




OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

September 29, 2011

Memorandum

To: Rhea S. Suh, Assistant Secretary for Policy, Management and Budget
Jonathan B. Jarvis, Director, National Park Service
Robert V. Abbey, Director, Bureau of Land Management

From: Michael P. Colombo 
Regional Manager

Subject: Verification Review of Six Recommendations from our April 2007 Report
"Private Use of Public Lands, National Park Service and Bureau of Land
Management" (Report No. W-IN-MOA-0008-2005)
Report No. WR-VS-MOA-0012-2011

The Office of Inspector General (OIG) has completed a verification review of the five recommendations made to the National Park Service (NPS) and one recommendation made to the Bureau of Land Management (BLM) in the subject audit report. The objective of the review was to determine whether the recommendations were implemented as reported to the Office of Financial Management (PFM), Office of Policy, Management and Budget. In memoranda dated November 10, 2009, March 23, 2010, and August 19, 2010, PFM reported to OIG that all six recommendations in the subject report had been implemented and that the audit report was closed.

Background

Our April 2007 audit report, "Private Use of Public Lands, National Park Service and Bureau of Land Management" (Report No. W-IN-MOA-0008-2005), made six recommendations (five to NPS and one to BLM) to take the following actions: determine the extent special-use permits have been used; open the facilities having exclusive use to the general public; determine the proper disposition of certain fees received from special-use permits; and perform appropriate environmental reviews and document the results of those reviews.

In a May 17, 2007 response from BLM and a June 8, 2007 response from NPS, the bureaus provided plans to implement the report's recommendations. Based on these responses, we considered all of the recommendations to be resolved but not implemented. On August 3, 2007, we referred the six recommendations to PFM for tracking of implementation. PFM reported in subsequent memoranda that NPS and BLM had implemented all of the recommendations and that PFM considered the report and its recommendations to be closed.

Scope and Methodology

The scope of this review was limited to determining whether NPS and BLM took adequate action to implement the recommendations. To accomplish our objective, we reviewed the supporting documentation that PFM used to close the recommendations. We also interviewed NPS and BLM officials to gather additional information on the actions taken to implement the recommendations.

We did not perform any site visits or conduct any detailed audit fieldwork to determine whether the underlying deficiencies that were initially identified have actually been corrected. As a result, this review was not conducted in accordance with the “Government Auditing Standards” issued by the Comptroller General of the United States or the “Quality Standards for Inspections” issued by the Council of the Inspectors General on Integrity and Efficiency.

Results of Review

Our current review found that NPS implemented Recommendations 1, 2, 3, and 5 but did not take sufficient action to implement Recommendation 4. We also found that BLM had adequately implemented Recommendation 5. The status of the recommendations is summarized in Appendix 1.

The five recommendations directed to NPS are discussed below.

Recommendation 1: Determine the extent to which special-use permits limit long-term public access to public lands.

NPS reported that it performed a survey of NPS units in 2007 to determine which special-use permits limit long-term public access to public lands. Specifically, NPS requested information on properties where a special park use permit authorized an individual or group exclusive use of park lands. An NPS official provided us with a listing showing the results of the survey.

Based on the information provided by NPS, we concluded that Recommendation 1 has been implemented.

Recommendation 2: Direct NPS officials not to renew those special-use permits that limit long-term public access to public lands.

In the June 8, 2007 response to our report, the NPS Director stated that as part of the survey conducted under Recommendation 1, the legal authority for the special-use permits will be reviewed. The response stated that “If no legal authority exists the permit will not be renewed.”

An NPS official provided us with the status of the special-use permits as of July 2011 that were identified during the survey. Table 1 shows the actions NPS took on the five special-use permits cited in our 2007 report.

Table 1
Special-Use Permits Discussed in the 2007 OIG Audit Report

	Status as of July 2011	Exclusive Use Status
Gateway National Recreation Area		
Silver Gull Beach Club, New York	Concession	Addressed in concession contract
Breezy Point Surf Club, New York	Concession	Addressed in concession contract
Rockaway Point Yacht Club, New York	Lease	Determined that the property use will contribute to the purposes and programs of the Park
Chesapeake & Ohio Canal National Historic Park		
Washington Canoe Club, District of Columbia	Lease	Facilities are not being used
White's Ferry Sportsman's Club, Maryland	Special-use permit	Property awaiting land exchange

Based on the actions taken by NPS, we concluded that Recommendation 2 has been implemented.

Recommendation 3: Open facilities having exclusive use to the general public and determine the appropriate legal instrument, such as concessions, leases, and right-of-ways, under which to operate.

The NPS response to our report laid out the actions planned to implement this recommendation for the five special-use permits shown in Table 1. An NPS official provided us with the current status of these efforts. Based on the information provided, we concluded that NPS is taking appropriate action to determine and use the appropriate legal instrument.

In regards to opening facilities having exclusive use to the general public, we confirmed via interviews with NPS officials that exclusive use is being addressed. For example, the beach clubs at Gateway National Recreation Area are now operated under a concession contract that provides for use of the facilities by the general public.

Based on the actions taken by NPS, we concluded that Recommendation 3 has been implemented.

