting fees on an item, to validate that.

Ms. Orlando addressed the Hawaiian issue because dealing with a definition of traditional and historic art forms would be difficult because there is no written documentation on what those were until like the 1800s. She wondered how this could be reconciled with the fact that it is acceptable for Native American and Alaskan to go beyond the traditional art form, whereas the Hawaiians want to keep their art authentic.

Ms. Summers pointed out that she attaches Native American tags to articles, but that many concessionaires are not including these tags.

Ms. Ciriello agreed it was a great idea to include the tags. It educates the consumer and it helps the tribe. It really helps things to be consumer-driven because it educates the person that is buying the product.

Ms. Watson referred to the guidelines stating that in case of a dispute about an object, whether it was a handcraft or not, the Board should be contacted and asked if this was the case.

Ms. Ciriello explained that her organization was not the governing body, but that in terms of guidance and in terms of helping, it acted more like a sister agency in setting policy. It also serves as a resource.

A discussion followed on the greenware problem, whether to consider it a handcraft or not and whether to allow the franchise fee reduction on greenware.

Responding to a question by Ms. Parker, Ms. Orlando pointed out that southeast handcrafts and American handcrafts were also left out of the law, and this is another consideration that the board is looking at. If and when the board goes forward with recommendations it would be great if all were in synch with what that is.

Ms. Ciriello said she would be interested in knowing what the Hawaiian congressional delegation felt about it. She related that the Board had received a complaint about a Native Hawaiian issue. It was a traditional Hawaiian artifact but the people that were making it and selling it as Native Hawaiian, were white, and that was the basis of the complaint. This is not covered under the Act. It might be covered under another federal act but not this law.

The determination as to whether something is authentic Native Hawaiian has been put on the concessioner to prove that. There is no monitoring right now, and no control.

Ms. Orlando stated that what she found in Hawaii was a tendency to wrap this made in Hawaii stuff under the handcraft act which would not be appropriate.

Ms. Ciriello continued her presentation and stated that the Indian product definition is an art craft or handicraft in the traditional or non-traditional style. So the Indian Arts and Crafts Act is not necessarily limited to a handicraft; it can be a very traditional, very non-traditional, very contemporary art piece like one might find in a contemporary art museum, and it can be in a non-traditional style.

Realistically speaking, most products that are going to be called Indian or misrepresented as Indian are going to be in a traditional

Indian style.

The Board is working on the final regs right now and there are several provisions under the Act. With regard to a private cause of action, the Indian Arts and Crafts Act has a civil provision that allows the Attorney General, or the DOJ to sue on behalf of an Indian tribe. What would happen is the board would receive the complaint, refer that to the Office of the Solicitor, the solicitor's office would write a referral to the Department of Justice, and then the Department of Justice would go through its channels to see whether it were going to take the case, and then sue the entity.

An Indian tribe, an Indian arts and crafts organization and an Indian individual can also sue. It is just good to know the civil penalties, injunctive, other equitable relief. It is interesting to see how far-reaching that kind of equitable and conjunctive relief can be, in that it provides for attorney's fees and the cost of suit, and the damages can be no less than \$1,000 a day or trebling the damages, whichever is greater, for every day that the fine occurs.

It is important to know that the board doesn't really have investigative authority and would not really make a final determination. There are civil provisions under the Act that allow for an individual or an Indian arts and crafts organization or the DOJ to sue.

A discussion followed on this subject and on the criminal fines, which can be up to \$250,000 or imprisonment, corporate fines, as well as on the fines or penalties for subsequent violations.

Ms. Ciriello next discussed the trademark provisions in the Act and said that right now there is a legislative problem. The Indian Arts and Crafts Act conflicts with the Lanham Act, so the board has the authority right now to register and kind of run trademark programs which is a really great opportunity to really protect these goods, just like any other commercial item is protected.

She described how trademarks are registered and how this could relate to Indian Arts and Crafts. The board right now is in the process of publishing a trademark technical assistance brochure to teach tribes how to register trademarks, how much they are, and how to file an application.

Ms. Ciriello referred to brochures provided in the packet and stated it would be great to see them distributed maybe on a wider basis, even at different arts and crafts stores and parks or different galleries to educate the consumer. She requested feedback on the regs and Indian product and to hear people's concerns and suggestions especially about the greenware issue.

Ms. Highnote inquired whether Senator Kyle has been working closely with Senator Nighthorse-Campbell as he was the primary author of the section of the NPS law that promotes the sale of Indian Alaskan native handcrafts.

Ms. Ciriello stated he has worked extensively with Senator Nighthorse-

Campbell on the Indian Arts and Crafts Act.

Ms. Highnote stated that in many areas, the standard that the concessioners follow is a gift shop mission statement and NPS wants the gift shops to reflect the park whether natural, cultural or recreational. With this law as it is written local craft people would not be able to get the exemption because it does not meet the criteria. This issue needs to be addressed.

As far as tagging and identification, NPS does require that. It is part of our handcraft standard and they are to identify the artist, the background of the artist, and give some description of the artist or the piece of work that is being offered for sale.

Ms. Highnote offered to connect Ms. Ciriello with some of the concession specialists in the park in the different areas, natural, cultural, recreational, so she can get an idea of the different types of gift shops, what the requirements are and what the concessions are required to do. She further explained that when a visitor goes to a national park gift shop they should not see the same item in Arizona, as they would see here in the southeast. The southeast gift shop is going to be representative of the southeast.

Ms. Ciriello agreed and noted that in visiting a national park up north, she did not see any Northern Plains tribe crafts represented. It would have been wonderful to have seen the Northern Plains tribes' beadwork featured in the gift shop.

Ms. Highnote suggested meeting with the concessioners as well to get some insight as to where they go buy their products and why they buy those as opposed to somewhere else. Ms. Ciriello thought this to be a good idea and concluded her presentation.

Ms. Orlando reported she received a written statement from James Santini, who has served on the Board of Trustees for the Institute of American Indian Arts in Santa Fe, that relates to the discussion this morning. She offered to make copies available.

Mr. Voorhees related that in the last session a working group subset had been created specifically to deal with native crafts issues to the extent that it is not just Native American in the lower 48, but also Native Alaskan, Native Hawaiian and Samoan, et al. In recognition that the Native Hawaiian community seldom if ever is able to express a voice in the way policies are considered, especially as the Board is trying to write regulations, and inasmuch as it is more than likely that they are fairly representative of the native communities that are not in the southwest and, therefore, do not have a strong existing market expression of their crafts, the Board had a site visit to talk with representatives of the native communities as well as the concessioner out there at the end of August.

The purpose of doing so was really threefold: (1) To extend the Board to the Native Hawaiian communities, inasmuch as they are poorly if at all represented generally, (2) to talk about the arts and crafts policies and controls, any kind of certification mechanisms and just generally how it works in the Native Hawaiian or in the Hawaiian

context, and (3) to simply listen to the views of the native peoples there about what they perceive as the opportunities, if they see that there is an opportunity at all, and if so what they see as the active barriers to bringing their goods to market, specifically in the concessions venue.

