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MANAGEMENT OF THE STATUE OF LIBERTY NATIONAL MONUMENT

OVERSIGHT HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

Tuesday, September 18, 2007

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OVERSIGHT HEARING ON MANAGEMENT OF THE STATUE OF LIBERTY NATIONAL MONUMENT

Tuesday, September 18, 2007
U.S. House of Representatives
Subcommittee on National Parks, Forests and Public Lands
Committee on Natural Resources
Washington, D.C.

The Subcommittee met, pursuant to call, at 10:05 a.m. in Room 1324, Longworth House Office Building. Hon. Raúl M. Grijalva [Chairman of the Subcommittee] presiding.

Present: Representatives Grijalva, Bishop, Christensen, Hinchey, Inslee, Brown, Gohmert, Cole, and McCarthy.

STATEMENT OF THE HONORABLE RAÚL M. GRIJALVA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Mr. GRIJALVA. Let me call the Subcommittee on National Parks, Forests and Public Lands to order. Our agenda today is an oversight hearing on the management of the Statue of Liberty Monument, and let me begin with an opening statement, and then our Ranking Member, Mr. Bishop, as well.

The Statue of Liberty, as we all know, is a powerful symbol of America. The values it represents, the international cooperation, freedom, and our heritage as a nation of immigrants, are as relevant today as they ever were. The Congress and this Subcommittee in particular are eager to work with the National Park Service to ensure that icon of American freedom is protected, preserved and interpreted for future generations of Americans as well as those who may visit our shores.

Concerns have been raised regarding two management issues at the monument. The first is the decision by the National Park Service to close the crown of the statue to the public. There appears to be some confusion as to whether this decision is based on security concerns in the wake of the 9/11 attacks or on more standard health and safety concerns, such as the lack of emergency exit. Hopefully today's hearing will provide further information on this issue.

In addition, some have raised concerns regarding the recently awarded concessions contract for ferry service to the monument. We look forward to hearing from our witnesses regarding not only

the new contract at the Statue of Liberty but also regarding the track record of the new concessionaire on all NPS sites.

We would like to welcome our witnesses to this hearing and thank them for their time and effort in joining us. Your input would be invaluable as we consider the future of this national treasure.

With that, let me turn to our Ranking Member, Mr. Bishop, for any comments he may have.

[The prepared statement of Chairman Grijalva follows:]

Statement of The Honorable Raúl Grijalva, Chairman, Subcommittee on National Parks, Forests and Public Lands

The Statue of Liberty is a powerful symbol of America. The values it represents—international cooperation, freedom and our heritage as a nation of immigrants—are as relevant today as ever.

The Congress, and this Subcommittee in particular, are eager to work with the National Park Service to insure that this icon of American freedom is protected, preserved and interpreted for future generations of Americans as well as those who may visit our shores.

Concerns have been raised regarding two management issues at the Monument. The first is the decision by the National Park Service to close the crown of the Statue to the public. There appears to be some confusion as to whether this decision is based on security concerns in the wake of the September 11 attacks, or on more standard health and safety concerns such as the lack of emergency exits. Hopefully, today's hearing will provide further information on this issue.

In addition, some have raised concerns regarding the recently-awarded concessions contract for ferry service to the Monument. We look forward to hearing from our witnesses regarding not only the new contract at the Statue of Liberty but also regarding the track record of the new concessioner at other NPS sites.

We would like to welcome our witnesses to the hearing and thank them for their time and effort in joining us. Your input will be invaluable as we consider the future of this national treasure.

With that, let me turn to the Ranking Member, Mr. Bishop, for any comments he may have.

STATEMENT OF THE HONORABLE ROB BISHOP, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

Mr. BISHOP. I am happy to be here with the Chairman to talk about why the A PLUS Act should replace No Child Left Behind.

[Laughter.]

Mr. BISHOP. Wrong hearing? That is what I want to talk about.

No, we welcome you here. This is going to be an informative hearing on these issues, and I look forward to the testimony that is going to be provided.

Mr. GRIJALVA. Thank you. Let me welcome our colleagues, distinguished colleagues. Congressman Sires from New Jersey, welcome, sir. Thank you for coming and your time. Congressman Weiner from New York. Thank you for your time. Let me begin with the gentleman from New Jersey for his opening comments. Mr. Sires.

STATEMENT OF THE HONORABLE ALBIO SIRES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. SIRES. Mr. Chairman, Members of the Committee, thank you for having me here today to talk about an issue that is very near to my heart. I appreciate your willingness to examine issues affecting the Statue of Liberty. I also want to thank Congressman Weiner for championing this issue.

As you may know, I proudly represent the 13th District of New Jersey, which includes the Statue of Liberty. I know Mr. Weiner claims it is a New York landmark, but in truth, it belongs to New Jersey. Actually, I believe that the Statue of Liberty belongs to all Americans. It is a true symbol of our nation and it represents our freedoms and liberties.

So, like so many of us, I vividly remember watching the Twin Towers burn on September 11. I will never forget that vision in my mind and how our nation grieved for those who had lost their lives. It was a symbolic blow to our nation's spirit. Today, six years since those attacks, we have recovered our spirit and America stands strong and proud again.

An important part of the recovery is due to the fact that we are able to get back our lives. As then Secretary of the Interior, Ms. Gail Norton, said on September 12, 2001, at the Hoover Dam, and I quote, "Even though atrocities such as those of September 11 can affect us, they cannot close us down."

However, former Secretary Norton was wrong about one of our national treasures. Today, the Statue of Liberty's crown is not yet open to the public. The statue is a symbol of freedom and democracy, and her crown should be reopened for all to visit.

Why does the crown remain closed? I expect the National Park Service to argue it is a national security threat. I disagree. Congress has allocated more than $90 million for security upgrades. More than $6 million was raised by private sources to make improvement to the statue. Additionally, the Park Service has reopened the Washington Monument and the White House, other national treasures that are considered targets.

By using the devices that the Park Service has already acquired for screening visitors to the Statue of Liberty, like bomb-sniffing dogs and bomb-detecting devices that blow air into the clothing and then check for particles of explosive residue, they can reopen the Statue of Liberty's crown to the public.

The Park Service might also respond that the crown remains closed because it is not up to modern fire or building codes. If this is true, you might ask them what are they doing to repair the building. You might also ask what Congress can do to help rehabilitate the crown so it can be reopened. What can we do to provide the needed resources to reopen this national symbol?

All visitors should have the opportunity to fully experience the statue when visiting this great symbol of freedom and be able to climb up those memorable stairs to the crown and stand on their tiptoes to enjoy the views of this country that she looks over and protects.

We have not forgotten the tragic events that occurred six years ago, and we will never forget, but it is time to get back to enjoying the freedom we have here in America. It is time to fully reopen the symbol of liberty and do all we can to address any outstanding issue. I ask for your assistance in this endeavor.

Let me add one last point. I invite all of you to my district to see the statue and to see what it means to the visitors. I am happy to help organize a field hearing at Liberty State Park so we can experience this great symbol. Please let me know if I can be of any assistance.

I will end this by saying I am an immigrant. I came here at the age of 11, and I still remember those days when my mother and father and my brother went to the Statue of Liberty and we went all the way to the top of the crown. It was probably one of the most emotional and memorable experiences I have had being a young immigrant in this country and being able to go to the Statue of Liberty and visit and see what the statue represents. It is one of those sites that you, as an immigrant, look forward to seeing, especially in our area, and the other one, I may say, is the Empire State Building in Mr. Weiner's district.

So I thank you for your time and I hope you consider this request. Thank you very much.

Mr. GRIJALVA. Thank you very much, sir, and thank you for your comments and your testimony.

Let me now turn to the gentleman from New York, whose persistence is admired by myself very much. Congressman, please.

STATEMENT OF THE HONORABLE ANTHONY D. WEINER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. WEINER. Thank you very much, Mr. Chairman, Ranking Member, Members of the Committee.

Mr. Chairman, you and the Committee have a great deal of work to do in taking a look at some of the issues that affect the Statue of Liberty. Recently, a few days ago, shortly before September 11, I did what no American has been able to do since September 11, 2001. I went up the cramped helix stairwell going up into the Statue of Liberty. It was tight, it was sweaty, it was cramped and it was thrilling. It was thrilling the same way a lot of us remember it was when we were kids, when our parents or our grandparents or older brother or sister gave us a boost up so you can see out of Lady Liberty's crown.

Since September 11, every single one of the national parks that was closed on that fateful day has reopened, every single one except the one that overlooks Ground Zero. Every single monument is reopened. Every single park is reopened except the one that has "Liberty" in her name.

Ladies and gentlemen, it is a scandal that it remains true to this day. It is not the fault of Congress. Congress has on at least two occasions said to the National Park Service, "You need additional money? We will give it to you." At one point, this House in a bipartisan fashion said, "We will put an additional $1 million in, even if you didn't ask for it, for security concerns." But this is not about a failure of money. This is about a failure of creativity and courage on the part of the National Park Service. But more than that, it is a bit of scandal.

First, let us lay on the table and let us stipulate to the idea that the Statue of Liberty is closed today. Could you hand me that, Jonathan?

This is open. You can walk into the park that was made and manufactured by the United States of America. This, Lady Liberty, and the gift from France that we all know so iconically is closed. If the National Park Service comes to you and says, "Oh, but the

Statue of Liberty is open; it is open exactly the way we said we would open it," they are not telling the truth.

If you or I or any other American citizen would go in, this is about as high as we would be able to get. And if you think that that is not bad enough, let us remember the days, weeks and months immediately after September 11. We all remember the full-throated fundraising campaign that was waged to raise money to reopen Lady Liberty. We were all looking for things to do in those days, and one of the things we were told was that if you save your lids of your Folgers cans, if you buy something with your American Express card, you are going to give money that is going to reopen the Statue of Liberty.

The Statue of Liberty Ellis Island Foundation lined up celebrities, lined up Robert DeNiro, lined up all kinds of folks to help them raise money, and raise money they did. In fact, the Statue of Liberty Foundation in 2004 raised $7 million in contributions in dimes and nickels and dollars and cents; 2005, another $2.7 million; 2006, $1.7 million. And on the website, it didn't show the base of Lady Liberty. It showed her crown and her torch.

Ladies and gentlemen of the Subcommittee, you have to find out where that money went. Someone collected that money, and where has it gone? Well, to some degree, the Inspector General of the Park Services answered that question. It went to bloated salaries for the Director. It went to expenses that had nothing to do with reopening the Statue of Liberty. It went to $45,000 a year to hire a dog to chase away geese off the grounds of the Statue of Liberty.

Putting aside the money that was raised for this purpose and not used for the purpose, putting aside the absence of creativity on the part of the National Park Service, this comes down to a question of whether we in Congress are going to finally ask the National Park Service to start to plan to reopen Lady Liberty's crown.

They are not wrong that it is cramped in there. They are not wrong that I probably wouldn't go in there if I was overweight. They are not wrong that you should probably limit the number of people, or say you can't bring bags, so you have to register in advance and buy a special ticket, and we are only going to let 30 people go up, and we are only going to allow them to go in off-hours. But tell us something. Tell us why it is that here we are all these years later and there is one iconic park that remains closed since September 11.

Now I have to tell you something. The National Park Service is an amazing institution, but I am not sure they are up to the task of figuring out how to solve this basic problem. We are never going to make that park 100 percent safe for 100 percent of visitors. But if you ask them when they sit here, "Tell us how many evacuations you have had to do from Lady Liberty's crown in the last generations," they will have a tough time counting any more than their fingers on their hand.

Is it safe for everyone to climb Devils Tower? Probably not. There are some crowded corners of this building here, but to keep Lady Liberty closed defies the will of the American people and in a way, we use this a great deal, it really does bow to the desires of the terrorists. If it had to be one park to keep closed, it should not be the Statue of Liberty.

But if you are not animated by the psychic and spiritual reasons to reopen Lady Liberty, if you are not animated by the fact of what Congress said, if you are not animated by the fact that millions of people gave dollars to it, I am going to tell you there is a real economic impact as well.

Tourism and therefore tax dollars from people visiting Lady Liberty is down. This is what it was in 2000. This is what it is in 2006. Now this is tourism in the rest of New York City. When the Park Service says, "Oh, we find that our visitors love the experience," they probably do enjoy the experience. But this is the impact that we have seen since September 11—a rise in tourism in New York City, a surge of patriotism in our country, more people wanting to experience this iconic thing, and fewer and fewer are.

So if you are not animated by the other things, we should be concerned about the visitor experience and making sure when they go there they have the experience they want.

Now, before I yield, and I appreciate the Chairman letting me go over time, one of the things that the Park Service and my colleague mentions is say, well, we are not sure how to evacuate people from this narrow stairwell. Putting aside there is an emergency elevator, putting aside there are some landings that you can use, it is. It is cramped; it is tight. They have never asked anyone, "Tell us how." All they have gone is to consultants to say, "Tell us why not," and we all know that if you ask someone, "Well, is it safe," the answer is probably going to be "No, it is not 100 percent safe." We would probably like A, B or C.

Perhaps what this committee should do is say to the Park Service, "Come back to us with a plan on how you would make it as safe as possible." Is it you want a limit on the number that you sell? I am sure that all of us can agree that there is probably some reason.

You want to have a sign like they have at the amusement parks? You have to be shorter than this and narrower than this, and you have to be one of the first 30 that sign up online so we can do a full security screen, whatever it takes. The security going into the island is the same, if not better, than we have at most airports. As my colleague mentioned, it has bomb detection and the like. But do not allow us to simply say we can't do it. We can't figure it out. I guess we are going to leave this park closed.

Let me conclude with this thought. We should not be the last generation of Americans that gets to experience this park. We shouldn't be. It is just not right, and it should certainly not be September 11, 2001, as the excuse, as lame as it is, to be used by the Park Service to keep it closed. That should not be the hook that they use to do what they might have wanted to do for years and years and years, which is to close this park.

We should not let this happen. We should all have the chance that our kids' kids and our kids' grandkids get to experience that walk to Lady Liberty's crown. Only then, and only when all the parks are reopened since September 11, will we truly be back on our feet, will we truly be expressing the ideals of the country and will we truly be doing the type of oversight and governance that this Congress should do, and I thank the Chairman.

Mr. GRIJALVA. Thank you, Congressman. I have no questions for our colleagues. Let me turn to our Ranking Member, Mr. Bishop.

Mr. BISHOP. No. I appreciate the testimony of both of our colleagues that are here. I thank you very much. I have no questions.

Mr. GRIJALVA. Mr. Brown?

Mr. BROWN. Mr. Chairman, if I might make a statement. I had the opportunity to walk up to the crown on September 8, 2001. I was in New York with my grandson. We were going to West Point for a visit, and we had dinner at the Windows on the World that Friday night and that Saturday, but the Windows of the World, you have such a great view of the statue. And so we took him over to Ellis Island, and he was 16 at the time, and it was a great experience. I know it is pretty cramped. It is a lot of people walking up those narrow steps. But the view from the crown is pretty exciting. Thank you for your testimony.

