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ONE HUNDRED TENTH CONGRESS

U.S. House of Representatives
Committee on Energy and Commerce
Washington, DC 20515-6115

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January 25, 2008

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GREGG A. ROTHSCCHILD, CHIEF COUNSEL

The Honorable Dirk Kempthorne
Secretary
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Dear Mr. Secretary:

The Committee on Energy and Commerce sent a letter on July 16, 2007, expressing our concerns with the findings publicized in an audit report issued by your Office of Inspector General (OIG), entitled *Private Use of Public Lands, National Park Service and Bureau of Land Management* (Report No. W-IN-MOA-0008-2005). The OIG found that the National Park Service (NPS) had permitted private clubs, such as the Washington Canoe Club (WCC), to monopolize and use public lands to the exclusion of the general public. We are writing to request records and information relating to the NPS's response to the OIG audit report that were never provided to Committee investigators as we originally requested.

Although Department and NPS staff conducted a briefing on this issue for Committee staff in August 2007, the Department and/or NPS failed to provide us with requested information relating to any actions that NPS had taken or were taking in response to the OIG audit report. We note that the final report, which was published on April 10, 2007, contained NPS Director Mary G. Bomar's response to the OIG audit recommendations in which she stated, in part, that NPS would:

1. Undertake a survey of all park units within three months of the issuance of the final report requesting that they provide the NPS Washington Office with a list of long-term special park use permits issued to an individual, group, or organization that limit or have the potential to limit access to public land;

2. Evaluate each permit to determine if it had been issued pursuant to a valid legal authority and had the effect of limiting public access to park lands;
3. Not renew any permits for which legal authority for the requested activity did not exist;
4. Work with the Department's Office of the Solicitor and its own realty specialists to determine the legal status of park lands subject to long-term permits that have the potential of limiting public access to those lands;
5. Move expeditiously to open those areas to the public and grant public access through appropriate and legal authorization; and
6. Audit 20 percent of the parks each year to ensure that special park use programs comply with environmental and cultural regulations.

Accordingly, under Rules X and XI of the Rules of the U.S. House of Representatives, the Committee on Energy and Commerce and its Subcommittee on Oversight and Investigations hereby request that the Department and/or NPS provide all records relating to Director Bomar's statements noted above in order to determine the progress made by the NPS, if any, in addressing the issues noted in the OIG audit report.

In our letter dated July 16, 2007, we also expressed specific concerns regarding the continued use of NPS land by the Washington Canoe Club to the apparent exclusion of the general public. Despite its unique history, we continue to have concerns about WCC's exclusive use of public land in an area with limited access to the Potomac River. In response to our requests, Department and NPS officials have only been able to provide Committee investigators with limited documents and information relating to WCC's occupation and use of NPS land throughout the years; they were unable to provide documents concerning the legal ownership of the site, could not determine the actual amount of land WCC was permitted to use, which varied depending on the property survey that was used, and could not determine the value of the property because of the lack of accurate and/or recent property appraisals. Although WCC has paid a relatively constant fee to NPS for use of this property, we question how NPS could accurately calculate the amount of fee owed, particularly without a resolution to these outstanding and important legal issues.

Furthermore, during the August 2007 briefing, Department and NPS officials told Committee staff that NPS did not have the legal authority to issue special-use permits to WCC as it had done for decades. In fact, NPS staff repeatedly characterized the issuance of these permits as "illegal." Department and NPS officials also told Committee staff that they were unsure how NPS was going to resolve this issue. Robert Howarth of the Department's Office of Congressional and Legislative Affairs subsequently provided Committee investigators with a

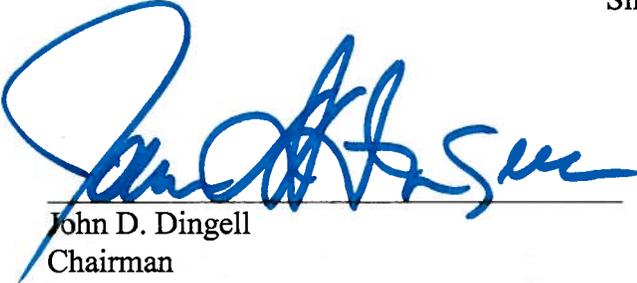
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copy of a 3-month lease between NPS and WCC, signed on December 31, 2007, that permits WCC to continue using the site at the same rate it paid under the past special-use permit. This lease appears to be an effort to circumvent Director Bomar's assertions that NPS would not renew any permits for which legal authority for the requested activity did not exist. More than four months after the August 2007 briefing, neither the Department nor NPS has provided Committee investigators with any information as to how NPS intends to resolve permanently the WCC situation, let alone the privatization of public land by those entities granted exclusive use of those properties.

In view of our concerns over the private use of public lands, we request that Department and NPS officials provide us with an updated briefing on these issues. Additionally, copies of all documents relating to WCC's continued use of NPS property that have not been previously provided to Committee investigators, along with records relating to Director Bomar's response to the OIG audit report, should be forwarded to the Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce, Room 316, Ford House Office Building, within 14 days of receipt of this letter. Please note that for the purpose of responding to this request, the terms "records" and "relating" should be interpreted in accordance with the attachment to this letter.

We appreciate your cooperation in this matter. To schedule the briefing and to obtain any further information regarding this inquiry, please contact Steven C. Rangel with the Committee staff at (202) 226-2424.

Sincerely,



John D. Dingell
Chairman



Bart Stupak
Chairman
Subcommittee on Oversight and Investigations

Attachment

cc: The Honorable Joe Barton, Ranking Member
Committee on Energy and Commerce

The Honorable John Shimkus, Ranking Member
Subcommittee on Oversight and Investigations

ATTACHMENT

1. The term "records" is to be construed in the broadest sense and shall mean any written or graphic material, however produced or reproduced, of any kind or description, consisting of the original and any non-identical copy (whether different from the original because of notes made on or attached to such copy or otherwise) and drafts and both sides thereof, whether printed or recorded electronically or magnetically or stored in any type of data bank, including, but not limited to, the following: correspondence, memoranda, records, summaries of personal conversations or interviews, minutes or records of meetings or conferences, opinions or reports of consultants, projections, statistical statements, drafts, contracts, agreements, purchase orders, invoices, confirmations, telegraphs, telexes, agendas, books, notes, pamphlets, periodicals, reports, studies, evaluations, opinions, logs, diaries, desk calendars, appointment books, tape recordings, video recordings, e-mails, voice mails, computer tapes, or other computer stored matter, magnetic tapes, microfilm, microfiche, punch cards, all other records kept by electronic, photographic, or mechanical means, charts, photographs, notebooks, drawings, plans, inter-office communications, intra-office and intra-departmental communications, transcripts, checks and canceled checks, bank statements, ledgers, books, records or statements of accounts, and papers and things similar to any of the foregoing, however denominated.
2. The terms "relating," or "relate" as to any given subject means anything that constitutes, contains, embodies, identifies, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.