Mr. Voorhees stated they were on both Oahu and in Honolulu talking with the park service's central office there for the Hawaiian Islands as well as some native representatives on Oahu who had some level of scope about the situation on the islands as a whole, as well as on the big island of Hawaii, where really the only major concessions portal exists in Hawaii, and that's at Hawaii Volcanoes. What was really surprising, and probably emblematic of most of the native communities for the concessions system and the concessions opportunities is the total vacuum of information was that there is currently no understanding at all that an opportunity does exist, could exist, may exist if the interest is there on the part of the native communities.

If the purpose of the legislation of the law is to try to create a market incentive structure so that you bring some of these goods to market so that the American public can get a better appreciation of the native heritage, then the first place you need to start is with information. It's not only about certification, although that's clearly a major issue, but also about information. Information is so fundamental. Many people were surprised that the opportunity was even theoretically there. The concession facility at Volcanoes at the level to which native goods were represented was really very poor. Not segmented, not specifically identified. Part of that is because the native communities do not see the opportunity because of a whole variety of market issues. But also because there was an insufficient appreciation that there is value to separately identifying native goods.

Ms. Orlando added that the Hawaii Volcanoes situation became a little bit more complicated because right next door to the concession operation was a folk art center and that, in and of itself, is somewhat of an issue there. They are not authorized under a concession contract and they were selling a lot of handcraft items.

Mr. Voorhees noted that the communities that were visited saw a lot of value, at least from an information standpoint, in the Board extending itself to them. But it was clear that there are a whole series of barriers that the communities face, before you could normally expect a higher level of responsiveness. This raises a broader concern about how the board ought to be addressing the native arts and crafts issue from a market context.

If it can be determined what the appropriate certification mechanism is, where the authorities lie and how this should be presented, that's fine. But if there is no satisfaction that the market itself is likely to work then you're probably only going to see native goods from the southwest expressed in southwestern concessions venues or southeast arts and crafts expressed in other concessions.

Chair Naille asked if Board Member Voorhees was talking about other arts and crafts overriding the local arts and crafts. The Hawaiian

arts and crafts being overridden by sale of Navajo and Zuni.

Mr. Voorhees remarked that would be so potentially, but also the fact that even if you get certification well understood and the system in place to provide for that, one has to be realistic about whether or not one is able to, in both the concessioner's view and in the native community's view, bring the opportunity to the shelves, bring the goods to the shelves.

Chair Naille noted that the issue is the franchise fee and one thought would be to say that the regional items get the franchise fee effect and non-regional handicrafts do not. They wouldn't receive the exemption on the franchise fee, yet anything that's Native Hawaiian would. That obviously would be a clear possibility of a solution to the problem.

A discussion followed on this subject in relation to the encouragement, the growth and the expansion of Native American art, and how crafts define their culture, particularly in Hawaii, because there is no written documentation. Also discussed was the apparent conflict between the purpose of a park unit, its interpretive story, and the gift shop mission statement concept.

Ms. Jennings discussed marketing, especially in the west with regard to beaded jewelry from the Northern Plains Indians, which is very time-consuming, very expensive to make. She said that the visitor expects Indian jewelry in the western parks and that it should not be exclusively within the southwest. The discussion then centered on inexpensive, foreign-made items that look like Native American, which are then bought.

Ms. Orlando provided an example where people were buying Hawaiian quilts for less than a hundred dollars because they were produced in the Philippines, and some of them were designed by a Hawaiian artist. They were being sold as authentic Hawaiian handcraft because the Hawaiian artist's name was on it. This would be similar to the greenware issue. It cost about five thousand dollars for an authentic Hawaiian quilt, of which there are very few, or \$40 for a mass-produced, made in the Philippines. It looks just like the others. A discussion ensued on the issue of how to encourage local artists to produce enough volume to market to be able to satisfy the needs of the concessioner. Also discussed was the issue about whether or not there is an opportunity that is perceived to be there by the Native American artists. In Hawaii there is a complete absence of information.

There is a need for a larger dissemination to the right people in the native communities to make sure that the federal government is trying. This is a subset of that larger effort.

Mr. Voorhees suggested maybe using a controlling mechanism that would be something like an Office of Hawaiian Affairs.

Ms. Orlando thought that maybe one area that could be reconciled is the omission in the Act of Native Hawaiian. Another geographic group, the American handcraft that needs to be addressed yet and maybe is one area where it must be made sure that all the laws are consistently

addressing the same groups without getting into what is a Native Hawaiian, what is a Native American.

Mr. Hibbard thought that the interpretive purpose of the park ought to be the driver of the goods and crafts that are sold through a concession operation.

Chair Naille agreed but pointed out that the Board's only assignment is Native American arts and crafts, including Hawaiian and Alaskan, and not to formulate policy from an interpretive point of view for the park.

A discussion followed on the Native American arts and crafts rules for certification or membership and whether this includes state and/or federally recognized tribes, and how the park service will be reconciling this with the Indian Arts and Crafts Act.

Chair Naille mentioned the fact that the park service talks about putting the burden of proof on the concessionaire to provide documentation, because the Board will make a recommendation of annual audits. A discussion followed concerning ways to accomplish these evaluations without too much of a burden on the concessionaires.

Chair Naille turned to a concept suggested by Ms. Jennings concerning the sale of non-local Native American items through a stepped franchise fee elimination program or increased fees. The franchise fee would be zero for local crafts and then there would be a stepped fee where one would pay a franchise fee of X amount on a stepped basis. A discussion followed on this subject.

Superintendent Dan Brown welcomed the Board and attendees to the Blue Ridge Parkway with special thanks to Phyllis and Bruce for hosting the meeting. He provided a brief history of the Blue Ridge Parkway.

Southeastern Handcrafts

Ruth Summers introduced herself and her colleague, Laurie Huttunen, Director of Services for Handmade in America, a crafts organization based in Asheville. Ms. Huttunen will talk about the economic impact of crafts and some of the things that Handmade in America has done specifically to help craft artists along the Blue Ridge Parkway and the Blue Ridge Parkway corridor, and also western North Carolina.

Ms. Summers, a trustee with the American Crafts Council, a national organization in New York, explained that the guild was established in 1930, and their mission statement is very close to what the Blue Ridge Parkway's mission statement is, i.e. trying to bring together both the crafts and the craftspeople of the Southern Highlands for the benefits of resources, shared resources, education, marketing and preservation.

The guild provides a network, a market, and educational opportunities for over 800 juried craftspeople. It covers a defined region that it looks at as far as being eligible for membership within the Southern Highland Craft Guild. They represent craft artists in 293 mountainous counties in nine southern states. All but 54 of the counties mirror what the Appalachian Regional Commission calls as an Appalachian

county. The nine southeastern states include Maryland, Virginia, West Virginia, Kentucky, North Carolina, Tennessee, Alabama, South Carolina and Georgia.

Since its founding in 1930 they have created job opportunities in some of the region's most isolated and distressed communities in Appalachia, and by doing that has become a catalyst for greater economic activity at a local level. Ms. Summers then provided further details about the way the guild functions. She also presented information on the Blue Ridge Parkway's Folk Art Center, which was built as a public-private partnership between the Appalachian Regional Commission, the National Park Service and the Southern Highland Craft Guild. She said it was important that the laws and the regulations which identify what handcraft is, be expanded so that American crafts and regional crafts are also supported in the same manner as the Native American and Eskimo crafts. There are lots of regional craft artists in every part of the country within the national park system, and this board should look at those regional crafts also in the same way that they look at Native American and also the Eskimo crafts. By selling crafts through the shops the Guild is able to provide income to craftspeople, who in turn will be able to put that money back in their local economies.