Mr. WEINER. Let me just respond that I just got chills when you told me about that day because you were one of the last to go into Windows on the World. Let us hope you are not one of the last to go into the Statue of Liberty's crown.

Mr. GRIJALVA. Ms. Christensen, any questions?

Ms. CHRISTENSEN. No, I have no questions. I just want to welcome our colleagues here and look forward to the rest of the testimony.

Mr. GRIJALVA. Thank you. Sir, questions?

Mr. GOHMERT. Thank you, Mr. Chairman, and I do appreciate your efforts, and especially my friend from New York. We have been on the opposite side of some things in Judiciary, but I really appreciate your efforts here. I have not had that opportunity to go up before, and I am still hoping that because of your efforts and others, and hopefully what we will do, I will have that chance.

I am curious. You brought up the $45,000 a year for a dog to chase geese. I am unfamiliar with the going rate in New York. Is that too much for a dog to chase geese in New York? I am not familiar with the going rate.

Mr. WEINER. I would say to the gentleman from Texas, I would do it for much less. But there was an Inspector General's report that looked at the wasting of money and looked at a lot of other things about the management of the Statue of Liberty and found it wanting. But I think the biggest problem is just that the money was raised under false pretenses. The money was not raised to hire dogs to chase geese.

Mr. BROWN. Do you know what money is left?

Mr. WEINER. Well, here is what the foundation has now, and the Park Service has backed them up and said, well, we needed the money for other elements of upkeep of the Statue of Liberty, so it was diverted to other things. It might have been very valuable, but American Express, for example, was so frustrated with the characterization of this as reopening the Statue of Liberty that they withdrew their support from the organization. They could not have been happy with the six-figure salaries of the Executive Director of the organization.

But the argument that is made by the Park Service and this foundation is, "We never said we would open every inch of the crown. We said we would open Lady Liberty." And that is why I

made the point at the beginning that none of it has yet been opened.

Mr. BROWN. Well, I appreciate those comments, and I do think it would behoove us to find out because I remember, like you said, when people poured out their hearts and their pockets under the context or ruse that we are going to open up the statue, and it was the crown that was the emphasis. So I hope we are able to help Mr. Weiner's efforts. Thank you all very much.

Mr. GRIJALVA. Thank you, sir.

Mr. SIRES. Can I just add, even when the crown was open, not everybody chose to go all the way up to the crown? So it is not a question that everybody is going to go up to the crown. It is tight, it is hot, but the moment when you get up to this crown and you see what the Statue of Liberty stands for is beyond description. So I hope you consider this. Thank you.

Mr. GOHMERT. Mr. Chairman?

Mr. GRIJALVA. Yes, sir.

Mr. GOHMERT. Can I have unanimous consent to ask a question? I don't know. Do we ever have waivers in a place like this for people to sign before they undertake something that may be risky? Does the Chairman know?

Mr. GRIJALVA. We are going to have the witness from the Park Service coming up.

Mr. GOHMERT. Do you know?

Mr. GRIJALVA. We will be in a position to ask them.

Mr. GOHMERT. All right. Thank you.

Mr. WEINER. If I can speak out of order for one moment to say this, is that the ticket sales that go on and security that is done is all offsite at this point. I shouldn't say all offsite. But there is a system to allow people to purchase tickets online and to get them in advance of them getting there. And there is nothing stopping the Park Service from saying, "If you choose ticket B rather than ticket A, here are the limitations, and you have to affirm that you are prepared to live up to them."

I can tell you something. If I wanted to strap on a harness and climb Devils Tower tomorrow, I doubt very much the Park Service would say, go ahead, knock yourself out. I mean, they probably have limitations.

Mr. GRIJALVA. Perhaps after your testimony today they might say OK.

[Laughter.]

Mr. GRIJALVA. Mr. Inslee.

Mr. INSLEE. Thank you. I really appreciate you fellows' leadership on this, and the reason to me is a symbolic one. This is a great symbol for the country, and it does remind me a little bit of Franklin's quote, those who sacrificed a little liberty to get a little security deserve neither and will lose both, and I think that that applies to this situation. So I really appreciate your trying to prod a solution here.

What I hear the Park Service, through you, saying is that there is risk associated. Maybe there is a little more risk going up these stairs than most stairs that we have in our Federal system. But I went up a ladder, I remember, up to go see a Kiva at the national park at, I think it is, is it Bandelier National Park in New Mexico,

and it was kind of an old—it looked like kind of a Native American ladder. Maybe there was a little more risk going up that, but I think in our park system, risk is part of the experience, and in certain circumstances, the Devils Tower, when you go up Mount Rainier, you go up that ladder, there might be a little higher risk.

Tell us, there has got to be a way to get a person down those stairs if you are going up. We do a lot of mountain rescue in Washington State, and we bring people down off cliffs, and there has just got to be a way to be able to do that. Isn't there some way to do that?

Mr. WEINER. Well, look, I mean, the Park Service is going to be here. I can tell you what my experience is just having been there. It ain't easy. The fire department from New York City would be called, and they do difficult rescues all the time. It is basically a one-person-wide stairwell. There is a YouTube video that is up now with me doing it, and you can see how cramped it is. There are landings from place to place that if someone needs to you can sit someone down. There is an emergency elevator that is small but for a person to get them up and down. It is not easy. It is not going to be easy to do it.

Now, if you ask the Park Service how frequently they have had to do that, how frequently they have had a bomb scare or how frequently they have had to bring someone down, the Superintendent with whom I took the tour said that she couldn't recall if there was ever a time, maybe one or two.

I am sure it happens. I think we have to be careful not to let the hypothetical deter the everyday experience. This is not for everyone. It is very cramped and that is part of the thing. It is about 10 degrees warmer in there easily than it is outside, but every so often on the helix, it is a double helix, every so often on the helix there is a landing that if you needed to just go and sit, it is cramped, you could do it, but it probably would be difficult. And I know the fire department was invited here, and I think they made the decision it is not really their fight. They will rescue whoever needs to be rescued. But I think that should be the question the Subcommittee asks.

Mr. INSLEE. We will do that. The people who answered Lady Liberty's call took a little risk coming to this country, and I think taking a little risk here is appropriate, and I am going to be encouraging the Park Service to find a solution to this, and thanks for prodding us. Thank you.

Mr. WEINER. Thank you, Jay.

Mr. GRIJALVA. Thank you, gentlemen. Any questions, sir?

Mr. COLE. No.

Mr. GRIJALVA. No. Thank you very much. You are more than welcome to join us on this committee hearing and participate, and thank you very much.

Mr. WEINER. Thank you, Mr. Chairman.

Mr. SIRES. Thank you, Mr. Chairman.

Mr. GRIJALVA. If we could ask Deputy Director Wenk from the National Park Service, and then we will begin that part of the testimony.

Mr. WENK. Good morning.

Mr. GRIJALVA. Thank you, sir, and welcome, Mr. Deputy Director. Just for the ground rules, your testimony in its entirety will be made part of the record, and we look forward to the five minutes of your summation, and then we will have an opportunity for questions and answers. Thank you, sir. Welcome.

STATEMENT OF DANIEL N. WENK, DEPUTY DIRECTOR, NATIONAL PARK SERVICE

Mr. WENK. Mr. Chairman and Members of the Committee, thank you for the opportunity to appear before you today to provide an update on the management issues at the Statue of Liberty National Monument and Ellis Island. In particular, my testimony will focus on two critical and timely issues facing the park—public access to the Statue of Liberty's crown and the award of the ferry concession contract. Accompanying me today is the Superintendent of the Statue of Liberty National Monument and Ellis Island, Cynthia Garrett, and the Chief of the National Park Service Concession Program, Joe Pendry.

A gift from the people of France commemorating friendship, the abolition of slavery and a democratic government, the Statue of Liberty enlightening the world is one of the world's most recognizable icons. The Statue of Liberty is a symbol, a work of art set on a pedestal that was designed to be viewed from the harbor where it served as a visible symbol of the new world and new opportunities for people arriving in America.

Our primary concerns about public access to the Statue of Liberty's crown are safety and health concerns, not terrorism. While we can never completely eliminate all security risk, we are satisfied that the measures and operations put into place at this international icon address the security concerns raised by the events of September 11, 2001.

The Statue of Liberty's architect never intended or designed the Statue of Liberty as something to enter or climb. The interior of the statue structure is accessible only by a very narrow, double-helix spiral staircase originally installed for periodic use by maintenance workers, not for sightseeing or for daily use by the general public.

Over the past seven years, the National Park Service has worked with architectural and engineering firms and has had them perform numerous fire protection and emergency management assessments. These assessments determined that the interior of the Statue of Liberty did not meet minimum health and safety standards required by applicable building codes. The experts have been unable to identify any feasible options that would allow the area between the statue's observation deck and her crown to meet code requirements. Therefore, based on health and safety issues, the public is no longer allowed access to the interior of the statue, including the crown.

The Federal government must be held to the highest standards for public safety. As the stewards of the 391 park units across the nation, NPS policies require us to enforce as minimum standards the most current version of fire prevention and life safety codes.

In addition to the concern about fire, we must also consider and provide access so emergency personnel can respond to medical

emergencies within the statue. Today, visitors have full access to Liberty Island and the interior of the pedestal, all the way up to and including the observation deck. There are now more options for visitors, including ranger-led programs, a museum and a new glass ceiling viewing area at the top of the statue's pedestal. We are working hard to improve the quality of the entire visit to the Statue of Liberty from the moment someone begins planning their visit on the ferry ride over and their entire time at Liberty Island.

I will now turn to the issue of the new ferry service concession contract for the Statue of Liberty and Ellis Island. Before visitors ever set foot on Liberty Island, their park experience begins with our ferry concessionaire as they plan their trip and purchase ferry tickets. Concessionaires at this historic park provide critical commercial visitor services. They provide visitors with food, beverage and merchandise services as well as transportation to and from Liberty and Ellis Islands.

The National Park Service recently announced the selection of a new concessionaire, Hornblower Yachts, Inc., to provide ferry services using the business name Statue Cruises under a 10-year contract. Statue Cruises will serve as the first point of contact for many visitors to the park. This new concessionaire is very capable and excited to provide our visitors not only safe transport but also a high-quality, informative visit to the park. The new contract will be awarded following the congressional review and is scheduled to take effect on January 1, 2008.

The National Park Service worked diligently on the prospectus development and the proposal evaluation under an accelerated timeframe. Our commitment to these processes ensure that the solicitation for the ferry service concession contract was top-notch and incorporated lessons learned from other prospectuses and newly awarded contracts.

We received six comprehensive competitive offers from highly experienced and credible ferry operators. All proposals were responsive and contained innovative and creative approaches to addressing our objectives for the new concession contract.

We believe the new contract will provide the American public and all visitors to this historic site a better experience and that this contract will demonstrate the great strides the National Park Service has made in concession contracting to meet the improvements sought by Congress when the Concessions Management Improvement Act of 1998 was passed. It enhances visitor services, improves environmental responsibility, protects the park resources, ensures assets are properly maintained and affords the concessionaire a fair opportunity for a profit while providing a franchise fee to the park for use on high-priority visitor services.

In conclusion, the National Park Service is dedicated to providing the highest level of visitor services to the public who visit the Statue of Liberty and Ellis Island. We are also committed to protecting visitors from documented health and safety risks. The current management policy of limiting public access to the statue's crown is in our opinion the best way to provide an enjoyable and enriching experience while not exposing visitors to unnecessary risk.

The award of a new ferry concession contract shows that we have made a great deal of progress toward improving our concessions

program and toward helping ensure these contracts protect park resources, provide quality visitor services to visitors and offer fair business opportunities.

This concludes my testimony. I would be happy to answer any questions you or other committee members may have.

[The prepared statement of Mr. Wenk follows:]

Statement of Daniel N. Wenk, Deputy Director, National Park Service, U.S. Department of the Interior

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you today to provide an update on management issues at the Statue of Liberty National Monument and Ellis Island. In particular, my testimony will focus on two critical and timely issues facing the park—public access to the Statue of Liberty's crown and the award of the ferry concession contract.

Accompanying me today is the Superintendent of the Statue of Liberty National Monument and Ellis Island, Cynthia Garrett, and the chief of the National Park Service Concessions Program, Jo Pendry.

A gift from the people of France commemorating friendship, the abolition of slavery, and democratic government, the statue "Liberty Enlightening the World" is one of the world's most recognized icons. She endures as a powerful symbol, inspiring contemplation, debate, and protest, of such ideas as liberty, freedom, human rights, democracy, and opportunity.

The Statue of Liberty is a symbol, a work of art set on a pedestal, that was designed to be viewed from the harbor where it served as the visible symbol of a new world and new opportunities for people arriving in America. Her design was a great technological achievement of its time and continues to represent a bridge between art and engineering.

The Statue of Liberty's architect, Fredric Bartholdi, never intended or designed the Statue of Liberty as something to enter or climb. Only later did the War Department caretakers begin to take some curiosity seekers inside the sculpture. By the time the National Park Service (NPS) began administering the site in 1933—when there were less than two hundred thousand visitors—the NPS had inherited a public expectation of access to the Statue's crown. They managed access in keeping with the level of awareness of dangers and understanding of public safety at the time. Even so, the limited capacity of the Statue meant that a relatively small percentage of visitors to Liberty Island could be accommodated inside the Statue and that many were disappointed in not being able to visit inside.

Visitation to the Statue has grown tremendously over the past half century. In 1950, there were only about half a million visitors to the Statue of Liberty annually. In 2006, however, more than 2.5 million people visited Liberty Island. With this increase in visitation came additional challenges for public health and safety.

Visitors used to be able to climb to the Statue of Liberty's torch. In 1916, the torch was closed for safety reasons. Visitors used to be able to climb to the Statue's crown. It too, is closed now because of visitor health and safety issues.

Horrendous tragedies like the Triangle Shirtwaist Factory fire in New York, the Coconut Grove fire in Boston, and the recent Station nightclub fire in Rhode Island have focused attention on the continual need to strengthen and enforce fire and building safety codes in order to protect the public in cases of fires and other emergencies. Over time, state and local fire and building safety codes that have the potential to save countless lives have been developed and improved.

The Federal Government must be held to the highest standards for public safety. As stewards of 391 park units across the Nation with an overall annual visitation of 273 million, National Park Service policies require us to enforce, as minimum standards, the most current version of the National Fire Protection Association's Fire Prevention and Life Safety Codes.

Our primary concerns about public access to the Statue of Liberty's crown are safety and health concerns, not terrorism. While we can never completely eliminate all security risks, we are satisfied that the measures and operations put into place at this international icon address the security concerns raised by the events of September 11, 2001.

