

WEST VIRGINIA DIVISION OF TOURISM AND PARKS
CANAAN VALLEY STATE PARK
FOR THE PERIOD
JANUARY 1, 1989 - JUNE 30, 1993

WEST VIRGINIA DIVISION OF TOURISM AND PARKS

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CANAAN VALLEY STATE PARK

TABLE OF CONTENTS

Exit Conference	1
Introduction	2
Administrative Staff	4
Summary of Findings and Recommendations	5
General Remarks	8
Independent Auditors' Opinion	23
Statement of Cash Receipts and Disbursements	24
Notes to Financial Statement	26
Supplemental Information	27
Certificate of Director, Legislative Post Audit Division	31

WEST VIRGINIA LEGISLATURE
Joint Committee on Government and Finance



Legislative Post Audit Division
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CHARLESTON, WEST VIRGINIA 25305

The Joint Committee on Government and Finance:

In compliance with the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, we have examined the accounts of the West Virginia Division of Tourism and Parks, Canaan Valley State Park.

Our examination covers the period January 1, 1989 through June 30, 1993. The results of this examination are set forth on the following pages of this report. However, only the financial statements for the years ended June 30, 1993 and June 30, 1992 are included in this report. The financial statements covering the period January 1, 1989 through June 30, 1991 are included in our audit workpapers.

Respectfully submitted,

A handwritten signature in cursive script that reads "Theodford L. Shanklin".

Theodford L. Shanklin, CPA, Director
Legislative Post Audit Division

TLS/tnd

WEST VIRGINIA DIVISION OF TOURISM AND PARKS

CANAAN VALLEY STATE PARK

EXIT CONFERENCE

An exit conference was held on June 6, 1994, in the office of the Commissioner, Division of Tourism and Parks. The findings were reviewed and discussed with the Commissioner and members of his staff.

WEST VIRGINIA DIVISION OF TOURISM AND PARKS

CANAAN VALLEY STATE PARK

INTRODUCTION

Canaan Valley State Park began in 1963 with the acquisition of land through a transfer of land, known as the Kaemmerling tract, from the Division of Game and Fish to the Division of Parks and Recreation. This tract, totalling 3,135 acres, was willed to the State of West Virginia by Maude Kaemmerling in 1957. However, actual planning for Canaan did not begin until Federal Area Redevelopment Administration funds became available through the Federal Economic Development Administration. The State Park System benefitted from these funds. Loans totalling \$18 million and \$10 million in grants were secured for the Park System, and three new parks, Pipestem, Canaan Valley and Twin Falls, were developed.

Land acquisition for Canaan was difficult and drawn out with land owners fighting hard against acquisition; construction costs rising greatly through inflation. The golf course, first facility to be completed, opened June 15, 1968. A winter sports complex including a ski center with restaurant, pro shop, lounge, first aid station, double chair ski lift, trails for beginner and skilled skiers - all serviced by artificial snow-making equipment was opened in December, 1971. The first cabin rental of the fifteen resort cottages was July, 1972. A 34-site campground was opened for public use in May 1972. The lodge after being put on hold for the ski development was constructed and dedicated in 1977. Since Canaan Valley State Park began in 1963, the State has spent

some 15 million on capital improvements in developing one of the most outstanding recreation areas in all of the Allegheny Mountains.

The West Virginia State Park System entered into a new era with the passage by the Legislature of "The Economic Development Act of 1985." Making the State Park System self-supporting became a major goal, and in 1987 the Legislature passed the "privatization act". This allowed the Commissioner of Department of Commerce to enter into 10 to 25 year contracts with private firms that would invest at least \$1,000,000.00 for the development, construction and operation of revenue producing State recreational facilities. Although several Requests for Proposals for such development were advertised, response was limited. Only one major development has resulted from the Act, the expansion of recreational facilities at the State's ski resort, Canaan Valley State Park.

Since September 1971, the Park has been operated by private concessionaires. The same concessionaire operated the Park from September 1971 through December 1993 at which time the License was assigned to another concessionaire who currently operates the Park.

WEST VIRGINIA DIVISION OF TOURISM AND PARKS

CANAAN VALLEY STATE PARK

ADMINISTRATIVE OFFICERS

James B. Lawrence Commissioner
Cordie O. Hudkins, Jr. Director, Parks and Recreation
Art Shumate Director, Administration
Steven Bolar Superintendent

WEST VIRGINIA DIVISION OF TOURISM AND PARKS

CANAAN VALLEY STATE PARK

SUMMARY OF FINDINGS AND RECOMMENDATIONS

COMPLIANCE MATTERS

Development Debts and Reimbursements

1. Proceeds from developments were not totally used to pay the contractors for developments or improvements at the Park. One of the development loans appear to have been received to pay interest costs. The Agreement does not address the disposition of development debt reimbursements.