Ms. Summers referred to an earlier statement made stating that crafts are not available. This is a misconception as crafts are available throughout all regions of the national park system and it may be that concessioners don't know how to contact crafts people. She felt that tourists now really want a cultural experience, they want to learn something when they go to a national park. The crafts and national parks really have the same kind of mission statement in a way, because craftspeople are dealing with natural products, they're living in rural areas, they're part of the people that actually maintain parks, they're ecology-minded, they make the perfect partner within a park service.

With regard to the definition of handcrafts as it has been stated, Ms. Summers thought that definition is too broad. It really needs to also address American craft, because there are craft practices throughout the United States, there are traditions in all states. She urged the Board to include things about native craft.

Ms. Summers next presented details on different crafts and on the importance of tagging. She showed and explained an array of items available at her place of business.

Mr. Linford commented that the Native American art community is trying to make room for new artists and new innovation and Ms. Summers' emphasis seems aimed the traditional arts.

Ms. Summers explained that they do a lot with contemporary art, and that they are one of the few organizations that realize that crafts have come out of a tradition, especially in this region of the country. They try and celebrate that tradition and to interpret that tradition, and then to let people know that this came from a tradition that is older than this. The National Park Service does require merchants to basically say where crafts came from and to be able to

tell that story, which is very important. In this regard the franchise fee exemption important, because crafts are marketed differently than a commercial product would be marketed. It's not something that's mass-produced.

The guild is doing a lot of educational programming as well as a lot of interpretation and if it had to pay a fee on top of all of the other expenses for running the facility there would be nothing left.

Ms. Summers would like to see the parks encourage a better quality of merchandise in shops and again urged the Board to deal with the craft issue in a broader sense.

Mr. Cornelssen asked if Ms. Summers felt that the franchise fee exemption is as much of an incentive as just writing it into the contract.

Ms. Summers replied it could be more so if it was advertised, and if the concessionaire knew where it can go to get products. The concessionaires would look at this as a benefit of business and it would encourage them to deal with more local craft product.

A discussion followed on the economic aspects of providing local and Native American craft products.

Mr. O'Connell reiterated that the incentive to encourage the concessioners to sell crafts, for the sake of the board, is how much the franchise fee is, because every contract is different. He remarked that from a business point of view, and if you look at it as a business, he could turn his whole shop into a T-shirt shop and a hat shop and make a lot more money and get rid of everything else in order to be more profitable.

But part of the mission of the park and the concessions is to interpret and educate and showcase local crafts. The exemption is irrelevant. There is also the risk of making a mistake and not being in compliance with the contract. That risk is almost not worth it for a couple of thousand dollars a season. Mr. O'Connell then provided the Board with some anecdotal examples.

A discussion followed concerning the amount of space set aside for crafts.

Ms. Huttunen commented that there really are two separate issues. One is whether or not the park service wants to encourage the presentation and the sales of craft in concession shops and if so, or if not so, how do you either make it incentive or enforce that. Using some sort of a fee is generally a way both to provide an incentive and enforcement mechanism. She suggested a longer time period for the contract and to figure out what the enforcement or incentive mechanism is, as well as what it is that must be accomplished.

Mr. O'Connell suggested giving more leniency on the markups percentage for some of these crafts, especially the one of a kind, hard to replace crafts. That would give be an incentive.

Mr. Naille stated that this idea possibly could fit into the Board's recommendation, to look at something along the lines of a core menu and retail operations which would set pricing for certain retail items which would allow flexibility to mark up other items.

Mr. Cornelssen noted that as a practical matter, one of the challenges on a big contract that does anywhere from 10 to \$50 million and has a variety of businesses, probably making money here, or breaking even here, making a lot of money here, losing money here, and the franchise fee is developed based on all those businesses. To waive the franchise fee that was created for all those businesses, doesn't really make sense. He then provided some examples and scenarios in this regard.

Chair Naille asked if the Board were to make a recommendation to continue the franchise fee exemption for local handicrafts, how and where would that be located.

Ms. Watson pointed out that there are no regulations right now for handcraft, however, space has been left for handcraft to be included in the recently revised concessions regulations. That being the case, maybe language could be included in the new regulation.

After further discussion on this subject, Ms. Orlando quoted: "Promoting the sale of authentic United States Indian, Alaskan Native, Native Samoan and Native Hawaiian handicrafts relating to the cultural, historical and geographic characteristics of units of the national park system is encouraged." And: "The Secretary shall ensure that there is a continuing effort to enhance the handicraft trade where it exists and establish the trade in appropriate areas where such trade currently does not exist. In furtherance of these purposes the revenue derived from the sale of United States Indian," so on and so forth, "shall be exempt from any franchise fee payments under this title."

Ms. Orlando said she does not think the Board can put a regulation out there that expands that without changing the law, but that the Board can still make the recommendation to change the statute. A discussion followed on this subject.

Ms. Huttunen gave the Board a short history of her background in her work with Handmade in American, which is a nonprofit based here in western North Carolina, working in 22 counties. This organization supports and promotes the organizations, institutions, businesses and individuals that operate in a similar fashion within western North Carolina. This is done in a variety of ways, one of which is in the form of a book and falls in the arena of tourism. The National Park Service is working on things like this, again in the form of brochures, fliers and books. And in every one of those cases the National Park Service, whatever particular park is in that area, is an important component because it's the same customer. Western North Carolina is home of the fourth largest concentration of craftspeople in the country.

Ms. Huttunen thought it was a good idea to converge craft because that is consistent with the mission of the park service, and it is

important to encourage this in concessions. These are businesses that have to make money in what they're doing and they need to have incentive to do that, and they have to be helped. There are a lot of misconceptions about craft, a lot of myths, and some of them are based on reality. Those being that craftspeople are hard to find, not reliable, can't reproduce the merchandise, and in some cases that's true. She referred to a report of a study that was done by the Craft Organization Directors Association and was put out last spring. The most traditional aspect of craft is that you have people who make stuff out of materials that are close at hand.

She urged the Board to think more largely on whether it wishes the shops in the parks to more truly represent things that are made by people in the region that represent some aspect of that culture. There is an industry to craft, there is a structure, so that there are shops, galleries and businesses like the Southern Highland Craft Guild, which is both a business and a nonprofit, which have very successful track records of selling craft. There are organizations like that, not all are successful, across the country. There are trade shows, both wholesale and retail, for craft across the country. There is a network of ways to find craftspeople that can supply every degree of need, whether it is a one-of-a-kind piece or something that is still designed by a craftspeople and the process may be supervised by a number of people, but they turn out thousands of things.

Ms. Huttunen offered to help the Board from a "Handmade in America" perspective and see what they can do as a representative of craft organizations across the country to figure out what it is that the Board wants to encourage, what incentive to provide. By putting the Board in touch with the ways that people can buy craft on an easier basis than riding the back roads and finding one person at a time. There are people who are doing this as a business and who you can rely on. Those are going to be the backbone of suppliers for the larger concessions.