Today, visitors have full access to Liberty Island, to the star-shaped historic Fort Wood, and the interior of the pedestal all the way up to and including the observation deck that affords visitors with wonderful, 360 degree panoramic views of New York Harbor.

The interior of the Statue structure is accessible only by a very narrow, double-helix spiral staircase with a low guardrail. This staircase was originally installed

for periodic use by maintenance workers, not for sightseeing or for heavy, daily use by the general public. This staircase does not meet national, state or local fire and building codes for headroom clearance, riser height, tread width, or the requirements for guardrails. Therefore, the public is no longer allowed access to the interior of the statue including her crown.

Climbing the steep, spiral staircase that rises 12 stories up through the Statue's interior is a difficult feat even for people in excellent health and under ideal conditions. The narrow spiral staircase barely fits within the superstructure that supports the Statue and is at best, one person wide. A key danger is that once a visitor begins the climb, turning back before reaching the crown is nearly impossible. Each person is blocked by hundreds of people in front and behind. There is only one way out.

In 2000, the NPS was criticized in the media for disregarding fire and safety code violations at the Statue of Liberty. The Bergen Record wrote:

> *Despite warnings that even a small fire in the Statue of Liberty could be deadly, the U.S. government has failed to take some safety precautions that would protect the throngs who make the long pilgrimage to the statue's crown each day. (October 29, 2000)*

We knew that the public had grown to expect to be able to visit the Statue's crown, and we also realized the validity and the seriousness of the warnings. To guide the efforts to improve health, safety, and emergency management at the Statue of Liberty, the NPS began working with several well-respected architectural and engineering firms specializing in life safety. Over the past 7 years we have had them perform numerous fire protection and emergency management assessments. In addition, numerous site reviews were conducted by the New York City Fire Department.

These evaluations all agreed on several key points and identified significant concerns. They determined that the interior of the Statue of Liberty did not meet minimum health and safety standards required by applicable building codes. The most serious issues related to: (a) egress, (b) visitor circulation and movement inside, and (c) lack of fire separations.

Before allowing visitors back inside the pedestal in August 2004, the NPS reduced life and safety risks by aggressively addressing the majority of fire, safety, and evacuation deficiencies that had been identified for the lower levels of the monument (e.g., pedestal). For example, exterior staircases were added to Fort Wood to increase the number of egress routes and decrease egress time from the interior of the pedestal.

In June 2006, the NPS asked John B. Waite Associates, Architects to review the Statue's 2004 renovations. This review concluded that the NPS has made reasonable modifications to allow visitor access to the lower portions of the national monument up to and including the observation deck. In his letter to NPS accompanying the report, Mr. Waite stated: "These modifications allow a meaningful and rewarding experience for visitors, while greatly improving life safety and security." However, the letter goes on to say that "...the interior spaces within the statue above the observation deck continue to be unsafe for visitors when evaluated against minimum safety standards established by prescriptive building codes including the International Building Code (IBC), the Building Code of the City of New York (BCCNY), and the National Fire Protection Association (NFPA) Code 101".

According to all three of these codes, the interior of the Statue of Liberty above the pedestal is unsafe for public use because of three main reasons. First, the stair width, height, and depth are well out of compliance with established standards. Safe evacuation of people during an emergency would be difficult, and carrying an incapacitated person down the stairway would be an arduous task. Second, the stairs are not enclosed and do not provide safe passage to an exit. Although the 2004 renovations improved fire detection and suppression systems throughout the monument to reduce the risk of fire, the potential for a fire still exists. Should a fire occur, there is no way for people trying to leave the Statue to safely escape smoke or heat. Finally, according to code, people should be able to reach safe conditions in about 2 1/2 minutes. At the Statue of Liberty, under the most ideal conditions, climbing down the narrow, winding stairway inside the Statue and then down the pedestal to safe conditions outside on Fort Wood would take about 5 to 8 minutes—up to 3 times the minimum standard. In emergency conditions, it could take even longer.

Back in 2004 and continuing to today, the structural fire and safety experts have been unable to identify any feasible options that would allow the area between the Statue's observation deck and her crown to meet code requirements or even the intent of those requirements. There is no room for construction of an alternative staircase. An alternative such as constructing a 22-story tower for a new staircase next to the Statue, and cutting through the Statue of Liberty's copper skin to build a

bridge connecting the Statue of Liberty and the tower in order to allow safe egress is an unacceptable option.

In addition to the concerns about fire, we must also consider and provide access so emergency personnel can respond to medical emergencies. Health threats and incidents significantly increased during warm weather—coinciding with our busiest seasons—when temperatures inside the Statue register about 20 or more degrees higher than outside air temperatures. These incidents happened regularly and included heat exhaustion, claustrophobia, fear of heights, vertigo, and panic attacks. Whether a medical incident was minor or serious, the logistics presented serious challenges. To reach an injured or ill person on the staircase, everyone on the staircase must turn around, and come down the stairs to allow emergency responders to re-climb the stairs with appropriate medical gear. This results in a delay to reach people with potential, life-threatening medical problems.

We have also realized that while our visitors knew of the Statue of Liberty, they didn't know about her. We have shifted our focus to improve the overall visitor experience and to increase programming to tell the stories of the Statue of Liberty and share her meaning. Prior to 2001, less than 3 percent of visitors participated in park programs. Today, about 22 percent of our visitors take advantage of these programs.

There are now more options for visitors. They can go on a variety of ranger-led programs, tour a museum, see views of all of New York Harbor from the observation deck, and see inside the Statue through a new glass-ceiling viewing area at the top of the Statue's pedestal. We have enhanced the lighting that highlights her architectural and engineering elements and we show video images of the Statue's interior so that visitors have an enhanced opportunity to appreciate her as both a work of art and as an engineering marvel.

We are working on other ways to ensure visitors have an outstanding experience and to offer those experiences to more people. Our goal is to increase by 50% or more the number of visitors who can go inside the monument and we aim to double the number of visitors who take part in interpretation programs on Liberty Island outside the Statue. We are also developing a new "Discovery Liberty!" project for visitors who for whatever reason cannot go inside the monument. This program creates opportunities for visitors to uncover and experience the stories and symbolism of Liberty Island and the Statue of Liberty.

The Statue of Liberty is being experienced as intended, from the waters of the harbor and from viewpoints on Liberty Island. Even without access to the crown, thousands of visitors every day enter the base and travel up the pedestal to observe the inside of the statue from a safe vantage point, then walk outside to the top of the pedestal to enjoy a spectacular view of New York City and its boroughs, New Jersey, and the harbor.

We recognize that closing access to the crown, even for very good reasons, is a deeply emotional issue and one that conflicts with the expectations that many people hold. We are working hard to improve the quality of the entire visit to the Statue of Liberty—from the moment someone begins planning their visit, on the ferry ride over and their entire time on Liberty Island. I invite you to visit the Statue of Liberty to experience these opportunities, and to come away inspired by everything that Lady Liberty represents and offers.

I will now turn to the issue of the new ferry services concession contract for the Statue of Liberty and Ellis Island.

Before visitors ever set foot on Liberty Island, their park experience begins with our ferry concessioner as they plan their trip and purchase ferry tickets for the exciting ride from either the Battery in Lower Manhattan or Liberty State Park in New Jersey. A trip to the Statue of Liberty and Ellis Island is more than a boat ride. It is a journey along the path taken by millions of Americans as they began a new life of freedom and opportunity. And it is a way to enjoy the scenic beauty of New York Harbor with its magnificent skyline and towering buildings.

Concessioners at this historic park provide critical commercial visitor services. They provide visitors with food, beverage and merchandise services, as well as transportation to and from Liberty and Ellis Islands. The NPS recently announced the selection of a new concessioner, Hornblower Yachts, Inc., to provide ferry services using the business name of Statue Cruises, LLC, under a 10-year contract. The previous contract generated $36 million revenue in 2006. Statue Cruises will serve as the first point of contact for many visitors to the park. This new concessioner is very capable and excited to provide our visitors not only safe transport, but also a high-quality, informative visit to the park.

The NPS released a prospectus for the operation of interpretative ferry services on December 28, 2006. This prospectus provided information for potential offerors to develop a proposal for providing ferry services. It also emphasized and sought answers to important improvements needed in the visitor services at the Statue of Lib-

erty and Ellis Island. For example, we asked offerors to tell us how they would improve visitor experiences from trip planning all the way through the completion of the visit to the park. We asked them to describe the reservation and ticketing system they would use to better manage the high volume of visitors to this park. We also asked them how they would more effectively use both embarkation locations and alleviate long wait times.

The NPS worked diligently on the prospectus development and proposal evaluation under an accelerated timeline. We welcomed and cooperated with the Department of the Interior Inspector General's Office who monitored the entire process. Our commitment to these processes ensured that the solicitation for the ferry service concession contract was top-notch and incorporated lessons learned from other prospectuses and newly awarded contracts.

Proposals were due to the NPS by April 27, 2007. We received six comprehensive competitive offers from highly experienced and credible ferry operators. All proposals were responsive and contained innovative and creative approaches to addressing our objectives for the new concession contract. The NPS convened a panel of qualified NPS employees that evaluated all proposals and recommended that Statue Cruises be awarded the contract. Based on this recommendation, the Regional Director selected Statute Cruises for the award of the new contract. The contract was sent to Congress on July 25, 2007 for the required 60-day notice period. The new contract will be awarded following the congressional review and is scheduled to take effect on January 1, 2008.

To allow for a seamless transition for our visitors to the new concessioner's operations, the current concessioner agreed to a short continuation of services. The current concessioner has also agreed to work with the park and Statue Cruises to ensure a smooth changeover and no negative impacts to the public.

Our experience with the prospectus development, proposal evaluation, and selection process is an exceptional example of how visitor services in national parks are being improved under the provisions of the Concession Management Improvement Act of 1998. The NPS embraces the Act's goal of increasing competition while protecting park resources and providing necessary and appropriate visitor services at reasonable rates.

The new contract will make trip planning and the ferry ride to and from these international icons convenient, educational, customer-service oriented, and environmentally conscious.

Some of the highlights of the new concession contract with Statue Cruises include:

- A focus on visitor convenience, experience and customer service, to include improved visitor embarkation facilities; greeting and offering assistance to visitors at ticketing, embarkation and disembarkation sites; new educational and orientation signage; an opportunity for visitors to record their impressions; a narrated multimedia presentation on the island cruises; and online chat capability with customer service representatives.
- A new multi-lingual reservation and ticketing system for dated and timed ferry tickets, sales of the park audio tour, and distribution of monument passes. System features include ticket sales via the phone or Internet; ability to print tickets from personal computers; a multi-lingual call center, remote kiosks, and walk-up sales; a "concierge hot line" for hotels; and no-cost exchange of ferry tickets for island cruise tickets to reduce waiting times.
- An improvement to the visitor experience by incorporating park stories into the ferry services through approved media, to include new signs, exhibits and educational panels; on-board audio tours in combination with ferry tickets; podcasts and video-on-demand casts available from the web site; and new exhibits and educational programs at embarkation and docking facilities. By utilizing newer technology such as podcasts, we hope to attract younger visitors who are more interested in interactive media at park units.
- An extensive upgrade to the existing fleet of seven vessels, to include an environmentally progressive plan to retrofit the ferries to meet stricter emissions standards. Additionally, the new island cruises will be provided using a new reduced-emission battery-powered solar and plug-in "Trybrid" vessel to be available at the end of the second year of the contract.
- New island cruises where passengers remain on the vessel and view the Statue of Liberty and Ellis Island from the water within park boundaries while listening to or watching on-board interpretative media. The tour will be a welcome alternative for visitors wanting to avoid long lines during peak season, who have limited time for their visit, or have limited mobility that prevents them from walking around the two islands.

We believe the new contract at the Statue of Liberty National Monument and Ellis Island will provide the American public and all visitors to this historic site a

better experience, and that this contract will demonstrate the great strides the NPS has made in concession contracting to meet the improvements sought by Congress when the 1998 law was passed. It enhances visitor services, improves environmental responsibility, protects the park resources, ensures assets are properly maintained, and affords the concessioner a fair opportunity for a profit while providing a franchise fee to the park for use on high priority visitor services. We will now transition from the old concession operation to the new operation, implement the contract with Statue Cruises as written, and enforce its provisions in a manner consistent with the law and regulations.

We will work with our new concessioner as we do with all our concessioners—in a mutually beneficial relationship to ensure all parties are successful and achieve the goal of outstanding visitor services.

In conclusion, the NPS is dedicated to providing the highest level of visitor services to the public who visit the Statue of Liberty and Ellis Island. We also are committed to protecting visitors from documented health and safety risks. The current management policy of limiting public access to the Statue's crown is, in our opinion, the best way to provide an enjoyable and enriching experience while not exposing visitors to unnecessary risks. The award of the new ferry concessions contract shows that we have made a great deal of progress toward improving our concession program, and toward helping ensure these contracts protect park resources, provide quality service to visitors, and offer fair business opportunities.

This concludes my testimony. I would be happy to answer any questions you or other committee members might have.

Mr. GRIJALVA. Thank you, and I am going to begin just focusing on the discussion, the first part of your testimony having to do with the statue and then when we get another turn to ask questions relative to the concessionaire contract.

Let me go to the point that Congressman Weiner brought up having to do with the fundraising campaign. Did that money as it was raised become Federal money, by that I mean controlled by the National Park Service, or was it controlled by the private entity, the foundation that was doing the fundraising?

Mr. WENK. I believe the money was actually controlled by the partner organization that raised the money and directed to projects that were mutually agreed on between the National Park Service and the partner.

Mr. GRIJALVA. So the coordination of the expenditure of that money was between the National Park Service and the foundation?

Mr. WENK. That is correct.

Mr. GRIJALVA. And let me ask an interpretation question. If the fundraising campaign as described by the Congressman was such that the effort was to open in the full sense of the word the Statue of Liberty, some of the decisions I could surmise for myself were not consistent with that campaign. Am I misreading that?

Mr. WENK. I believe that of the monies that were raised, approximately $6 million was spent within the pedestal area of the statue and also providing the visible access into the statue herself. So those monies were expended in order to make possible access, once again dealing with current life, health, safety and fire codes for the pedestal area.

Mr. GRIJALVA. OK. But as I understand it, the premise of the campaign was to open the statue after 9/11 for full public access, and that included the crown at the time. There was the perception that was the case. And you redefined "open." There was a great deal of disappointment on the part of the donors and the campaign, people that were giving money, and that is the impression I had.

Mr. WENK. I think it certainly does not appear to be that there was any kind of distinction made in terms of that it was only going to be to the pedestal. I think there was still active debate within the National Park Service whether or not we could in fact open the statue all the way to the crown at that time or not. I think there was no intention to mislead the public with the campaign.

Mr. GRIJALVA. But you can appreciate the disappointment.

OK. Prior to 9/11, the National Park Service commissioned a fire protection and egress study for the Statue of Liberty which concluded, and I quote from it, "Although significant, the fire protection concerns at the Statue of Liberty are not necessarily of such magnitude that access to the statue interior and crown viewing area should be positively deemed off limits to the general public."