Recommendation 4: Seek the advice of the Solicitor's Office to determine the proper disposition of the inappropriate \$2.6 million augmentation of NPS's appropriation.

The NPS response to our report stated that "NPS officials and park management will work with the Department of the Interior's Solicitors to ensure that all costs incurred are documented properly and funds collected under the subject permits are deposited to the correct accounts."

The documentation provided by NPS to PFM did not contain either a written request to the Solicitor's Office for advice or the Solicitor's response on this matter. Instead, closure of the recommendation was based on a December 17, 2007 memorandum from the Gateway National Recreation Area Superintendent to the Special Park Uses Program Manager. The memorandum

stated that "Gateway National Recreation Area provided the following information to the NER Regional Solicitor for his advice regarding the proper disposition of \$2.6 Million in collected recoverable costs:" and continues with a discussion of the use of the funds. The memorandum, however, does not state what the Regional Solicitor's advice was on the matter or whether such advice was followed.

During our review, the NPS Special Park Uses Program Manager informed us that there was no written request for the Solicitor's advice. The Manager stated that there were telephone conversations between the then-Superintendent and the Regional Solicitor and that "there is no written solicitor opinion but the legal advice was that a concession contract would be a more appropriate authority." The Park's current Superintendent stated that she could not find anything in the Park's files to indicate what advice was provided by the Solicitor's Office.

As stated in the OIG audit report, Federal law requires that fees collected in excess of the costs incurred to administer and monitor the special-use permits are required to be deposited into the U.S. Treasury. Because we were not provided evidence that NPS received and followed advice from the Solicitor's Office pertaining to determining the proper distribution of the \$2.6 million identified in the audit report, we concluded that this recommendation was not fully implemented and therefore should be reinstated and classified as not implemented.

Recommendation 5: Develop a process that ensures field offices and park units perform appropriate NEPA [National Environmental Policy Act] reviews prior to the issuance of special-use and recreation permits and document the results of the reviews.

The NPS response to our report referred to a March 31, 2006 memorandum from the NPS Deputy Director to NPS Regional Directors requiring them to implement an audit program for special park use programs in their regions. In addition, the NPS Director issued a memorandum that highlighted the importance of NEPA in the review process and emphasized the use of the Planning, Environment and Public Comment (PEPC) system to document and record compliance actions related to the permits.

The NPS Special Park Uses Program Manager provided us with a March 31, 2006 memorandum from the NPS Deputy Director with the subject "Implementation of GAO Recommendation on Cost Recovery." The memorandum required an audit of each park's cost recovery program every 5 years. The memorandum, however, did not mention reviews of NEPA compliance. The Manager stated that she did not realize the memorandum was silent on verifying that appropriate agreements were being used and adequate NEPA reviews were being done. The Manager added, however, that the NPS regions have been doing these reviews for the past 5 years and she conducts periodic meetings with regional officials where the reviews are discussed and has been provided listings of regional reviews performed. The Manager stated that the issues found are relatively minor.

NPS also provided us with a listing of special-use permits from its PEPC system for 2008 to 2011, showing the type of NEPA documents prepared and the date the compliance reviews were done.

Based on the information reviewed, we concluded that Recommendation 5 was implemented.

Recommendation 5 was also directed to BLM and is discussed below.

Recommendation 5: Develop a process that ensures field offices and park units perform appropriate NEPA reviews prior to the issuance of special-use and recreation permits and document the results of the reviews.

The BLM Director's response to our report stated that BLM is implementing additional oversight in the form of periodic Alternative Internal Control Reviews to ensure that it is complying with its NEPA policies and procedures.

BLM also reported to PFM that it has issued policies that the State and Field Offices follow when processing Special Recreation Permits (SRP). BLM's Recreation Permit Handbook provides guidance pertaining to: (1) how to process SRP applications; (2) the process logic model; (3) NEPA requirements; (4) the role of the Authorizing Officer; and (5) a checklist for application processing. BLM's NEPA Handbook describes NEPA requirements and includes several process logic models for NEPA and land use planning compliance.

A BLM official told us that they have been conducting periodic Alternative Internal Control Reviews. SRPs were a focus area of these reviews for a couple of years subsequent to BLM's response to our report, and NEPA compliance when processing SRPs is still being reviewed in general. A BLM official provided us with a review performed of one of BLM's state offices, and NEPA compliance was covered by the review.

Based on the actions taken by BLM, we concluded that Recommendation 5 was implemented.

Conclusion

We informed Department and bureau officials of the results of this review. NPS should provide PFM with information on the actions it will perform to implement Recommendation 4 by October 31, 2011.

Responding to the Report

We request that PFM reinstate Recommendation 4 as not implemented from the subject audit report and inform us of the actions to be taken for this recommendation.

If you have any questions about this report, please contact me at (916) 978-5653.

cc: Eric Eisenstein, Division Chief, Internal Control and Audit Follow-up, Office of
Financial Management
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Appendix 1: Status of Recommendations

Recommendation	Status	Action Required
NPS		
1, 2, 3, 5	Implemented	No further action is required.
4	Not implemented	We are requesting that PFM reinstate the recommendation. The Director, NPS, should provide a plan identifying actions to be taken, target dates for implementation, and titles of officials responsible for implementation.
BLM		
5	Implemented	No further action is required.