There is also a natural partnership with these organizations around the country that are membership organizations that do represent regional craftspeople. If there is a park that wants to enhance that aspect of its retail component, this would put it in touch with the people in the region who are most in touch with the craftspeople in that region, and can help them decide what to buy from a more reliable supplier.

Mr. Eyster inquired if there were different franchise fees for the different types of activities, outlets within a particular concessionaire's organization.

Mr. O'Connell stated they pay the same fee for everything here, whether it be the restaurant, the lodging, the store or the gift shop.

Mr. Cornelssen noted that what the Park Service is supposed to do before they put out a contract is calculate a minimum franchise fee, which is supposed to be based on the weighting of those different businesses, but it's one fee for all, and then it just applies to all businesses. It is based on a financial calculation that is done prior to the issuance of a new prospectus. It's three and a half percent.

After further discussion, Mr. Cornelssen suggested that one way to do it might be to set a minimum franchise fee but then also set the franchise fee exemption specifically as it relates to retail items in a prospectus that is put out in the RFP. That way the concessioner knows that the minimum franchise fee for the whole operation is X, but the exemption specifically related to retail goods that are made in America or whatever is Y. It's a different number, because it probably really is a different number.

A discussion followed on this suggestion.

Mr. Rentfro suggested that this wouldn't work in each scenario, but certainly in the contracts where the majority of the assets are owned by the government and you're paying a building use fee, or for all intents and purposes a lease payment. The way to go might be to discount the lease in accordance with the square footage used to push handicrafts.

Mr. O'Connell; reiterated he would like to have the flexibility to mark up crafts based on what the free market would warrant where it's not controlled like everything else that is sold in the concession. That alone would be an incentive to seek out crafts.

A discussion followed concerning this suggestion.

Chair Naille noted that if the experiment was here for core menu then why not try an experiment here with retail just to see what kind of reaction you get from the public. The Park Service sets the markup procedure at 52 percent.

Chair Naille next revisited the topic regarding the missions of the gift shops and discussed the concept of encouraging the park service to continue the mission statements for gift shops and keeping with a general trend towards the park's main mission theme.

Mr. O'Connell stated he believed it is the mission of the gift shop to interpret and educate and represent either environment or historical or other areas that have to do with the park.

A discussion followed on this issue as it relates to old contracts and new contracts. The new contracts will better define the mission, the goal and possibly even the merchandise mix, old contracts do not.

Ms. Watson noted that, actually, when developing the gift shop mission statement, it is developed along with the concessioner, so it's something that's done after the contract has been awarded. Then you go and develop this mission statement. So it's not before, it's after.

A general discussion followed on this topic.

Ms. Huttunen brought up the fact that there is another aspect to this when talking about quantifiable and it goes back to an issue that was discussed in reference to the Native American product, i.e. the issue of labeling and authentication or documentation.

The whole issue as to labeling and perception on the part of the public as to what something is, is legislated when it comes to Indian craft but is not when it comes to American craft.

Ms. Highnote pointed out that the policy discourages foreign-made, but encourages American-made. A discussion followed on the subject of labeling and the presentation.

The meeting adjourned at 4:20 p.m.

Thursday, November 1, 2001 - 8:30 A.M.

Board Members present were:

Richard Naille, III, Chairperson
 Dr. James J. Eyster
 Richard Linford
 Philip H. Voorhees
 Burt Weerts

Staff present:

Cindy Orlando and Sherrill Watson

Other Attendees: Dee Highnote, Ned Woodward, Wally Hibbard, Henry Benedetti, Joe Rentfro, Pat Parker, Art Hutchinson, Mike Gomel, Judy Jennings, Deidra Ciriello, Jill Moran, Ruth Summers, Phyllis Prevost, Bruce O'Connell, Curt Cornelssen

Reconvene Meeting

Chair Naille reconvened the Concessions Management Advisory Board meeting at 8:30 a.m. at the Pisgah Inn in North Carolina.

NAFI Study

Mr. Cornelssen introduced Chris Campbell, member of the PWC staff, Price WaterhouseCoopers, who developed this study as an independent case analysis in conjunction with the Intermountain Region, Yellowstone, National Parks and Conservation Association, and a number of other folks. PWC was involved simply to make sure that all of the financial analysis was done effectively. One of the things being presented is the case analysis, a review of how a NAFI would fly at Yellowstone for a very specific set of issues. Mr. Cornelssen wanted everyone to understand that in no way is PWC trying to be critical of the 1998 law. It is a good law, but there are a couple of things that the law did in terms of capital investment that are problematic. PWC definitely wants to say that in no way is there a suggestion in this case analysis that Non-Appropriated Funds will be a replacement. In the aggregate, there are a lot of concessioner investments out there, and if concessioner investment wasn't there, there would be a lot of things that couldn't be included in the Bill and it would not have been put through.

What Chris is going to present is more of a comparative analysis of using a Non-Appropriated Fund system vs. other systems.

Mr. Campbell stated he was going to define exactly what a Non-Appropriated Fund is and what the mentality is. He stated he would get into background and scope, talk about what the current fund sources are at Yellowstone, the impact of '98 on concessions at Yellowstone, where the funding sources under the new law, the '98 law, how the nonappropriated fund is a new option and what is involved, what recommendations are coming out of the work this Summer.

Mr. Campbell explained that a NAFI is a Non-Appropriated Fund Instrumentality, currently used by various federal agencies, including the Department of Defense, USDA, which is agriculture, Veteran's Administration, NASA and the Merchant Marines. The legal status is it is an instrumentality of the United States as to who it is going to benefit, the control and custody of this fund in that it uses industry standard financial accounting methods. Separate contracting authorities are used; operating procedures are applied by the parent agency, which is going to be a key issue. Debt may be used as a financing instrument in that one can leverage future cash flows on lodging operations, computer operations, to essentially get more done with the dollars available. Revenues can be invested, you can earn interest, U.S. Treasuries. Appropriated funds can be administered through NAFI, so there is the ability for them to handle appropriated monies as well as revenue money coming in as non-appropriated. NAFIs are exempt from some taxes.

Mr. Campbell next provided background information on the Yellowstone Case Study. He provided detailed information on the following points:

1. Many contracts executed under the '65 Concessions law allowed for the use of Special Accounts.
2. Many of these contracts are going to be expiring in the next few years.
3. Special Accounts have certain advantages and disadvantages that are no longer a part of the '98 law.
4. NAFI was presented as a possible alternative to the Board some months ago, and everyone agreed that it merited further study, resulting in this case analysis at Yellowstone, a park that was picked and volunteered.

Mr. Campbell explained he had been engaged as an independent through NPCA to do the work real quickly based on his park experience. After the study was completed he joined Price Waterhouse.

The scope and objectives of the Yellowstone Case study were as follows:

Principal Objective:

- ◆ Determine the potential of NAFIs to increase purchasing power at Yellowstone National Park and the National Park Service

Scope:

- ◆ Approximately 90 days to conduct analysis
- ◆ Focus on Amfac contract at Yellowstone.