My question is, what has changed since that report prior to 9/11 when it was released that no longer makes that conclusion applicable or relevant?

Mr. WENK. I believe it is a greater appreciation for the risks with which we are putting the visiting public. At the time that the statue was closed in 2001, we have had the opportunity not only with that study but subsequent studies to fully understand and comprehend the situation with life, health, safety codes within the statue herself, also the improvements that were necessary in the pedestal area.

I believe that we now know that it does not meet any international, national, local or fire protection codes to put visitors inside the pedestal because of the steepness of the stairway, the clearances, the width of the treads on the stairs themselves as well as compartmentalizations that is necessary in terms of smoke and fire. And we have in fact looked at other opportunities or options, and we believe none of them can be achieved without having a negative impact on the structure itself.

Mr. GRIJALVA. The Park Service has its own regulatory authority over the park sites.

Mr. WENK. Our regulatory authority, we defer to national and local building codes, and it is our position that we will follow those codes by policy as a minimum standard.

Mr. GRIJALVA. OK.

Mr. WENK. It is our policy that we will follow those codes as a minimum standard.

Mr. GRIJALVA. Consistent with that policy, sir, and this will be my last question, the arch in St. Louis, the Washington Monument have very tight spaces that are accessible to the public. Do you consider those sites to be safe for the public and the crown at the statue not?

Mr. WENK. Actually, I will use the example of the Washington Monument. The interior stairways, those, for example, have the width, they have the treads that it is considered within the life, health, safety codes for access. It is a different situation than the Statue of Liberty in terms of the amount of space, the steepness, tread width, handrail height, clearances for head clearance, et cetera, that do not exist, for example, at the Washington Monument.

Mr. GRIJALVA. At the discretion of this committee to ask for and insist upon some alternative plans to promote access by the public

to the crown, at least in your testimony, you don't eliminate that possibility entirely, do you, or do you?

Mr. WENK. I believe certainly we would look at any requests that our committee will direct us to do or Congress would direct us to do. We believe that we have made inquiries in terms of what could we do to make it accessible. We would continue to look if so directed by the Committee.

Mr. GRIJALVA. With that, my time is up. Mr. Bishop.

Mr. BISHOP. Thank you, Mr. Wenk. I appreciate you being here. Let me see if I understand this correctly. What you are saying, there is a difference in the Park Service estimation between national security issues and safety issues?

Mr. WENK. Yes.

Mr. BISHOP. And what you are talking about here is this is a safety issue, not a national security issue?

Mr. WENK. We believe that we have put the security measures in place that provide adequate security for the memorial both at the debarkation points and also at the island itself, and so we are dealing with a safety issue for access to the crown itself.

Mr. BISHOP. That was a yes?

Mr. WENK. Yes. I am sorry.

Mr. BISHOP. Is the second Floor on Independence Hall open?

Mr. WENK. I am sorry. I can't answer that question.

Mr. BISHOP. Last time I went there that was closed to the public as well. Well, OK. If you are going to open stuff, I would like that added to the list of stuff that you need to open.

So what you are basically telling me is the French did a lousy design on the interior of the statue and they are to blame because they screwed it up again.

Mr. WENK. I am not saying that.

Mr. BISHOP. Oh.

Mr. WENK. I am saying that it was never intended for public access, only maintenance activities when they used to go to the crown, for example, or excuse me, to the torch.

Mr. BISHOP. The Park Service has looked at possibilities of improving the staircase in the past, I am assuming?

Mr. WENK. Yes, we have.

Mr. BISHOP. One of the contentions that was made is that the premise upon which you looked at those improvements was not how to make it happen but how to justify not making it happen. Do you deny that premise?

Mr. WENK. Yes, I deny it. We have asked the question of the architects and engineers who have looked at what might be possible.

Mr. BISHOP. Can I also ask you, in the chart that the Congressman from New York presented, there was a spike in 2005 of about half a million new visitors. That went down about a million visitors in 2006. Does the Park Service have a reason for that tourist visitation spike in 2005 that stands out in the five-year run?

Mr. WENK. I am not familiar with the chart that was shown. I am looking at the park visitation numbers that I have. I show total visits to Liberty as 2,531,000 in 2005 and 2,515,000 in 2006. Total visits to both Liberty and Ellis only decreased about 50,000 people during those two years. So I don't have that same spike in our visitation statistics.

Mr. BISHOP. Have your staff check your website. That is where we got these from.

Mr. WENK. I will do that.

Mr. BISHOP. Let me ask one other thing as well. They have talked about the money that was raised in the private campaign. How long did that private campaign to open up the Statue of Liberty last?

Mr. WENK. I would have to ask Superintendent Garrett if she has the answer to that. Do you know?

About 16 months, sir. Six to eight months, sir. I am sorry.

Mr. BISHOP. I think the consensus has been at least the impression for what purpose the money was used is different than how it was used. Did the Park Service do anything to remedy that, to change, especially after the audit came through? Did the Park Service do anything about those reports that came back?

Mr. WENK. I guess I would, sir, with your permission ask Cynthia Garrett to come up and answer that question. I do not know the answer to that.

Mr. BISHOP. Please. Can you just give your name for the record as well?

Ms. GARRETT. Sure. Good morning. My name is Cynthia Garrett, and I am the Superintendent of the Statue of Liberty and Ellis Island. Thank you.

The money as we understand it, and we looked at the records of the foundation and the money that they spent, that they raised on the campaign, the money was used all for improvements to help reopen the monument to visitors.

Mr. BISHOP. So you are satisfied with the way the money was expended?

Ms. GARRETT. Yes.

Mr. BISHOP. OK.

Mr. WENK. Some of the expenses, sir, that were mentioned earlier that were paid out of the endowment from the foundation were not part of the fundraising campaign itself. I do know that.

Mr. BISHOP. OK. I am assuming there will probably be some other questions about that for both of you. And Mr. Wenk, after we have our third panel, I am sure there are going to be some other questions that deal with the contract itself, and I would hope that you would make yourself available to answer those questions if they are submitted to you in writing.

Mr. WENK. I would be pleased to do so.

Mr. BISHOP. Thank you. I will yield.

Mr. GRIJALVA. Thank you. Mr. Hinchey, any questions?

Mr. HINCHEY. Thank you very much, Mr. Chairman, and Mr. Wenk, thank you for being here. It is very nice to have this opportunity to listen to you about this very important subject.

I am a citizen of the State of New York and former resident of Manhattan, so I have a deep appreciation for the Statue of Liberty and a deep sense of frustration over the fact that it is still not fully reopened after it closed down as a result of the attack of September 11, 2001. And as far as I know, this is the only national monument in the country that remains closed. So I am wondering if you can give us the explicit reasons why it is still closed, why appropriate

action is not being taken to open it fully and completely and what exactly you are going to do to bring that about.

Already there has been something in the neighborhood of $500 million that has been contributed by people all across the country to the reopening of the monument. Nevertheless that hasn't seemed to have any effect on the ability of the National Park Service to really address this issue the way it needs to be addressed. So if you could just tell us that, what your intentions are. What are the Park Service intentions? When are you going to open the Statue of Liberty?

As far as I know, the only part that is open now is the part that is constructed here in our own country. The entire French part, to follow up on Mr. Bishop's question, the entire French part of the statue is still closed. That doesn't make any sense. So I am interested in what your plans are and how soon you think that the monument will be completely open.

Mr. WENK. The present plans of the National Park Service are not to open the statue itself to the public, and we will not open it because it does not meet life, health, safety codes and fire codes, whether those are international, national, local life, health, safety codes.

Mr. HINCHEY. What are you going to do to address those safety and fire codes? How are you going to correct them? How are you going to bring them about to a position where you will start feeling comfortable in reopening it?

Mr. WENK. We have discussed the potential to reopen it with the architectural and engineering firms. We do not believe that we can provide access.

Mr. HINCHEY. Why not? Why don't you discuss that?

Mr. WENK. We have discussed it, sir.

Mr. HINCHEY. Oh. Well, what is the result of those discussions?

Mr. WENK. Without considerable modifications to the statue itself, without some kind of exterior access in and out of the statue, we cannot make it safe according to the international, national, local, and fire codes.

Mr. HINCHEY. So you are saying that based upon your analysis and the cooperation that you have with this architectural firm that there is no way of making that safe and secure? There is no way of opening it?

Mr. WENK. What I said, sir, in using just the interior without modifying the actual structure of Lady Liberty herself I am told that we cannot provide access and meet the code requirements.

Mr. HINCHEY. Well, that seems very odd to me. I have been in that statue, and the statue was open for a long, long time, only closed down around the middle of September of 2001. So if it was safe for people prior to September 11, 2001, and it was safe for many, many years for people to go in there, why isn't it safe anymore, and why was it closed on the basis of the attack of September 11? And now you are saying it remains closed not because of anything to do with that attack but because your assertion is that it is just not safe to have it open. Why was it safe then and not safe now?

Mr. WENK. First of all, I do not know what the exact codes were at the time that the public was allowed access to it initially. That

may have met the codes at that time. Life, health, safety codes do evolve. However, I can say that it was closed after September 11 because of the security concern initially. We used that opportunity to evaluate the life, health, safety codes, the fire codes, and it does not meet those codes and has probably not met those codes, sir, for a number of years, so it probably was not safe for a number of years.

Mr. HINCHEY. Will you give us a written statement showing in detail what it is specifically about those codes that you reference that are not being met and what it would take to get us to a situation where those needs would be fully and completely met and why in the interim that statue cannot be reopened simply on the basis of the way it was prior to the attack of September 11?

Mr. WENK. Yes, I can. We can provide that.

Mr. HINCHEY. We know there is no place in the country, no park, including the Washington Monument, that is absolutely risk-free. So we don't anticipate that the Statue of Liberty is ever going to be completely risk-free. People walking up those stairs might slip, someone might have a minor accident, all of those things are possible. But that is possible in the Washington Monument. It is possible in many ways in virtually any national monument all across the country.

So it is very difficult for us to understand why the Statue of Liberty has been isolated among all the national monuments and not open to the public in spite of the fact that huge amounts of money have been contributed and this Congress is in the position to provide the financial resources to deal with the needs of that monument to open it up.

So if you would kindly give us all of that information, what the problems are and what it would take to realize the full potential of reopening the monument, we would be deeply appreciative.

Mr. WENK. We will do that.

Mr. HINCHEY. Thank you.

Mr. WENK. If I could add one thing to further answer a question. As you may know, we made some modifications to the pedestal itself in terms of two more exterior egress points so that we could in fact bring people into the pedestal area, take them to the observation deck.

There are just a couple other points I would like to make. There is only a limited number of people who visit Liberty Island today who are able to go to the statue. Even prior to 9/11, approximately only 1,500 of the 15-to-18,000 visitors who visited the island on a daily basis were able to make the trek to the top and to the crown. It was limited to the two first ferry boats that went to the island. So it is never going to be a situation where if we could meet life, health, safety codes that all visitors to the island would be able to go to the crown. That wasn't possible then, and it is not now.

Mr. HINCHEY. If I may, Mr. Chairman, let me just give you the information I have and see what your response is to that. The annual visitors to the Statue of Liberty have now dropped 44 percent since she was closed. That drop has been from 3.6 million in the year 2000 to 2.5 million in 2006. The number of people coming into New York City has gone up dramatically, but the number now who have access to the island and the statue has dropped off signifi-

cantly, 44 percent, and the reason for that is the fact that it is not accessible. That is why we want to open it up. We want to get the statue reopened, and we would very much like to have your cooperation and assistance and direction as to how to do that as soon as possible.

Mr. WENK. We will provide the information you requested.

Mr. GRIJALVA. Thank you, sir.

Mr. HINCHEY. Thank you.

Mr. GRIJALVA. Mr. Gohmert, any questions?

Mr. GOHMERT. Yes. Thank you, Mr. Chairman.

To come back to your assistant that stepped up to provide testimony, if I could ask one more question with the Chairman's indulgence since that is her area of expertise. If you wouldn't mind coming back to the microphone.

You had mentioned that all the money was used for reopening, which gratified me. So you have done an audit of the money that was spent by this as I understand partner organization, is that correct?

Ms. GARRETT. Yes, and we worked very closely with them while the work was being done.

Mr. GOHMERT. And who actually does the audit?

Ms. GARRETT. We didn't do an audit per se.

Mr. GOHMERT. Oh. Well, that was my question actually. You misunderstood.

Ms. GARRETT. No, not an audit.

Mr. GOHMERT. That is what gratified me is to hear that you had done an audit so you knew that all the money was spent for reopening. And please understand even though you weren't sworn in, when people provide testimony at a hearing, there is a crime aspect in not being truthful. I am sure you understand that. So let me ask you, do you have personal firsthand knowledge of how the money was spent by this so-called partner organization?

Ms. GARRETT. I have not audited their records directly. From the material that I have seen, I am satisfied that the money was spent as it was intended, but I do not have firsthand knowledge of what you are asking.

Mr. GOHMERT. OK. And does anyone who is a part of the National Park Service do an audit of such a partnership organization?

Ms. GARRETT. The foundation and all of our partners do audits or have audits done.

Mr. GOHMERT. So that is a "no" then because the foundation is not part of the National Park Service?

Ms. GARRETT. The National Park Service has not audited this that I am aware of.

Mr. GOHMERT. All right. Thank you.

With regard to partner organizations, who decides what will be a partner organization and what will not be?

Ms. GARRETT. The National Park Service works with an interested partner to determine whether they are meeting a need of ours and whether we should go into an agreement with them.

Mr. GOHMERT. But I am presupposing that they are not partners yet. I am asking who determines who should be a partner? And perhaps Director Wenk can answer if you know, who decides who will be a partner organization?

Mr. WENK. The National Park Service makes that decision based on our management policies. Many parks have more than one partner. They may be partners to meet different needs of the National Park Service and the particular park area, and we sign agreements with them formalizing that arrangement.

Mr. GOHMERT. And the agreements do not have any provision for an audit by the NPS, is that correct?

Mr. WENK. We require independent audits of many of the partner organizations that are fundraising.

Mr. GOHMERT. OK. Has an independent audit been required of the Statue of Liberty group, that organization?

Mr. WENK. I am going to tell you that I need to check. I assume that it is, but I am going to check.

Mr. GOHMERT. You are going to tell me that, but is that the——

Mr. WENK. I am going to check and get back to you to make sure.

Mr. GOHMERT. OK. Thank you.

Mr. WENK. I will get you the last independent audits that have been done. We can get you those audits.

Mr. GOHMERT. So there have been independent audits done?

Mr. WENK. That is the typical case with partner organizations.

Mr. GOHMERT. So you don't know for sure whether there have been?

Mr. WENK. I do not know for sure that this one has.

Mr. GOHMERT. OK. Because it would be real hard to get them if they hadn't been done.