The AMFAC contract is comprised of the Food and Lodging contract at Yellowstone. It is about \$50 million in gross, which yields about \$10 million in Special Accounts. The current fund consists of the Special Accounts that are capital improvement programs, the Cyclic Maintenance Program, the typical appropriated funds, and concessioner investments.

The capital improvement account or programs, is an account where there is actually money in an account at the bank managed by the Concessionaire with the approval of the Park Service. It is to be used for capital activities such as construction and rehab, and any significant expense that really extends the useful life of an asset.

The Cyclic Maintenance Program is an obligation on the books of the concessioner, expended with approval of NPS and used for asset enhancing expenses and cyclic maintenance, which are part prioritized asset focused activities. With regard to Asset Management, the advantage of special accounts is that they are not subject to the Federal Acquisition Regulations (FARs). The concessioner executes these projects and the Park has greater control, greater flexibility because it operates through the concessioner in the private sector-like manner. One of the disadvantages under Appropriated Funds is that everything being used is going to be subject to FAR. This can result in increased cost and reduced flexibility and speed. Timing could be problematic, but the process is slow, priorities can shift, seasonality of park must be considered and it is subject to prevailing political considerations.

Mr. Woodward interjected that the FAR represents the best contracting practices of the Federal Government. It has been changed by OMB frequently based on innovations in the private sector. It does have a lot of obstacles and burdens attached to it, but it's important as this concept goes forward that the people that are in the contracting in the NAFI at least be knowledgeable of the FAR so they can pick and choose the best practices from the FAR.

Mr. Cornelssen agreed and explained that that is what the NAFI's are, not subject to FAR, but they follow the intent of the FAR, the best practices. Mechanically, what's going to happen in the future is, under a new contract, or unless some new vehicle comes along, the money would get sent to the Treasury and get deposited, after which it would be re-allocated.

A discussion followed on this subject.

Mr. Campbell continued his presentation and explained the initial phase, the start of a pilot program at the regional or national level.

Ms. Jennings added her comments with regard to the Intermountain

Region having looked at the organizational structure of the National Park Service and setting up a structure such as with the Business Resources Office, which includes Concessions, Fee Demo now, and Contracting. This resulted in having those basic components in place that are necessary to look at doing a pilot test for a NAFI within one organization. She provided details on the implementation of the construction programs. The Intermountain Region is the only one that is set up with that structure right now at the park site. Ms. Jennings also discussed partnerships with Key Bank developed through the fee demo program specifically for looking at deposits right now and depositing the fee demo moneys into Key Bank. She said they were also looking at expanding that to all non-appropriated funding, the concessions 80 percent monies, those types of things.

Chair Naille wondered if there was any reason why the Board wouldn't recommend this to go forward as there are nothing but positive numbers flowing here.

Mr. Woodward agreed, but pointed out that the first three steps are critical in terms of getting expertise so that people running this really know what they're doing. With regard to authority issues, however, this has been a very active Congress on concession issues over the last five years. He cautioned that the Park Service would want to kind of bend over backwards to bring them in, that this is a good idea, that NPS is going to try to manage this as sharply as they can, and to get their buy-in, whether they need to buy-in or not. Congress has been a very active stakeholder, and they've also been somewhat critical or skeptical about doing things differently in the Park Service. He suggested cultivating good outreach.

Mr. Cornelssen emphasized that this is a bipartisan issue in Congress with both sides of the aisle liking NAFI's.

A discussion followed on DOD's experience of using NAFIs.

Board Member Voorhees asked what would be an adequate term for a pilot and Mr. Campbell responded probably say three to five years.

Mr. Hibbard suggested a phased-in second pilot that might kick into the three of the first-year pilot. This would be beneficial to the Service to have that kind of phasing in and lessons learned from first one that can be applied to the second one, without involving six regions doing it.

Mr. Cornelssen agreed and Board Member Voorhees stated that from a perspective of bringing along the stakeholders, especially the Congress, there needs to be a high level definition for what to expect from the program so they can see where the program is.

A discussion followed on this subject.

Mr. Cornelssen then related an interesting debate he had with some very senior person at the Air Force Office and his perspective was the first thing you do is you go and work with the Park Service on how to create a better definition of sources and uses of funds, appropriated or non-appropriated. Mr. Cornelssen had indicated that

this would not work, but that the point was that if you don't do that, you're going to get into trouble later because what will happen is you start making money on this NAFI and people will want to start spending it on other things. The other problem is that Congress will look at it and say, "Oh, they're more efficient, so we don't have to give them as much money." As the purchasing power and efficiency increase that should also help justify what can be funded through business receipts vs. what has to be funded by Congress.

Chair Naille indicated that that should be the basis of a recommendation of this Board. Ms. Orlando reminded the Board that the fee legislation is not permanent yet, so direct fees are here today, but may be gone tomorrow in terms of the agency.

A discussion on fee programs followed with examples given by Mr. Cornelssen about the way other agencies handle the accounting.

Chair Naille reminded the Board not to lose sight of the original concept of looking at this as a way to provide funds for concession management, to either/or internal educational programs or external consulting services. That was the mission for looking at the NAFI in the very first place. Chair Naille inquired if the Board should or should not recommend that the Park Service look at this not only from the Concessions point of view, from the fee money, but from the general fee money at the same cost.

Board Member Voorhees advocated that the Board do that.

Mr. Woodward suggested that it might be useful to state the recommendation as it applies to the Concessions program, and then note these same benefits would accrue to the fee demonstration programming.

A discussion followed on the amount of time involved in this recommendation and how to word the recommendation. Included in the discussion were the opinions from the Concessioners or Concessioner's representatives.

Mr. Cornelssen stated that all PWC was suggesting is that if one took the existing system and then just simply assure that the reporting was accountable and audited, and all that, that's all we're saying, really. There would be an independent audit every year just like this would be the case in the private sector.

Update on Rate Approval Program

Ms. Highnote presented the Board with an update on the rate approval program based on the recommendations that were submitted in the November Report. She provided a brief background history on the program. PWC was hired to give recommendations on how to do rate approvals, and they came up with specific methods, which are being utilized today.

As a result, guidelines were developed based on the recommendations

and the rate approval program was started. The guideline was updated in April of '98. The new law was published in November of '98, and as a result it was directed that the guideline should be held up until the new law came into effect. In December of '99, an operational evaluation guide was drafted, which includes some refinements and revisions to the evaluation program. In April of 2000, the regulations were established by the overall program. In November of 2000, the Concessions Advisory Board made some recommendations. In March of this year, there was a group that was formed, an internal group, of folks to look at the operational standards, as well as in June where a second group looked at the pricing, the rate approval program. In September of 2001, the core menu concept was introduced and this concept has been around in the program for the last year and a half, two years. Since October of this year work is in progress with PriceWaterhouse to develop a contract to work with them to look at the rate approval program and to look at evaluation standards based on what those internal groups have come up with. Publication has been put on hold pending the new regulations.

Ms. Highnote explained the new legislation and said that it was basically very similar to what was in place in Public Law 89-249. It says that the rates are going to be reasonable and appropriate, and they are to be determined by comparison. There are certain classes that had to be taken into consideration such as length of season, peak loads, percentage occupancy, seasonality, and the cost of labor interior, and that the rates cannot exceed the market.