Mr. WENK. It would be very hard.

Mr. GOHMERT. Now you had mentioned concern as I understood Mr. Hinchey's question about the exterior access and that that is a concern, is that correct?

Mr. WENK. Yes.

Mr. GOHMERT. That there is a safety problem to get people out of the statue, is that correct?

Mr. WENK. Correct.

Mr. GOHMERT. Have you ever hiked in wilderness areas run by the National Park Service?

Mr. WENK. Absolutely.

Mr. GOHMERT. And you are aware that if you get into an emergency situation in some wilderness areas, we don't allow machines to go in, nothing mechanical? You are just, as we used to say in the Army, kind of SOL. We will get you out the best way we can. Are you familiar with that concept?

Mr. WENK. Yes.

Mr. GOHMERT. I asked a question earlier about waivers, and it dawned on me there are a handful of people that get to go to the top of the dome of the United States Capitol but not until they sign a full-page waiver saying they are giving up all rights to make any claim just for the opportunity to take that risk and get to a height that just stirs men's and women's souls. So I am wondering if that still wouldn't be a possibility.

Do you know of any area in which other than, and I understand the dome is not run by the Park Service, but where the Park Service uses waivers in areas that may not be that safe, may have people have heart attacks, may have people slip and hurt themselves,

but they sign a waiver because the potential gain is so much greater than the risk? Do you know of waivers like that you use?

Mr. WENK. I know of no waivers that the National Park Service has in place for our own facilities. However, there are waivers that are offered by the concessionaire for high risk recreational opportunities.

Mr. GOHMERT. OK. Could I have indulgence to ask—OK.

Also, there were safety code violations that you had mentioned, and I want to know specifically whose safety codes are we talking about. Are they Federal? Are they state?

Mr. WENK. If you will give me a moment, I can look up the codes.

Mr. GOHMERT. Because I am wondering if we maketh the law, then perhaps we could changeth the law from this standpoint.

Mr. WENK. I am just making sure I know which one this is. Public Law 100-678, codified in 4 U.S.C. § 3312[b], basically deals with building codes for the General Services Administration, which we comply with.

Mr. GOHMERT. OK. So we make it, we can change it to allow for waivers, I would think.

Mr. WENK. And there are other things out there, for example, the International Building Code, Building Code of New York City and the National Fire Protection Association Code 101.

Mr. GOHMERT. OK. And just in conclusion, I would just submit if we want Americans once again to fly with the eagles, the Park Service shouldn't force them to walk with the turkeys. Thank you.

Mr. GRIJALVA. Thank you, sir. Mr. Inslee.

Mr. INSLEE. Thank you. I just want to get into a problem-solving mode here and figure out how to solve this problem. I think it is real clear Americans want to get access to this treasured place. Right now what you are telling us is there are some codes that are preventing them from getting access to this treasured place. We don't want the terrorists to have won here, and it seems to me we have to find a way to solve this problem.

What I hear you saying listening is that there are two things we need to do: [1] we need to empower the Park Service to figure out how to provide the best access and the safest means possible given the constraints of that architecture, number one, and [2] obtain for you a waiver of any code that you think you are violating now, which you have violated for 50 years apparently before you took this step, so that you can allow access.

Now, if those are the two things we need to get done to solve this problem, what do we need to do to get that done?

Mr. WENK. I am not sure how to answer the question, sir. I am sorry. It is the policies and procedures of the National Park Service to adhere to the building codes, whether they be building codes or fire codes. As long as those fire codes and building codes pertain to the National Park Service in places that we administer, we are obligated to follow those codes, not to put people at risk.

Granted, there has not been a fire in the history, but we do have, and you should be aware that when I spoke with staff over the last few days, we have probably four or five incidents a day during the summer season where we have to provide some kind of assistance to visitors who have problems within the access to the crown.

Mr. INSLEE. By the way, you have to understand I am a big fan of your service. I am a real fan of what you are doing, and I feel that these are such treasured places that sometimes we make exceptions for things we might do at the mall. We do things differently in a national park than we do at a shopping mall. We take experiences on Mount Rainier and fire lookouts and ladders to get access that are different than we do at the mall because they are just such special places.

What I would like to ask you to do is get into a problem-solving mode psychologically and think, how are we going to solve this problem? If we tell you it should be the national policy that Americans should get access to that place, and we are not going to build a structure around it for a fire escape because that is just untenable and unacceptable, to get into a problem-solving strategy how to solve this.

Now, to me, the way we solve this is if we have to pass a law directing you to provide Congress a study of how to provide the safest access and the safest fire suppression or detection that we can under the circumstances, and second, if it requires a statutory change to actually relieve you of some code obligation that may exist somewhere else.

Now are those two things, the two things if we did that could we get people back into the thing?

Mr. WENK. I do not know the answer to whether or not we could because we have asked the question of what we would have to do, and we were told that modifications cannot be made within the limited space to meet the codes. So that is the first thing.

Mr. INSLEE. If we relieve you of this code, if we said there is a special unique thing about this place in America to suggest these codes shouldn't be the place to keep Americans out of this treasured place, and that one unique circumstance—by the way, you have thousands of places in your parks that don't meet code with all due respect because of the circumstances that are involved. The structure up at Paradise in Mount Rainier doesn't meet code, but you have to hike up 5,000 feet to get there, and if we didn't have it there, it would be much more difficult to climb Mount Rainier.

So there are some circumstances in the parks where we adopt just a little higher level of risk to celebrate America. You know what I am saying here?

Mr. WENK. I understand.

Mr. INSLEE. And I am saying here we want to solve the problem so you can allow Americans to make an independent judgment to have that experience. So let me just ask you again. If we gave you a special appropriation or a statute that said, "Go figure out how to make this as safe as possible," and we are going to relieve you of this code obligation, could you do that?

Mr. WENK. We could respond and tell you exactly what we can do, the safest way we could make it, and I would hope that in the problem-solving manner you are talking about we could work together to determine whether or not that was appropriate action to take to provide the access you are asking for.

Mr. INSLEE. Well, what I would ask you to do without having to go through an act of Congress literally is to provide this committee with a report of the best way you can get Americans to get access

there in the safest way with some approximation of the cost involved to do that. Maybe that is additional handrails, maybe it is additional lighting, maybe it is additional fire suppression equipment in there, what it would take to do it as safe as we can.

Then ask us if necessary to relieve you, to give a special code, we will call it the "Liberty Code." It will be a code that applies to this circumstance to make it as safe as possible. Can you do that?

Mr. WENK. Yes, we can do that.

Mr. INSLEE. I appreciate that, and let us work together to get this job done. Thank you.

Mr. GRIJALVA. We have been called for three votes. Mr. Weiner, would you prefer to wait until after the votes?

Mr. WEINER. I just need one minute to make a few quick points to clarify.

Mr. GRIJALVA. Mr. Weiner.

Mr. WEINER. I just want to ask the question. First, I thank very much the Chair.

There is no law of the United States of America, New York State, New York City or New Jersey that binds you to any specific building code for the monument, is there?

Mr. WENK. We have exclusive jurisdiction on the memorial.

Mr. WEINER. Correct.

Mr. WENK. So that is correct.

Mr. WEINER. I just wanted to make sure that was clear, because there was some misconception I think that might have been left that you are required to.

Are you aware that the National Park Service, U.S. Department of the Interior, has a special waiver that is required at the Rio Grande Wild and Scenic River that people have to sign acknowledging the risk of participating in the activities? Are you aware of that?

Mr. WENK. I am not aware. Is that a National Park Service or concession waiver, sir?

Mr. WEINER. Let us see. I don't know. It is "Rio Grande Wild and Scenic River Assumption of Risk, An Agreement of Release and Indemnity." It is something that visitors to the National Park Service have to sign to participate in certain activities on that river.

Again, an impression might have been left that there is somehow not the use of waivers in the National Park Service. There clearly are, and this is available on the Internet. I would give you the URL, but I don't have it here.

Finally, by way of clarification, another point that I think might have been, and the gentleman from Texas asked, are you aware that in November of 2005, the Inspector General of the Interior Department did indeed do an audit of the activities of the Statue of Liberty/Ellis Island Foundation?

Mr. WENK. I believe I knew that happened, yes.

Mr. WEINER. OK. I just want to make sure the impression was not left that that hadn't been done.

And are you aware that it was very, very critical of the improper relationship between the National Park Service and the Statue of Liberty/Ellis Island Foundation?

Mr. WENK. I am not aware of the contents of it.

Mr. WEINER. Well, I would be glad since you are providing us with some problem-solving at the request of Mr. Inslee, I will provide you with a copy of that, albeit it was very heavily redacted for reasons that are still puzzling to me. But the conclusions basically were that there were improper relationships that had gone on there, and I believe to say that the money was raised to open the pedestal is incorrect.

Finally, in response to the Ranking Member's question where he asked why was there a spike from 2004 to 2005, Secretary Norton I believe at around the time of the Republican Convention made a big announcement—Lady Liberty was being opened. What did she mean? The pedestal was being reopened, and there was additional visitorship. But if you want to get back to that peak and go beyond and take advantage of all the tourism and giving people the fullest experience they can, you have to open the crown to be able to do it.

Don't misunderstand. This committee does not want you to put people in unnecessary danger, but this is something that we are not asking. The test is not 100 percent safety. This is not climbing into your mother's arms. This is going into part of the National Park Service that all Americans would want to have open I would dare say even if they don't participate in that adventure, to know that it is available.

I thank the Chairman for permitting.

Mr. INSLEE. Would you yield for a minute?

Mr. WEINER. Certainly.

Mr. INSLEE. We understand the challenges of this for the National Park Service, and we appreciate their diligence. I have seen 100 times the Park Service doing great things at their own risk sometimes. We just want to express that appreciation to your people. Thank you.

Mr. GRIJALVA. Thank you, Mr. Inslee.

We are going to recess for the three votes, and Mr. Deputy Director, we will continue with the questions on the other portion of it when we come back.

Mr. WENK. Thank you, Mr. Chairman.

Mr. GRIJALVA. Thank you.

[Recess.]

Mr. GRIJALVA. Allow me to reconvene the meeting, and thank you, Mr. Deputy Director, for your patience.

One more round of questions. One question before turning over to the ferry concession. Did the National Park Service engage in any sort of formal process where various alternatives for allowing access to the statue were examined, and if there was a process, was there a public comment period during that?

Mr. WENK. We had the access issues evaluated by architectural/engineering firms under contract to us. I am not aware that there was any public process used to engage the public in the discussion about access to the crown at all, but we do have the reports from architectural and engineering firms on the access situation.

Mr. GRIJALVA. Thank you. And let me go over to the concession issue. In selecting Hornblower Yachts as the new concessionaire for the ferry service to the statue, did the agency consider, did the de-

partment consider Hornblower's records so far as providing that ongoing service to Alcatraz?

Mr. WENK. We considered the experience and the proposals and experience of Hornblower, Inc. Certainly one of their experiences is Alcatraz, so I think it was considered as part of the whole, yes.

Mr. GRIJALVA. One of the things that I have heard and had information provided is having to do with the dissatisfaction of the Port of San Francisco. The port owns many of the facilities Hornblower says it plans to use in its concession. Yet the port repeatedly informs my office that they haven't been provided with any information regarding those plans, and so let me ask you about the environmental record, because I believe one of the salient points in awarding the contract to Hornblower was the installation of pollution controls on its boats, the development of hybrid boats using wind and solar energy. Have those been satisfied?

More importantly, is NPS fully satisfied with the information and with the service that the concessionaire is offering in San Francisco, because that will lead me to if that was, as you said earlier, if that was the determining factor in awarding the contract at New York.

Mr. WENK. First of all, in terms of the boats, I believe there was an immediate improvement to the emissions of boats, an improvement of 80 percent, by 80 percent. That was done immediately by Hornblower when they took the contract. They are under contract for the construction of the new boat, for the design and construction of the new boat that they were required to provide.

I believe that the visitor satisfaction levels are high for the experience that is being provided by Hornblower in terms of their transportation to Alcatraz.

Mr. GRIJALVA. I have read those responses that you provided to the Speaker and to questions that came from officials in the port and some of the business interests around the port, and it leads back to the question about how fully satisfied the Park Service is with the services that is being provided there, and at least my visit there the whole discussion was the high level of dissatisfaction with that contract, the fact that there was not a lot of transparency to it and that the benchmarks in that contract are not being met, and yet not only do we continue to do business, we continue to extend opportunities to that company in other places.

Mr. WENK. I am not sure who you met with, Mr. Chairman, but my understanding is that the National Park Service and Hornblower are working very cooperatively to put together the required applications and approvals that we need to have in place with the Port Authority to get that in place as soon as we can.

As part of the proposal process and the offers by all offerors, we did not have specific approvals for locations or places on the port because we knew that offerors may each have their own opportunities. In fact, we are moving right now from I think Pier 41 to Pier 31.5 to 33 in that area, and we are working with Hornblower to get those designs and approvals into all the authorities as quickly as we can.

Mr. GRIJALVA. The Alcatraz landing is not part of the Park Service jurisdiction, right?

Mr. WENK. I believe that it is a lease arrangement.

Mr. GRIJALVA. With the port?

Mr. WENK. With the port and the concessionaire.

Mr. GRIJALVA. Let me before my last question, and I don't have any more follow-ups, let me just if there is no objection, without objection, enter into the record the statement of Mr. Louis Giraudo on behalf of the San Francisco Fishermen's Wharf Restaurant Association. He forwarded this to be part of the record.

Hearing none. Thank you.

[The statement submitted for the record by Mr. Giraudo follows:]

Statement of Mr. Louis Giraudo, on Behalf of the San Francisco Fisherman's Wharf Restaurant Association

The Fisherman's Wharf Restaurant Association ("FWRA") is compromised of twenty restaurants located on San Francisco's Fisherman's Wharf, all of which have been affected by the relocation of the Alcatraz Ferry Service. The FWRA has been and remains opposed to the National Park Service ("NPS") allowing the relocation of the Alcatraz Ferry service from San Francisco Fisherman's Wharf to Pier 31—approximately one mile away, The environmental and economic impact on the immediate area has been and continues to be significant.

Approximately 1.4 million people who used to spend time on the Wharf while waiting to board the Ferry or after returning from Alcatraz no longer do so. They are now a mile away. If they come to the Wharf area, it is now, after disembarking and eating elsewhere, and then wandering to the Wharf for a look, but not a meal. Retail businesses in the Wharf area have also been detrimentally affected. The economic impact on the individual restaurants as well as other businesses is substantial and therefore the rent paid to the Port of San Francisco by those restaurant tenants is also affected. This move has created a substantial environmental and economic impact on the Wharf area.

It is important to recognize that the Alcatraz Landing is not within a National Park where the NPS has exclusive jurisdiction. This facility is part of the Port of San Francisco where new development requires the cooperation of local authorities. The Association was never engaged in dialogue as to what if any effect such a move would have on the restaurants and the thousands of people that are dependent upon them for their livelihood.

Hornblower Dining Yachts, the owner of Alcatraz Cruises, has had and still has the opportunity to take over the original site for the ferry service with the ability to fulfill its contractual obligations to the NPS. The Association has attempted for well over a year to mediate such a compromise but came to the realization that the contract granted by the NPS truly gives Hornblower the right to sit at Pier 31 ,provide a poor visitor experience, as tourists board tour boats from an empty parking lot layered with portable toilets. The contract allows for unlimited delay if there is local opposition to proposed plans for the new location. The NPS did not do its homework or perhaps it knew that the move would be detrimental to the area and therefore granted contract terms that allowed Hornblower to make millions of dollars while not performing the terms of the contract that made them the winners in the bid process. They are allowed to provide far less than the Wharf site provides and could provide while spending a minimal amount of money. The NPS allowed for such contractual terms knowing full well that Hornblower did not have the power or control to perform under the terms that made their proposal supposedly better than their competitors.

In addition to the economic impact on the area, the environment has changed as well. Traffic patterns have changed and congestion has ensued.

The Park Director told members of the Association that he was not opposed to relocating the service back to the Wharf. Fisherman's Wharfs rich history and tradition, has been and is an integral part of the Alcatraz experience. Relocating to Fisherman's Wharf, provides the space for the visitor center, and an enhanced visitor experience by virtue of the fact that the space would allow Hornblower the ability to fulfill all requirements of the underlying contract while not causing damage to the surrounding economic area or environmental surroundings. The Wharf was and is an appropriate window for the visitor experience.

Mr. GRIJALVA. And last, is the Park Service satisfied with Hornblower's labor policies record?

Mr. WENK. Hornblower is required by contract to pay wages under the Service Contract Act. We are confident they are doing that. We are working with the Department of Labor to ensure compliance with that requirement of their contract.

Mr. GRIJALVA. And the certainty about compliance is awaiting some response from the Department of Labor as I understand it.

Mr. WENK. We work with the Department of Labor, but Department of Labor has the enforcement responsibility on that.

Mr. GRIJALVA. I don't have any additional questions other than the material that is submitted for the record.

Mr. Bishop.

Mr. BISHOP. Mr. Wenk, thank you. Let me ask you a couple more questions. Let me go back to the visitation of the Statue of Liberty one more time.

We have talked about I think some of the basic issues that are here. This is a safety, not a national security issue. Am I also right in assuming this is a safety issue and not a financial issue? It is not about the amount of money you are appropriated, but it is simply about the safety?

Mr. WENK. Correct.

Mr. BISHOP. OK. And am I also right in saying that you have talked about external structures going up to the statue, but the external structure to provide extra kinds of emergency egress opportunities, it would destroy the visibility of the statue itself if you were to try that?

Mr. WENK. We believe it is an unacceptable solution in terms of the visibility, the historic nature of the statue itself.

Mr. BISHOP. And we talked a long time here about waivers for allowing people to go up at their own risk. Once again, I am not an attorney in this situation, but to be honest, I just remember in the school system where we would have parents sign waivers for students to do this or that and they simply were not held up in court, that a waiver didn't mean squat actually. If somebody wanted to sue in our judicial system, they could sue right away whether there was a waiver or not. Is that a legitimate problem?

Mr. WENK. We believe the waivers that we have for our concessionaires are an acknowledgement of risk, not a waiver of rights.

Mr. BISHOP. All right. So it doesn't really solve your problem in some particular way.

Do people coming to Liberty Island today feel cheated in their visit by not being able to go up, especially in contrast to prior 9/11 where people who were not able to be one of those first two boats expressed any kind of reservation and disappointment being cheated? Were they complaining about that prior to the closure?

Mr. WENK. I think the complaints by visitors today are the same as they were in 1999 or 2000, prior to the time that it was closed. Many visitors have historically heard about that opportunity. They would like to have that opportunity. But I believe, as I said previously, about 10 to 15 percent of the visitors to the island actually went to the crown prior to 2001. Currently, only about 2,600 visitors who come to the island actually even have the ability to get into the pedestal.

One of the things that we are going to work on is increasing the number of visitors that can get into the pedestal to have a richer experience while they are at Liberty Island.

Mr. BISHOP. I recognize the problem that you are facing in the situation that people will complain if they don't have access. People will complain if they get injured while they do have access. Maybe if we had a good liability lawsuit limitation law passed, we could work something out with you guys.

Let me go back to the contract if I could. The contract process for the Liberty Island Ferry was somewhat drawn out. Was local congressional input sought and accepted during the negotiation process or the concession contract processing?

Mr. WENK. We have a process as prescribed pursuant to the 1998 Concessions Act. That process is the process that we followed that evaluates the primary and secondary selection factors. Certainly in putting together the prospectus for this opportunity, we did hear from many members of the public, including Congress, in terms of what should be included in the contract.

Mr. BISHOP. So Hornblower getting the contract in the Liberty Island Ferry, you looked obviously at what happened in San Francisco, but that was not the sole criteria upon which you based your decision?

Mr. WENK. Absolutely not. They had demonstrated experience to operate these kind of facilities, and they scored highest on the five criteria, the five primary and I believe two secondary factors that we evaluated the contract on.

Mr. BISHOP. Maybe I could ask you or maybe Mr. Pendry, one or the other. Do you have any data as far as customer satisfaction in either place with Hornblower?

Mr. WENK. Actually, we do have customer satisfaction surveys that were done in San Francisco. I can get you the specific numbers, but my understanding is that it is a higher level of satisfaction today than it was with the previous contract at Alcatraz.

Mr. BISHOP. And this may be an unfair question to ask of you, but the Port of San Francisco, have they been cooperative or somewhat obstructionist in the ability of actually moving along with the Hornblower decision?

Mr. WENK. We will continue to work with the Port of San Francisco to make sure that we can implement the provisions of our contract, and we expect that we will be able to do that.

Mr. BISHOP. I thank you for your patience and being with us today. I don't think I have—I am out of time anyway.

Mr. GRIJALVA. Thank you. Just, if I may, and certainly offer the opportunity to Mr. Bishop, one additional. The Golden Gate Recreation Area asked for additional time in order to complete a review of the modifications and the changes to the contract. Can you at this point give us a date certain when we can have the information regarding the modifications and the review, they wanted to extend the schedule?

Mr. WENK. At this time, I cannot give you the date certain, but I can certainly try to provide that for the record. I can provide a schedule that we currently believe that we can achieve for you for the record in terms of getting all the contract implemented.

Mr. GRIJALVA. That would be appreciated. That is just a simple question for my own information. As we are talking about the modifications and the negotiations, the concessionaire, the Park Service, at what point is the port—we are talking about San Francisco—is the port involved in those negotiations since we are dealing primarily with much of their property?

Mr. WENK. I am not sure that I can answer that question. I don't believe Joe Pendry can answer that question specifically. It is our intention to work directly with the Port Authority and with Hornblower to make sure that we receive timely reviews and approval, well, timely submission on our part, reviews and approvals to get this in place as soon as we can.

Mr. GRIJALVA. OK. Well, we will ask the same question to the representative of the port that is going to be with us next.

If there are any other questions? Mr. Bishop? Mr. Weiner, any other questions for the gentleman?

Sir, very appreciative. Thank you very much.

Mr. WENK. Thank you.

Mr. GRIJALVA. Let me welcome our third panel and begin with Ms. Moyer, Executive Director, Port of San Francisco. Welcome, and thank you for being here. We look forward to your testimony.

STATEMENT OF MONIQUE MOYER, EXECUTIVE DIRECTOR, PORT OF SAN FRANCISCO

Ms. MOYER. Thank you and good morning, Chairman Grijalva, and Ranking Member Bishop and Honorable Members.

My name is Monique Moyer. I am the Director of the Port of San Francisco. The port last appeared before Congress over a decade ago, and I have traveled a very long way to be here with you today. In fact, I note that my colleagues at both the Golden Gate National Recreation Area and at Hornblower are not present here today, which I find rather remarkable.

But I have come here because there are issues in San Francisco. We need to prevail upon Congress to take another look at the 1998 Concessionaires Act to protect the interests of the stakeholders, as the Park Service refers to us, and there are policy questions that entail or require your consideration, and you have already mentioned some of the other testimony that has been presented in writing. I just want to note that the testimony comes not only from the Fishermen's Wharf Restaurant Association but also from the Inland Boatmen's Union, the Master, Mates and Pilots, and the Friends of the Earth, all related to the concession with Alcatraz.

The Port of San Francisco has been honored to be the beginning and the end of the Alcatraz service for 34 years now. We control 7.5 miles of bayfront property. It is held in trust for the State of California, for the people of California.

The contractor for the Alcatraz service does everything. They do the transportation, the maintenance, sewage and garbage removal, security and visitor-serving amenities. In return, the contractor collects almost 90 percent of the ticket revenues.

As follows on some of your questions, the process for award and implementation has proved to be exclusionary and secretive, which seems to be contrary to what the 1998 Concessionaire Act required.

The Alcatraz award has resulted in the Federal government choosing not only a new provider, which we support their ability to do so, but the selection of a new San Francisco landing site, the rejection of its cherished workers and ticket increase for diminished passenger experience.

The Port of San Francisco, like New York, had great hopes when the Alcatraz service concession was awarded. That concession contract was two years in the making, so we thought it was going to be an exemplary contract and solicitation. We have an alignment of interests with the National Park Service and the Golden Gate National Recreation Area. Our mandate is to provide open space and visitor-serving amenities, just like the National Park Service.

We are very excited that a homeboy made good in the case of Hornblower being selected. There was a bright future for environmental stewardship, and a skilled workforce with institutional knowledge was promised to be retained. We received great assurances of cooperation and inclusion from both the Park Service and the concessionaire.

The Port of San Francisco also had grave concerns. The award is centered upon the development of our property, our proprietary interest. No due diligence was performed during the solicitation or after the award was made or in the negotiation of the contract. No discussions were held with the Port of San Francisco until one month following the signing of the contract.

We also have concerns about the passenger experience from the launching point in San Francisco and the impacts to our neighbors and our merchants. The contract was negotiated and awarded in secrecy. The written testimony that the Port of San Francisco provided illustrates the schedule of decisions and exclusion of the port's proprietary interest.

The policy decision to forego local freedoms with respect to property, the port's property, is of grave concern to us.

I am running out of time, so I am going to circumvent to the end of my testimony, which is I urge you to implore upon the Park Service to show leadership. In San Francisco, there is a question of who is on first. When the port seeks advice, counsel and direction from the Park Service, we are pointed to the concessionaire, and when we seek the advice, counsel and ideas of the concessionaire, we are pointed to the Park Service.

In return, the Superintendent continuously waives deadlines, and the implementation schedule is due to be long and protracted. I sincerely hope in the concession contract that is executed in New York the Superintendent will be empowered and obligated to adhere to all of the qualities of the award and, most importantly, to work with the Park Service's local partners, i.e. the local and state governments in which you operate. Thank you very much for your time.

[The prepared statement of Ms. Moyer follows:]

Statement of Monique Moyer, Executive Director, Port of San Francisco

Chairman Grijalva and Honorable Subcommittee Members,

Thank you for your invitation to address the Subcommittee today. The Port of San Francisco ("Port") is a self-supporting agency of the City and County of San Francisco. It manages 7.5 miles of the San Francisco Bay waterfront in trust for the Peo-

ple of California. Our Port is home to our city's major tourism destinations at Fisherman's Wharf which attract more than 14-15 million visitors to the area from around our country and the world each year.

Since 1973, our Port has been the gateway to Alcatraz Island National Park. The Port owns ferry and excursion berths that have been the launching point for 1.6 million visitors per year to Alcatraz Island. We control the property for the waterside and landing facilities used for this service by both the prior and the new concessionaires. Since 1997, the new concessionaire, Hornblower Cruises, has leased facilities for dining and charter boats at Pier 31 1/2, a half mile south of Fisherman's Wharf.

For the past 34 years, the Port of San Francisco has had significant property and economic interest in the Alcatraz Island ferry contract. Regrettably, the Port found itself on the sidelines as a spectator in the most recent competitive selection process conducted by the National Park Service ("NPS"). The solicitation request was issued in July 2004, without any discussion between NPS and the Port. In September 2005, the NPS announced selection of Hornblower Cruises (dba Alcatraz Cruises) as the new concessionaire and, by extension, the Port's Pier 31 1/2 as the new San Francisco launch point. In May 2006, the NPS and Hornblower executed the concession contract. Despite the reliance on Port property to launch the Alcatraz Island service, the first time the Port was shown the plans and aggressive implementation schedule was on June 12, 2006, one month after the contract became final.

According to the conceptual designs presented at the June 12, 2006 Port Commission meeting, Alcatraz Cruises proposed major physical alterations to Port property and new activities not authorized under its existing lease with the Port. Yet the concession contract had already been executed by the NPS without notice or consultation to the property owner, the Port of San Francisco.

Specifically, the NPS contract with Alcatraz Cruises requires the following improvements to occur that are subject to Port approval:

- A covered waiting area for ticketed passengers;
- Periodic change out of interpretative exhibits;
- An educational bookstore and auditorium for special events; and
- Adequate restrooms for passengers, including ADA improvements.

Such alterations are subject to Port approval, City Board of Supervisors' approval and, environmental review pursuant to state law. The San Francisco Port Commission acts in both a proprietary and regulatory capacity with respect to the public trust lands granted by California to the City and County of San Francisco. The Port has authority to enter into lease agreements for certain uses of these lands, subject to public hearings and action of the Port Commission and, for some issues, the Board of Supervisors.

The Port's lease for Pier 31 1/2, the new Alcatraz Island departure point, is executed with Hornblower Cruises. It requires: 1) that new improvements or alterations to Port premises are approved by the Port Commission, 2) that this approval occur in advance of any required regulatory approval by any agency for such uses or improvements, and 3) that the lease is amended by the parties to authorize such new uses. Notably, the lease does not limit the tenant's obligation to obtain any required approvals from City departments, boards or commissions which have jurisdiction over the property, including, but not limited to, Port building permits, City Department of Planning environmental approvals and certain City Board of Supervisors approvals.

As indicated by the limited information provided to date, some of the proposed visitor improvements require the use of additional Port property in an adjacent facility at Pier 33 that is leased and occupied by other Port tenants. Any acquisition of those leaseholds by Hornblower requires prior Port approval.

Thus, Hornblower Cruises' ability to perform as proposed under the Alcatraz Island Concession Contract is predicated upon prior approvals by the Port of San Francisco and other public agencies. Incredibly, 16 months after award of the contract, the Port's approval and permission for such alteration and use to its properties has still not been formally sought by either the NPS or Hornblower Cruises.

After the selection was announced in September 2005, the Port and City of San Francisco informed Hornblower and the National Park Service of its leasing and permitting requirements.