Ms. Highnote next briefly described the methods that are in existence now and referred to a chart showing merchandising pricing methods, the direct comparability method, the indexing method, and financial analysis. The next chart provided a breakdown of the various types of services.

Ms. Highnote next addressed the Advisory Board recommendations:

- Utilize the present methods
- Retain the option of selecting rate approval methods
- Institute the core menu concept
- Undertake full comparability to review every three years between the years, index those, and base the adjustment on concessionaire's satisfactory performance
- Develop in-house accounting specialists
- Establish rate approval time frames
- Ensure reasonable consistency among rate approval practices.

Ms. Highnote updated the Board on each one of these recommendations. She agreed with the recommendations on comparability, merchandising, competitive market, factual specified rate, and the other indexing and financial analysis. She suggested refining the methods and detailed plans to train the staff on the current processes and continue to assess new efforts. The Park Service is in the process of engaging Price WaterhouseCoopers to conduct the review of the rate approval process, as well as the evaluation program, to come back with recommendations of whether other refinements are needed.

She agreed with the recommendation on retail auction of selecting rate approval methods utilized. The core menu concept was developed in a pilot here at the Blue Ridge Park. It was evaluated based on the private sector practices and it was found the program is consistent with the law. NPS is planning to begin training on the core menu concept. The next program is scheduled for next August and the core menu concept will be a part of the rate approval portion of that program. Ms. Highnote explained the core menu concept. She stated the Park Service has the authority to revert to full comparability, the option of going to the core menu is an agreement between the Park and the Concessionaire.

The recommendation by the Board is to undertake full comparability review every three years. Between those years, do an indexing, and base the adjustment on satisfactory performance of the Concession. The method, time and applicability is going to be reviewed by Price Waterhouse. That is part of the review that they will be looking at when this contract, to identify the current applicable indices for various land uses with rate approval methods that currently exist. Ms. Highnote stressed that satisfactory performance is already a part of the evaluation program. The Board is recommending that the adjustments would not be done unless one had a satisfactory performance rating.

With regard to the recommendation involving in-house competencies, NPS plans to continue to train our people on rate approval. This is currently done through the evaluation rate approval program. Ms. Orlando has put forward a budget request for the staffs for Circuit Rider positions, in-house specialists, the Circuit Riders. If the Circuit Rider positions are approved, NPS would hire someone with rate approval background and expertise. NPS continues to plan to use outside expertise such as Price Waterhouse Coopers.

With regard to the recommendation to ensure reasonable consistency, the practices, the rate approval practices, Ms. Highnote agreed that consistency is a fair amount. Concessions Program Center (CPC) involvement is possibly one potential option. The program is to ensure that rates are reasonable and that they are comparable to services and facilities outside of the National Park Service.

A discussion followed Ms. Highnote's presentation with regard to refinements to the core menu.

Chair Naille stated that it is a recommendation of this Board that the core menu concept not just be instituted as it is set up, but that the core menu concept be integrated into other areas such as lodging rates, retail marinas, etc., and through that, the whole system. The objective of the Board's recommendation was to streamline the whole concept, to cut down on the time elements it takes for approval, the fact that maybe total approval is not necessary as long as follow-up checks are instituted, or even the fact that complaints from the public are dealt with so that the Concessionaire has a little more freedom to get their rates set for the next year. The idea of the indices concept on full comparability was to give the concessionaire flexibility during that three-year

time span, and three years was just an arbitrary number that was picked. It could be five years. It was suggested to try the retail concept here. Chair Naille recommended to apply the core menu concept to the retail area, just to see what happens and how it works.

A discussion followed on the subject of core menu concepts.

Chair Naille reiterated that the Board's recommendation for core menu concepts did stretch beyond just food items and would include retail, lodging, and everything else.

Dr. Eyster provided a comment on a memo that was sent out September, but that he did not see until this morning. In order to have any sort of measured and reasoned responses, materials like that should be sent out a week or two ahead of time.

Chair Naille referred to the memo and remarked that the main reasons the Board recommended core menu concepts was to make a much simpler process, to make things easier, to make it not only simple for the concessionaire who is demanding to be able to make rate changes as the market dictates, but also for the Park Service not to have their hands so tied to a whole bunch of lists that are critical and bureaucratic in design. He addressed specific points in the memo dealing with five and one half pages of regulations on how to do a core menu.

A discussion followed on this subject.

With respect to the core menu process for retail, Ms. Jennings informed the Board that three parks are participating in it, using the competitive market approach for Grand Teton, Rocky Mountain, and Zion, where it is felt that there is a competitive market there. There have been no complaints about the retailing at all and it has worked very successfully. The program does include a core menu on merchandising in the gift shops.

A discussion followed on the subject of a core menu for merchandising.

Ms. Orlando noted that there is a need to work very closely with all of the concessionaires to figure out what works and that it is the people in the field, on the ground that are doing this that will provide the models. The private sector will be benchmarked.

Chair Naille, referring to page 16 noted that the time frames offered by the Advisory Board appear reasonable. He asked if that meant that, as of now, the guidelines that the Board suggested are going to be followed and that, for sure, within six weeks there will be answers back to the Concessioner on its rate requests and on comparables, and three weeks on all other formats.

Ms. Orlando agreed this would be the case.

On the comparability issue Chair Naille stated that those should have been done automatically, and each year they are going to be revised,

even though this gets into the three-year cycle of some index. He asked Ms. Orlando if staff will be working on coming up with what that index is going to be since the Board did not make that determination.

Ms. Orlando indicated staff would do that.

Chair Naille noted that spot checks could still be made throughout time and maybe some comments made to the Concessioner. He then discussed that this whole concept was to ease the most labor intensive and time consuming way of doing the study for a full comparability. There has to be an understanding of the time frame that the Concessionaire is working in when they need to get those rates, especially lodging rates, out to the tour brokers and other entities. It is the Board's objective to make sure that this be fine-tuned in order to get that number out even quicker.

Ms. Orlando expected this year is going to be very interesting and very challenging for everybody, especially because it is not always possible to obtain accurate information.

Report on Recommendations made in FY2000 Advisory Board Report to Congress

Ms. Orlando informed the Board that Dick Ring, Associate Director, Park Operations had been unable to attend but was trying to get here later this afternoon in order to meet with the Board at dinner. It is his intention to reaffirm the Agency's commitment to the important work that the Board is doing and the intent to implement as many of the recommendations as conceivable in the Senior Leadership.

As to the first recommendation, Ms. Orlando noted that the Concessions Program is well into beginning to look at establishing a NAFFI.

The second recommendation focused on some organizational initiatives and asked the Park Service to establish a few financial staff positions at the Deputy Director Level, to administer the NAFFI and to establish and coordinate all other NPS budgeting, spending, financial analysis and desk and internal controller's office. Ms. Orlando stated that when she asked both the Acting Director and a few other senior leaders in the Park Service about the Key Financial Officer, the response was, "We already have a CFO. We call him a Comptroller. His name is Bruce Shaefer." The Agency's position is that there is already someone who is serving in that capacity.