In December 2005, the San Francisco Board of Supervisors urged the NPS to commence an analysis of traffic impacts of the proposed relocation of the service to a different area of the San Francisco waterfront, resulting in 5,000 Alcatraz Island visitors per day (on peak days) commingling with activities such as cruise ship loading and unloading at an adjacent facility along the City's congested Embarcadero Roadway.

In March 2006 and again in May 2006, the City and County of San Francisco requested that the NPS and Hornblower conduct environmental review before the commencement of the contract.

In June, August and September of 2006, the Port and the City again requested environmental review, prior to the commencement of operations. Despite repeated requests to comply with local and state rules and regulations, in September 2006 the NPS launched interim Alcatraz Island ferry operations from Pier 31 1/2 under the contract without environmental review.

Despite our attempts to get the NPS to understand the complexity of delivering the project as proposed in the solicitation process, the NPS proceeded to award the contract on May 9, 2006. The contract set forth an aggressive schedule for delivery of facilities that does not reflect the realities of the public review and lease approval process that the San Francisco Port Commission is required to adhere to. Under the contract, implementation of the plan for permanent facilities at our property at Pier 31 1/2 was required to start in February 2007.

This deadline was missed. Hornblower finally provided the Port with a draft Landing Plan for the permanent facilities on September 7, 2007, 16 months after the contract was executed. However, the Landing Plan is still only in draft form and is not significantly more developed than the prior conceptual plans presented to the Port Commission in June 2006. Given the length of time required to complete environmental review, the Port believes it is unlikely that Hornblower will succeed in meeting the contract's April 2008 deadline for the required improvements. The NPS has repeatedly waived deadlines which have hampered the full implementation of service at this new location.

In closing, the failure to properly consult with the Port prior to contract award, the refusal to perform environmental review after contract award and the unwillingness of the NPS to enforce contract deadlines has resulted in a diminished quality of service to Alcatraz Island visitors and strained relations with the City and County of San Francisco.

As a public agency with its own open space and visitor-serving mandates, the Port of San Francisco has a natural affinity with the NPS and has always been delighted to partner with the Golden Gate National Recreation Area. We want to afford visitors to the City with the best experience possible and, to that end, should enjoy a partnership with the NPS.

The National Park Service's procurement process for the Alcatraz Ferry Service in San Francisco shows that there are weaknesses in the process that need correction. On behalf of the Port and City of San Francisco, I respectfully urge Congress to encourage the NPS to make the following changes to its competitive solicitation process:

1. In instances where NPS does not fully own the underlying property pertaining to delivery of the concession, the NPS should institute formal procedures to consult with local government, other public agencies or private owners prior to launching the solicitation. Through this consultation, the NPS can identify issues that could affect the ability of the bidders to deliver the project within the time requirements. If this consultation had occurred in the Alcatraz Island Ferry Service Contract, the NPS could have avoided the delays they are facing and the NPS would not need to repeatedly exercise the "excusable delay" clause of their contracts.
2. Prior to initiating contract solicitations, the NPS should conduct local workshops and invite local, regional or state agencies that may play a proprietary or regulatory role in approving contracts or related permits to comment on the contracting opportunity.
3. During contract review, selection and implementation, the NPS should maintain open lines of communication with affected local, regional and state agencies.
4. During the selection process, the NPS panel should conduct an independent evaluation of whether the bidder can deliver the proposed project under its lease and conform with environmental requirements. For example, in transportation grants, the Federal Highways and Transit Agency requires proof of right-of-way clearance and compliance with environmental review before federal monies are awarded.
5. To ensure greater control of excursion landings that are not on federal property, the NPS should evaluate maintaining leases directly with local or state agencies or private property owners, rather than relying on private operators, who may or may not have good relationships with public or private landlords, to secure those rights. In our case, if the Alcatraz Island departure point was leased by NPS, it could (1) ensure that the term of the lease is concurrent with the term of the concession and (2) offer the concession to qualified operators

who do not control landing facilities. As it currently stands, the NPS was only able to accept bids from operators who leased property from the Port. Furthermore, Hornblower's lease with the Port of San Francisco has a shorter term than the concession contract. Such direct leasing between the NPS and land owners will help avert this scenario.

I hope these experiences and suggestions provide some guidance to the Subcommittee. Thank you for your time and attention to this matter. The Port and City of San Francisco value our relationship with our federal partners and we look forward to a renewed accord.

Mr. GRIJALVA. Thank you. Let me now turn to Ms. Salerno, President and Co-Founder, National Parks of New York Harbor Conservancy. Thank you.

STATEMENT OF MARIE SALERNO, PRESIDENT AND CO-FOUNDER, NATIONAL PARKS OF NEW YORK HARBOR CONSERVANCY

Ms. SALERNO. Thank you, sir, and good morning, and thank you for inviting me to attend this morning's session.

We are the partner of the National Park Service in New York, similar to the Statue of Liberty/Ellis Island Foundation that you mentioned before. We have a contract with the National Park Service.

New York Harbor is a remarkable 771 miles of coastline dotted with city, state, national park lands full of rich history, cultural and natural splendor, a place that is ranked among the great wonders of the world. Today, it is poised for the first time in a generation to realize its potential as a national park.

In the 19th Century, Herman Melville wrote in the opening pages of Moby Dick, "All Manhattan streets led waterward and the shore was filled with dreamers staring out to the sea." Later, New York turned its back on its harbor, ringing it with highways, parking lots and housing projects. Ordinary New Yorkers lost their access to the water and even the sense that the water was there.

The concept of an urban national park on this harbor first emerged 30 years ago when Marian S. Heiskell, our Chairman, and other farsighted New Yorkers secured the transfer of a unique amalgam of sandy beaches, secluded inlets and grasslands, historic forts, military bases and airfields on New York Harbor to the National Park Service, saving them from development.

In 1972, Congress ratified the transfer by creating Gateway National Recreation Area, America's first urban national park. Gateway's founders wisely wanted just one more thing—Federal funds to finance public transportation links to these places. That was where Congress, however, drew the line. It was not until this decade that the National Park Service integrated Gateway with the 22 other national park lands in and around the harbor, including the Statue of Liberty and Ellis Island, designating this new constellation as the National Parks of New York Harbor.

In 2001, the private sector, led again by Mrs. Heiskell and joined by David Rockefeller, Jr., the National Park Foundation and me were invited by the National Park Service to harness the energy of the community and provide a collective vision for these disparate places. We ultimately founded the National Parks of New York Harbor Conservancy, a 501[c][3].

The prospect was daunting, but the potential was awesome. Most do not know that the National Park Service is the largest landholder, public or private, on the waterfront. Last year Mayor Bloomberg envisioned a Harbor District, a new tourist destination on the inner harbor, a consortium of nonexisting parks and new parks in development in both New York and New Jersey. But there is one big problem. You can't get from one to the other.

What does this mean for today's hearing? These national parks host 20 million visitors annually, 2.5 million of whom visit the Statue of Liberty. For Gateway National Recreation Area to realize its potential, its full potential, and Harbor District to realize its full potential, these 4 million visitors should be afforded the opportunity to make the Statue of Liberty not merely a final destination but their gateway to the other harbor parks and destinations.

We are pleased that a new contract between the National Park Service and Hornblower Yachts finally calls for looking at additional ferry routes on the harbor. Hornblower wisely included Governor's Island as a stop on their new island tour. So for the first time, the visitor would be able to experience two jewels on the harbor in the course of one trip. Hornblower is to be commended for their progressive vision, and we are hopeful that new ferry routes will follow this all-important step.

In the two harbor tours that our conservancy has launched, we have already demonstrated an untapped market for tourism that goes well beyond the harbor's signature destinations. Today, beyond tours to the statue, another 1 million visitors are going on our tours and on other harbor excursions. However, only one of the national park sites actually has a dock to welcome these potential visitors.

Today, with the leadership of the National Park Service and other partners, we are working to restore the harbor to the people and create the finest urban waterfront park system in the world and more importantly, with the support of our elected officials and this committee, to create a transportation network to help you get there. Thank you.

[The prepared statement of Ms. Salerno follows:]

Statement of Marie Salerno, President & Co-Founder, National Parks of New York Harbor Conservancy

The Once and Future New York Harbor

New York Harbor is a remarkable 771 miles of coastline dotted with city, state and national parklands full of rich history, culture and natural splendor, a place that is ranked among the great wonders of the world. Today, it is poised for the first time in a generation, to realize its potential as a national park.

America begins in New York and New York begins on the Harbor. From the time of the first explorers, to successive waves of immigrants, to shipmasters and pleasure-boaters, it is the link that first attracted settlers to the new world and propelled the city's growth into the nation's most populous, most vibrant city.

In the 19th century, Herman Melville wrote in the opening pages of Moby Dick, all Manhattan streets led water ward, and the shore was filled with dreamers staring out to sea on a Sunday afternoon. Later, New York turned its back on the harbor, ringing it with highways, parking lots and housing projects, as Broadway eclipsed Riverside Drive. Ordinary New Yorkers lost their access to the water and even the sense that the water was there. They hardly knew they lived on an archipelago.

But there remained people—visionaries—who saw that New York Harbor was still one of the world's great natural seaports. Marian S. Heiskell, the chairman of the National Parks of New York Harbor Conservancy, was an early pioneer.

The concept of an urban national park first emerged thirty years ago when Mrs. Heiskell and other farsighted New Yorkers, including Mayor John V. Lindsay and New York Congressman William Fitts Ryan, secured the transfer of a unique amalgam of sandy beaches, secluded inlets and grasslands, wildlife refuges and forests, camping and playing fields, historic forts, military bases and airfields on New York Harbor to the National Park Service, saving them from development and placing them under the protection of the federal government. In 1972, Congress ratified the transfer by creating *Gateway National Recreation Area.*

The vision for *Gateway* was to bring a national park experience to city dwellers, to those who were not afforded the opportunity to go camping in Yosemite or Yellowstone or snorkel in the great coral reefs of the Virgin Islands.

Gateway's founders wisely wanted just one thing more: federal funds to finance public transportation links to the park. That was where Congress drew the line, however. And perhaps that is why, in part, *Gateway* has still not realized its full potential.

It was not until this decade that other visionaries stepped forward invited by the National Park Service, which integrated *Gateway* with other 22 other national parklands in and around the harbor, including landmarks like the Statue of Liberty and Ellis Island, designating this new constellation as the "National Parks of New York Harbor." The National Park Service invested $3.0 million towards its launch including imaginative new icons to unite its family of parks. [See attached.]

In 2001, the private sector, led again by Mrs. Heiskell and joined by me, David Rockefeller Jr., whose family for more than 100 years has been in the forefront of preserving public land for the American people, and the Congressionally-chartered National Park Foundation, were asked to harness the energy of the community and provide a collective vision for these disparate places. We ultimately founded a new non-profit entity, the National Parks of New York Harbor Conservancy.

In New York, there had been no private citizen voice to speak for these unheralded parklands. There had been no outreach to connect these parklands, or, for that matter, those administered by other jurisdictions. There had been no unified, powerful, accessible and attainable vision for the future of all our parklands to inspire and guide a new era of stewardship, conservation, respect and understanding of our heritage.

The prospect was indeed daunting. But, the potential was awe-inspiring. We accepted the challenge. With initial funding from the Rockefeller Brothers Fund and The New York Times Company Foundation, we began to spearhead an innovative portfolio of programs, projects and activities to help these parks shine and to make them more accessible.

With 26,000 acres, the National Park Service is the largest landholder, public or private, on the waterfront, hosting approximately 20 million visitors annually—four million of whom visit the Statue of Liberty and Ellis Island.

Lower Manhattan is the epicenter of its network of harbor parks, historic sites and recreation areas that arc across three other boroughs of the city—Queens, Brooklyn and Staten Island—and across to New Jersey on both the Upper and Lower Bays of the harbor. [See attached map.]

Last year, Mayor Bloomberg envisioned "Harbor District," a new tourist destination on the inner harbor. Our Harbor Conservancy is a member of the Harbor District Advisory Board. It is consortium of existing parks such as Statue of Liberty, Ellis Island, Liberty State Park and Battery Park, and new parks in development, including Hudson River Park, Brooklyn Bridge Park, and Governors Island, for 200 years-off limits to the public and recently transferred to the State and City of New York with the National Park Service having jurisdiction over 26 acres.

But, you can't get from one to the other. Beyond the National Park Service trip to the Statue or Ellis, the natural asset that touches each park—the harbor itself—has been a barrier rather than a seamless transportation artery.

What does this mean for today's hearing on the "Management of the Statue of Liberty?"

For all the National Parks of New York Harbor, especially *Gateway* and the city's new proposed Harbor District to realize their full potential, the four million annual visitors should be afforded the opportunity to make the Statue of Liberty not merely a final destination but their gateway to the other harbor parks and destinations.

With private funding and in partnership with *Gateway*, our Harbor Conservancy has commissioned an actionable transportation plan. There is no doubt it will propose specific routes via the expansion of transportation services to Statue of Liberty,

especially from there to *Gateway*, and will further define the Statue's vital role in any overall vision for harbor transportation.

We are very pleased that the new contract between the National Park Service and Hornblower Yachts finally calls for looking at additional ferry routes in the Harbor. Hornblower also included Governors Island as a stop on their new island tour to Statue and Ellis Islands. So, for the first time, a visitor will experience two jewels on the harbor in the course of one trip.

For the first time in a generation, a ferry operator stands ready—in all ways possible—to help link national parks into a seamless necklace, a viable harbor-wide transportation system including neighboring parks in all five boroughs. He does so as a new New Yorker and as a good citizen involved in the life of our great international city and its harbor for the future benefit and enjoyment of residents and visitors alike.

With the National Parks of New York Harbor, the Harbor Conservancy inaugurated a harbor visitor center at Federal Hall and since last year thousands have visited the site. In two harbor tours that the Harbor Conservancy itself launched, we've already demonstrated that there is a market for tourism that goes well beyond the harbor's signature destinations. For three years, our *Gateway* to America harbor tour has run seven times daily telling the stories of the historic, cultural and urban estuary. Our military history tour relates the complete and untold story of harbor defense, from the Battery where the Dutch originated homeland security nearly 400 years ago, to a New York attacked and held hostage until the end of the Revolutionary War, to a city that was never attacked again until September 11.

We can already measure our success, not just by revenue to the ferry operator and to the Harbor Conservancy, but also by our ability to interpret these places and share their stories, stories that help visitors to experience the history of our great nation where it began.

Beyond tourists to the Statue, another one million visitors are going on our tours and on other harbor excursions. A generous gift of $1.0 million from Tiffany & Co. Foundation will enable us to produce, among other programs, two new harbor tour excursions.

However, only one of the National Park sites has docks to welcome these potential visitors.

Last weekend I traveled by ferry past the Statue of Liberty and Ellis Island and to sites that may be less well known to the members of this committee, but equally steeped in history.

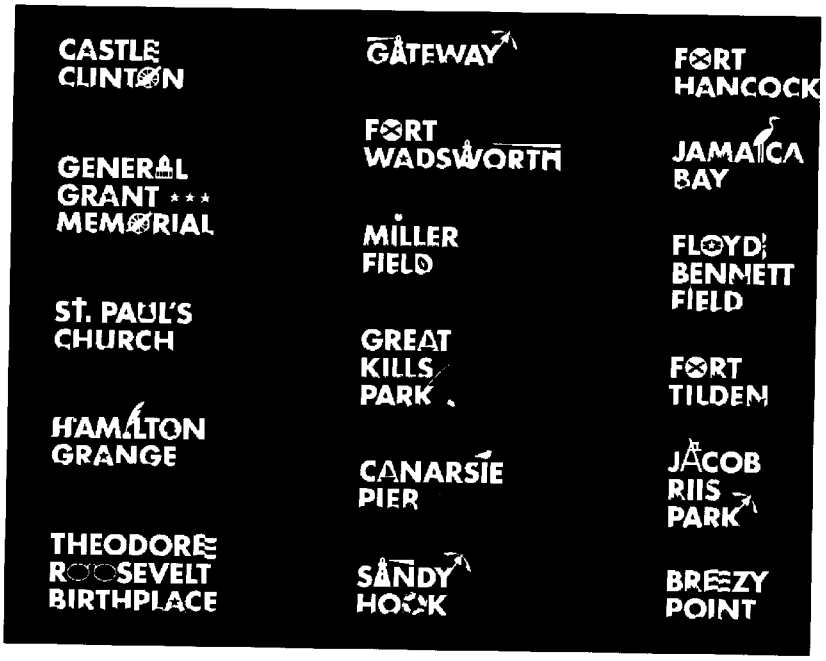
Experiencing the majesty of the harbor from the Lower Bay, passing under the Verrazano Bridge past the parks of *Gateway* National Recreation Area in Queens, Brooklyn, Staten Island and New Jersey, we strain for adjectives to describe the natural history of New York Harbor that ordained its destiny.

With ferries shuttling back and forth, we now are now afforded a rare opportunity, to finally access these places and at the same time help reconcile the yearnings for a national park experience that will enrich the lives of all Americans, reminding them that these parks belong to them and illuminate and celebrate human achievement.

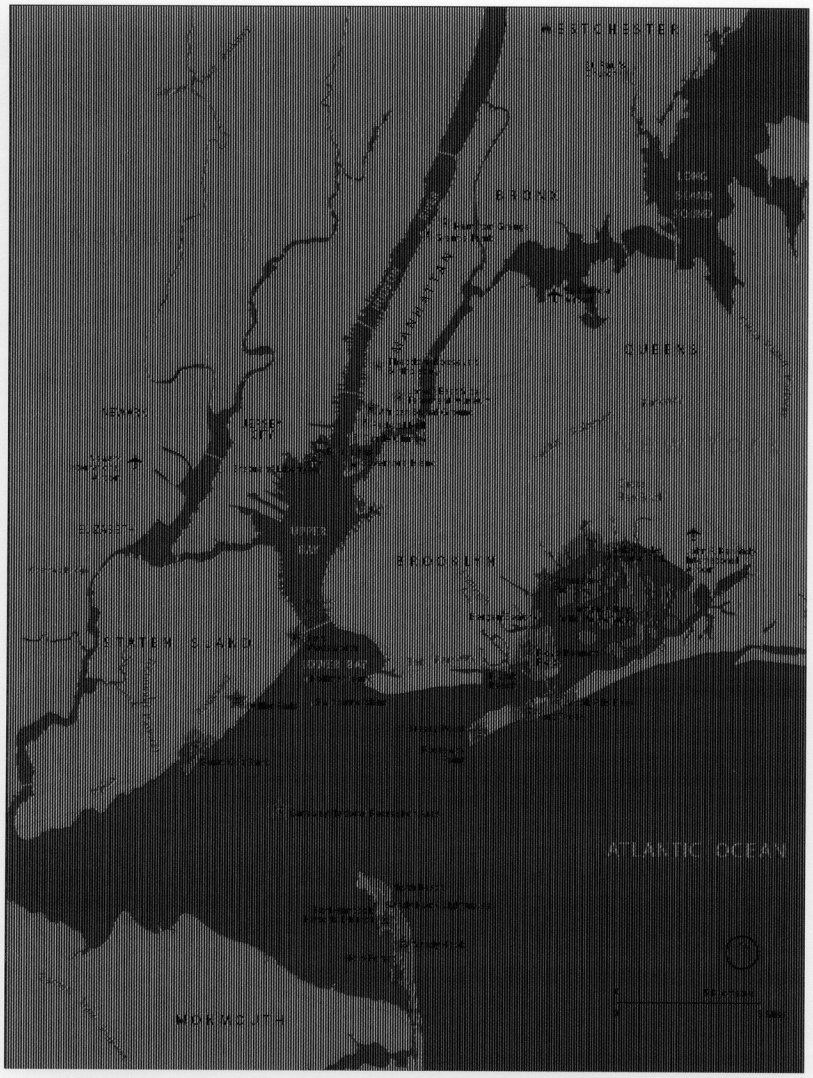
Our promise is to make the Arrowhead—the symbol for the greatest and most enduring conservation movement the modern world has known—and the National Park Service Ranger as recognized on the harbor as they are on the trails of Yosemite.

Today, with the leadership of the National Park Service, and other harbor partners, we are working to restore the harbor to the people to create the finest urban waterfront park system in the world and then to help get you there.

National Parks of New York Harbor Icons



Map of The National Parks of New York Harbor



Mr. GRIJALVA. Thank you very much.

If I may, Ms. Salerno, the organization, the conservancy, was there involvement on the part of the organization, yourself, in the process of selecting the new concessionaire that we are speaking about today?

Ms. SALERNO. No.

Mr. GRIJALVA. Pardon?

Ms. SALERNO. No, there was not.

Mr. GRIJALVA. Do you feel that that would have been an appropriate input for the organization or not?

Ms. SALERNO. The regulations and the rules of the National Park Service you probably know much better than I do. I think it was inappropriate for them legally to ask our counsel. We did weigh in with the City of New York with many suggestions and recommendations.

Mr. GRIJALVA. Thank you.

Ms. Moyer, going back to a point I didn't make well when the Deputy Director was here, and that had to do with in correspondence to the Speaker, National Park Service stated—that was in June—stated that they expected Hornblower to start doing a much better job in working with the port regarding its plans, modifications of those plans. It is mid-September now, and has that cooperation improved or occurred?

Ms. MOYER. Mr. Chair, I would characterize the level of cooperation as consistent with what it has been since the announcement was made in September of 2005. Tidbits of information are being distributed to the port in what I would not characterize as a timely manner.

On September 6, presumably in anticipation of this hearing, the port was finally given a document called "The San Francisco Landing Plan," which is nothing more than an outline over seven pages saying things like what the schedule would be and who the stakeholders are. There are some maps attached to it that are illegible, and we cannot tell from that what the intent is with our property.

Again, I think it is difficult for the port and our tenant, Hornblower has been a tenant of the port, a very good tenant of the port for some time, and there is this third party between us now, the Park Service, and again, there doesn't seem to be leadership or direction coming from either of those entities on how to close a deal with the port or any of the other stakeholders for that matter.

Mr. GRIJALVA. Yes. And I have referenced a question to the other witness. As Hornblower is going through the process of being awarded the contract in New York for the Statue of Liberty and the other stops along the way, to your knowledge, the port or the City of San Francisco, did you receive any inquiries by the Park Service regarding what track record or lack of track record you might have with that concessionaire?

Ms. MOYER. We did not. The only information that we have to this date is the actual contract itself despite our repeated requests for information with respect to the other proposals. To my knowledge, there were four proposals from three respondents. All three respondents controlled, had a leasehold interest at different locations at the San Francisco Waterfront. That is one of the problems, I think, of the Park Service process that I would look to Congress to rectify.

In discussions with the Park Service subsequent to the process, they acknowledged that their process does not allow for the situation in which there is a third party property owner or private property owner.

In response to a question about cooperation, we have offered to lease directly to the Park Service because right now the lease of any of the respondents is shorter than the concession, and this would allow there to be continuity of the service. We could write a long-term lease with the Park Service or the GSA, and then the process when it is next bid could be open to all providers, which seems to be in the spirit of the 1998 Act.

Mr. GRIJALVA. Yes. The question is, in reviewing and awarding the contract in New York, were there any inquiries to the City of San Francisco or the port regarding your experience and track record with Hornblower?

Ms. MOYER. I apologize. I thought you were talking about the Alcatraz award. None to my knowledge, to either the mayor or myself or the Congresswoman's office.

Mr. GRIJALVA. In some of the correspondence I received, one of the great selling points in San Francisco was the environmental agenda for the concessionaire. Can you briefly talk about compliance with those points that were such a big part of the award and touted as really being cutting-edge kind of commitments on the part of the concessionaire? Can you comment on the compliance to that environmental agenda or points that were made in that contract?

Ms. MOYER. Well, again, no hard and fast information has been made available to us. It appears that the compliance has been delayed. The Park Service and the concessionaire have said that they are in contract for a solar ferry, but no evidence of that has been provided. And there was some testimony from Deputy Director Wenk with respect to the enhancements to the existing ferries, and those enhancements have not been fully activated. In fact, the concessionaire purchased some of the prior operator's boats and are operating those as well, and to my knowledge, they have not been cleaned, if you will.

Mr. GRIJALVA. Thank you. I don't have any more questions. Mr. Bishop.

Mr. BISHOP. Thank you both for coming here. Ms. Salerno, I appreciate your efforts to be here and your testimony. What would you recommend be the first additional ferry site added in New York Harbor if there was an expansion of the site travel?

Ms. SALERNO. For us, it would be Gateway National Recreation Area. For the City of New York, it would certainly be Governor's Island or any of the eight other new sites that they are putting onto the water.

Mr. BISHOP. OK. We have talked before about Statue of Liberty receiving 2 million fewer visitors than it did prior to 9/11, or as the city visitorship was up, which I still think was because of the Yankees, but that is beside the point, what action——

Ms. SALERNO. I would say the Mets.

Mr. BISHOP. OK. You just lost anything else you wanted in this hearing. What action is your organization taking with the Park Service to invite those visitors back?

Ms. SALERNO. We have embarked on an enormous campaign to do public projects, programs and activities to encourage folks to get onto New York Harbor. We envision that New York Harbor is our stage. It is a stage the folks have not visited in a very long while.

The Statue of Liberty of course is one of the premier sites in the world, if not in New York, and a top tourist destination.

However, most New Yorkers will say to you, "I haven't been there since I was a child." So one of the things that we would like to do through the collective of all of the parks of the national parks of New York Harbor is to create experiences that link these parks together, and we have invested at this point close to $5 million in programs to support the parks. Next year we will be putting rangers, National Park Service rangers on the water for the first time in the history of these parks, and we have received funds from private donors to work with us to create other programs that will help New York Harbor and these parks shine.

Mr. BISHOP. Thank you. I am excited about those kind of opportunities you are expanding. In your verbal testimony, you called the new concessionaire Hornblower, they had a progressive vision. How will this new concession contract benefit visitors to New York, especially to these harbor sites?

Ms. SALERNO. We are hopeful that this is a new day for New York Harbor, and Hornblower as a new citizen to the City of New York has a responsibility to the city and to our national parks to make sure that they are accessible. We are hopeful that he will take every opportunity to make sure that from the Statue of Liberty and Ellis Island there will be other places that you can embark from those places to get to new sites on the water.

Mr. BISHOP. Thank you. I appreciate your testimony and your time with us here.

Ms. SALERNO. Thank you.

Mr. BISHOP. No, one more question, Ms. Salerno. Apparently the Speaker's office was involved in the San Francisco decision in some way or at least had contact. Has your organization done any contact with the Speaker's office here about the awarding of this concession?

Ms. SALERNO. No, sir.

Mr. BISHOP. OK. Ms. Moyer, once again, I appreciate you coming back all this distance to be here as well. I agree with your comments that the Golden Gate National Recreation Area and Hornblower should be here represented. Unfortunately, unlike legislative bodies where private citizens get a chance to actually come in and talk to people, this is one by invitation only, and that invitation was not extended to them. Perhaps at some other time we could actually do that particular thing.

The Park Service talked about their customer satisfaction, which they said had been positive. Do you dispute that testimony at all?

Ms. MOYER. I have not been privy to any of the satisfaction reports and/or surveys. I don't frankly know what the questions are. I do get comments from local people who are not as satisfied. They find the fact that there are very few amenities at the location to be disillusioning. For instance, you are required to use a port-a-potty. You can get coffee and a bagel, but that is about it.

Mr. BISHOP. We don't blame you or actually staff or even the Chairman. One of the problems we have in the hearing process just the way we do things in Congress is the inability of having a good dialogue, and I think if we had Mr. Wenk back here again, coming back after your presentation, it would be a wonderful opportunity

to try and increase that type of dialogue. That goes for the two of us that are actually here.

You mentioned in your testimony the retention of cherished employees. Who are those cherished employees?

Ms. MOYER. It was our understanding that when the contract was awarded to Hornblower, the employees that had been servicing the island for a decade or two would transfer over to Hornblower and that the best efforts would be made to retain those employees with the knowledge not only of the island but certainly of the conditions in the bay. And we are particularly concerned with the removal of sewage from the island and its disposal upon our property.

Mr. BISHOP. Is that why they are considered cherished employees?

Ms. MOYER. I don't think I put such an emphasis on "cherished," but I certainly——

Mr. BISHOP. It is your adjective.

Ms. MOYER. My apologies then. As you may know, the ferry boats are operated by skeletal crews, and we certainly want to know that they are experienced.

Mr. BISHOP. Thank you. I don't really have any other questions.

Mr. GRIJALVA. Thank you, Mr. Bishop, and thank you to the witnesses.

We will be forwarding some questions to the National Park Service relative to the contract, and primarily dealing with the aspect of the ongoing issue in San Francisco. And the reason for those questions, as you mentioned, you are hopeful, Ms. Salerno, that it is a new day and that this concessionaire will live up to its commitments. Given the experience in San Francisco, we want to make sure that that does occur.

One of the questions that I think will be important concerns some of the contractual issues with the National Park Service. Basically, some of the terms almost give noncompliance to parts of the contract for an indefinite period. There is no end to when that noncompliance is remedied or not. We need to look a little bit into the revenues and the profits of the concessionaire, and other questions that this hearing has provoked. We will forward that and certainly have the Committee review the same information. So we will be forwarding additional questions.

I appreciate your being here. Thank you very much. The meeting is adjourned.

Ms. SALERNO. Thank you.

[Whereupon, at 12:30 p.m., the Subcommittee was adjourned.]

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