Chair Naille explained that one of the major selection processes that they went through is that the Board was looking for a corporate CFO with extensive background in the hospitality industry to come in. He did not think this was the case and therefore might totally object to the statement that there is already someone in place for that. Chair Naille related there was an Associate Director for Partnerships and Business Practices draft position description that was out there that the Office of Management and Budget, and the Park Service and a few other organizations were trying to push through. There is a complete job description for that particular position. The Park Service is

presently working towards doing something with this position. Chair Naille said he had asked Dr. Eyster to work on this particular document, which he did off and on through the summer. Chair Naille next read these qualifications into the record as a recommendation of this board and to get consensus of Board (agreement) if that is okay with the Board.

"Qualifications for Associate Director for Partnerships and Business Practices: Experience: Position requires a thorough knowledge of the lodging, hospitality, and recreational industries, as well as accounting and finance. The position requires no less than ten years of private sector experience as an asset manager of hospitality-related properties, a financial and operational consultant for hospitality rated properties or a combination of the two. The position requires ability and experience in analyzing and evaluating hospitality industry, operator proposals, capital projects, operating performance, and procurement management in service contracts. The position requires ability to supervise and provide direction of budgeting, audit, and accountability functions, capital project evaluations, evaluation of operator proposals and performance, and negotiation and oversight of procurement, management and service contracts. Position requires proven effective interpersonal skills, the ability to work well as a team player, and the ability to develop a cohesive and motivated staff. Education: Undergraduate degree in hospitality industry management with emphasis on financial management, asset management and/or real estate and an MBA, or graduate degree in hospitality industry management with emphasis in financial management, asset management and/or real estate, or equivalent of the above. Record of an ongoing professional executive education updated throughout the career.

Board Member Voorhees suggested the wording "Hospitality or hospitality-related field."

Chair Naille asked if there was general agreement on the qualifications for the Associate Director for Partnerships and Business Practices. All Board members agreed.

Ms. Orlando clarified that it was in probably early August when she spoke with the Acting Director at the time and asked about this position. The response was the Department had been advised to keep the paperwork moving. Now that there is a new Director she did not think there could be a response to what the new Director is or is not going to do about this position. In fact, this very week, she is hearing the same thing from the law enforcement community in the Park Service about a new Associate Director for Law Enforcement. So Dick Ring probably could address maybe briefly on this in terms of what the latest is.

Board Member Voorhees inquired as the new Director evaluates her own position on this and the possible new position of Associate Director of Law Enforcement, if that would imply a change to get both fulfilled the responsibilities as folks who presumably carry those responsibilities now, or the Associate for Business Management Partnerships, or however it is cast, the partnerships side of that

has an Associate Director.

Ms. Orlando concurred, but noted that it is also co-mingled with other functional areas so that, in fact, fees and concessions, for example, would go to the new Associate.

Mr. Hibbard stated that there are a lot of pressures to be prepared to respond to a lot of different things that people were not thinking about before September 11th. So the future shape of the Washington Director may be questionable. This law enforcement was in response to the International Association Chiefs of Police Report and the lack of activities. So there is a lot of pressure from the outside coming down, just like there is pressure coming down for the business.

Ms. Orlando continued with the third recommendation and deferred to Dick Ring on the question of "Establish an Associate Director Concessions I position."

The fourth recommendation focused on rate approval and this was discussed in detail this morning.

Ms. Highnote commented that she would ask the Intermountain Region to provide her with a report on their retail core process that they have set up. She also would like to have points of contact in a more direct way to meet with them in order to enable her to start working on getting other Parks interested.

Chair Naille brought up the subject of pricing based on notes that Dr. Eyster has just put together, the ones that were kept throughout the last couple days of things that the Board will be recommending. So this is a particular recommendation also on the rates and pricing structure, that the NPS should encourage the expansion of core menu price in concept for restaurant operations throughout the system. The NPS should develop six to 12 pilots for core menu pricing and retail gift and lodging operations and evaluate the results after one year.

The Board members agreed. Ms. Orlando stated that the next recommendation focused on Park Superintendent accountability and this could be linked pretty closely to some other programs staff is working on in terms of the professionalization, the contact and certification, etc. "A. Place full responsibility and accountability for Park Concession directly on the Park Superintendents." Where there was a performance standard that was drafted certainly for Regional Directors and Superintendents, and it was also intended for all FDS Superintendents that addressed Concession management. In response to GAO Reports, Superintendents were issued a memorandum. The other thing that staff has done most recently is re-evaluated and re-issued the delegation of authority. Staff has looked at the top 50 contracts which bring in about 80 percent of the revenue and realized a contracting function so that those contracts are going to be managed and worked on directly with regions in the Washington office. The delegation of authority now allows for three million contracts that are grossing \$3 million or less to be written and executed by the Regional Director, but anything over \$3 million is coming into Washington and being managed

corporately. A part of that process is completing action plans that are being done for each park that has an expired contract, and outlining what the status is of the contracting action, where the gaps are, what work needs to be done, and then building a time line that outlines the particular business processes that still need to be completed before that contract prospectus can be put out. By doing so, staff now has the business spaces to recommend to the Director, or the Regional Director, a contract extension for one year, two years, three years, whatever the law allows for. This is for the first time a justification from the business side. Contracts have always been legally sufficient, but what was found is that they have not been adequate from a business standpoint.

In terms of the accountability at the superintendent level, what staff is doing is allowing them to do what they do best, and that is manage some of the smaller contracts. There are some guys that already enjoyed a right to renewal under the statute, but also the represented activities that are more organic to the National Park Service. In the Price Waterhouse Organizational Analysis, what was found is that the Park Service manages that pretty well. Those Park Rangers in the field, those Concession Managers in the field, do a good job with some of the smaller contracts. The larger contracts, which have become increasingly more sophisticated, more complex, and it has been decided by the NLC that those would be managed corporately. By re-evaluating how the Program looks at the contracting actions, that feeds into the accountability issue. No longer would a superintendent be responsible for a contract grossing \$50, 60 70 million, in which a Superintendent, in most cases, would be qualified and be able to do. The cut-off number is three million. Over three million goes over to corporate, Washington and the centralized system. Regional is not included in Washington.

A discussion ensued over the last statement.

Chair Naille noted that another focus of that whole comment was directed to the issue that the concession program tends to be a step-child of the Park Service. The Board wanted a Superintendent held accountable for assuring that the Concession Program in their park was a professionally run operation and performed a proper function in watching over the Concession operations because they tend to sometimes not do that. As such, part of the Board's comment was directed towards straightening that out, too.

Mr. Hibbard addressed the Superintendent's accountability issue and stated that superintendents are accountable for everything, but that unfortunately, where the problem occurs is depending on the level of involvement in any given program. A lot of the firm oversight is a collateral assignment. In some of these other areas where the Board is concerned, it is going to continue to be a problem with the collateral duty of assignment, as is a lot of other things. Safety is collateral duty and a lot of other program management collateral duty. The Board needs to know that even though the superintendent has accountability responsibility, that doesn't mean that superintendent is going to have the wherewithal to hire a Concessions Program Manager.

Chair Naille agreed and stated that the reason for the Board's comment is just for that reason. The Board wants the Park Service to take heed and do something about collateral functions. The Concession organization in each park needs to take a better focus because there are potential dollar savings and potential contract issues that have to be monitored in a better fashion, pricing structures, everything needs to be controlled and want to bring it up to a different level than that.

Ms. Orlando continued with her presentation and brought up the Circuit Rider issue, which the program has been trying to get funding for, again, through the appropriation process, that is precisely a need that staff wants to fill either through establishing a position or outsourcing that. Ms. Orlando said she was addressing that, but that they tie into this whole accountability issue. The other thing that interfaces with it is the certification process that the program is establishing. For example, terms mentioned earlier such as a NAU for the hospitality certification, which is intended precisely for those people in the field, to be able to provide them with the tools so they can do their job. Right now that is restricted to full-time Concessions Specialists and not necessarily Collateral duties, but it is hoped it will expand over time.

A discussion followed on the NAU program with the Army, and the contract certification.

Ms. Orlando reported on the program and a meeting she attended. She said that one of the things the program is doing is try to ensure career succession in the Concessions Program within the Park Service. This group will come in with the set qualification that unfortunately the earlier groups did not have. Related to that is a program staff is working on with the MPCA and is part of the National Parks Financial Managers Career Initiative. Work is being done on bringing in students who are more focused on the hospitality and concession program, as opposed to maybe strictly an MBA. But this may not what is needed and the program may want a different particular kind of student.

With regard to the national initiative, Ms. Jennings reported on an internal initiative, more individual-based, basically giving people \$1,000 to do any type of professional development that they would like to do and pursue for career opportunities.

Ms. Highnote said that along that line, the Board should understand that the National Park Service has a Service-wide central training fund for which all programs within the Park Service compete. She submits several programs and requests for funding and has been very fortunate in getting funding. She related how that sometimes is how she was able to have evaluation and pricing, that's how she was able to form groups to develop various new initiatives, etc. That would be another element that would be lost and the Park Service has gotten substantial support for the programs.

Ms. Jennings reported that what has worked really well for the Intermountain Region, is that they have access to other funding

sources in the sense of the Fire Management Plan. The National Fire Management Plan has identified \$200 million toward fire programs and within that is contracting. They have two courses coming up right now in the Intermountain Region of Contract Officers Representative training, COR training. They are using fire money to fund that training course, but there are probably ten Concessions people that are going to be taking that CORT class in Denver. So there is really no expense to the service, but it's an opportunity. They are sharing resources within the region and are using the Contracting Officers they got in that type of training and looking at teaching Concessions Specialists more about the FAR.

A discussion followed regarding that subject.

Ms. Orlando presented the sixth recommendation, "Other Concessions Management Issues," four of them relate to training. "Use FAR concepts," and again, in contracting taking the best parts of the FAR, performance based contracting, etc., and then trying to incorporate that.

Ms. Orlando next discussed the contracting or out-sourcing. She said she was presently outsourcing about 57 percent of her total budget. There was certainly an emphasis on out-sourcing before this administration, it is one of the top five objectives of this administration in terms of competitive sourcing. It can be expected to see a greater emphasis on that and the program is going to continue to be operating in that mind set. The program does not have any more positions than five years ago in the Concession Program and, in fact, probably fewer. She did not expect to really be filling any great number of positions. She provided details on the outsource positions.

A discussion followed on this subject.

Ms. Orlando concluded that it needs to be recognized that this is a major management reform initiative of this administration. The program is going to be doing more outsourcing with a wide range of firms and activities, and hopes to at least maintain its small little concession workforce.

With respect to the Circuit Riders, staff is trying to get those funded. If the program does not get appropriate funds for those positions, it needs to try to assist the regions in some way by providing some funding for some outsourcing so that the regions can provide the services to the parks as the parks need. Ms. Orlando provided the Board and attendees with a very brief summary.

Discussion of Recommendations for Report to Congress

Chair Naille next read the Board's recommendations and asked for a consensus on the Board.

The first recommendation will be addressing the NAFI issue. Chair Naille recommended that the NPS initiate a 3-year pilot program at the Regional level or its desire at the National level, utilizing

Concession Fee demo money and any future demo money, as well as other non-appropriated funding, that might come up as part of the NAFI package. There was consensus for this recommendation.

With respect to the seven points on Arts and Crafts, Definitions and Issues, the Board was asked to look into Native American, Alaskan and Eskimo, and Hawaiian Arts. Chair Naille read the following recommendations:

- 1) NPS should use the Indian Arts and Crafts for definitions of Indian tribe and Indian handicrafts;
- 2) NPS should require accurate product labeling and tagging;
- 3) NPS should use the Office of Hawaiian Affairs to define native Hawaiian Arts and Crafts to administer certification of an authenticity program;
- 4) NPS should put burden of proof on Concessionaires to provide certifications of authenticity and accurate product labeling and tagging. NPS does a random audit annually.
- 5) NPS should continue its franchise fee exemption for products of local handicraft artisans;
- 6) NPS should encourage Concessionaires to stock local/regional handicraft products; and
- 7) NPS should evaluate Concession financial incentive structures to promote the sale of Native American, Hawaiian, Alaskan and local regional arts and crafts.

In other words, what the Board is addressing there is the issue of the way the franchise fee program is set up. The Board is not specifically saying go through a stage but is just asking you to come up with some evaluation to see if anyone can come up with a better incentive program to encourage the sale of regional handicrafts. The Board expressed consensus on this recommendation.

Chair Naille stated that the Board did have a mandate on the Native American/Alaskan Hawaiian, but also felt that local handicrafts are a major player and that parks should be selling to promote the whole regional mission of each part. He said he had no problems with the way the parks are setting up programs with mission statements for retail shops and that it was a wonderful idea accepted by everyone.

Ms. Watson inquired if, in addressing that in the recommendations, in the report, the Board was also going to mention the barriers that were found in Hawaii such as having only one Concession operation.

Ms. Orlando thought that maybe the way to handle that is to put something in the report referencing other authorities that park superintendents can use. It's not directly in the concession now, but there could be a reference encouraging the National Park Service to evaluate all possible authorities.

Chair Naille agreed with Ms. Orlando. Board Member Voorhees suggested encouraging the Park Service to be as forthcoming with information as possible to native communities about the opportunity that exists.

Chair Naille recommended that NPS evaluate concessions and that NPS continue its franchise fee exemption for products of local/ regional handicraft artisans.

Ms. Orlando stated she would ask the Solicitor in terms of can the Board institute a policy that is broader than what the law specifies.

Chair Naille stressed that the Board still makes the recommendation. He stated he has asked Dr. Eyster to put together the final version of a report in the next couple of weeks and so we have this signed, and ready to roll to the Secretary by the end of the month.

Chair Naille announced that the annual meeting of the conference of National Park Concessioners will be held the 3rd, 4th and 5th of March. A discussion followed on a Board meeting in conjunction with those dates.

Mr. Woodward suggested procedures for the Advisory Board on the whole contracting procedure with regard to the four major contracts that have come out or prospectuses. Proposals were submitted in September and the last word is that the panel is going to meet at the end of November. There are no dates given for decisions. A process needs to get in place that is more orderly so that the transitional things can move more smoothly.

A discussion followed on this subject.

Chair Naille adjourned the meeting at 3:30 p.m.