(a) We recommend the Division determine how much the \$470,000 loan should be considered as development loan.

(b) We recommend the Division analyze the development loan proceeds on an as needed basis and not allow any of the principal and related interest as development debt which is in excess of as needed.

(c) We recommend the Division attempt to renegotiate the development debt reimbursement provision to specify the reimbursements be used to retire the development debts and any excess reimbursements be returned to the Division at the termination of the Agreement. (See pages 9-12.)

Year-end Settlement Payments Not Received Timely
No Interest Received On The Late Payments

2. Year-end settlement payments from the Licensee due the Division of Tourism and Parks, as compensation for the

License, were not received by the fifteenth day of the month following year-end, nor did the Division receive interest on the late payments as specified in the License Agreement.

We recommend the Division enforce compliance with the License Agreement by requiring the Licensee to make timely payments and collect the interest of \$5,702.70 due the Division for previous late payments. (See pages 12-13.)

Maintenance Fund Should Be In State Account

3. The "maintenance fund" should be deposited in a State account in the State Treasury instead of a local bank account since its funding is derived from the annual payment due the Division.

We recommend the License Agreement be amended to comply with Chapter 12, Article 2, Section 2(a) of the West Virginia Code, as amended and require the "maintenance fund" be deposited in a State account in the State Treasury. (See pages 13-16.)

**Development And Improvement Project Audit Reports
Not Completed As Required**

4. The Licensee did not submit signed and certified audit reports to the Division, as specified by the License Agreement, for each phase of development and improvement.

We recommend the Division require the Licensee to comply with the Licensee Agreement and submit a signed and

certified audit report 45 days from the completion date of each development and improvement project. (See page 16.)

Revenues Generated from License Agreement Insufficient to Pay Operating Expenses and Debt Service

5. The provisions of the Agreement has not generated sufficient revenues to pay operating expenses and debt payments.

We recommend the Division attempt to renegotiate the License Agreement so that the minimum share of revenues be at least able to meet operating expenses. (See pages 17-18.)

License Agreement Items Not in the Best Interest of the State

6. We noted various items in the Agreement which did not appear to be in the best interest of the State, such as; the schedule for construction, renovations, installations, furnishings, and improvements of facilities, development debt reimbursements, vague statements as to standards of service, quality, pricing, maintenance and repairs, and the lien provision for ranking.

We recommend the Division assign one of its employees the responsibility for administering the Agreement and to spot check information received from the Licensee. (See pages 18-22.)

WEST VIRGINIA DIVISION OF TOURISM AND PARKS

CANAAN VALLEY STATE PARK

GENERAL REMARKS

INTRODUCTION

We have completed a post audit of The West Virginia Division of Tourism and Parks, Canaan Valley State Park. The audit covered the period January 1, 1989 through June 30, 1993.

GENERAL AND SPECIAL REVENUE ACCOUNTS

All expenditures required for the general operation of Canaan Valley State Park are made from the following accounts: These accounts are also utilized by other State parks, wildlife areas and State forests.

General Revenue Accounts

<u>Number</u>	<u>Description</u>
4625-00	Personal Services
4625-13	Unclassified
4625-15	Unclassified
4625-35	Employee Benefits
4625-66	Annual Increment

Special Revenue Accounts

<u>Number</u>	<u>Description</u>
8545-14	ARA Park Operation
8545-17	Special Works Program
8545-32	State Park Operating
8546-06	Lottery Net Profits- Unclassified

REVENUES

Revenues for the operation of Canaan Valley State Park are derived from the following sources:

- General Revenue Appropriations
(Fiscal Years 1989 and 1990)
- Graduated percentage of the Licensee's gross receipts
increasing one percentage point for each increment

of \$4,000,000 above \$12,000,000. Currently, the percentage is 14% of gross revenues with a guaranteed minimum of \$400,000 annually.

Lottery Funds
Gas Royalties
Special events managed by the State
Federal grant (Fiscal Year 1993)

COMPLIANCE MATTERS

Chapter 5B, Article 1 of the West Virginia Code generally govern West Virginia State parks, more specifically, Chapter 5B, Article 1, Section 15 of the West Virginia Code govern those parks under contracts for operations of commissaries, restaurant, recreational facilities and other establishments. West Virginia Department of Commerce (West Virginia Division of Tourism and Parks), Canaan Valley State Park has entered into a License Agreement with a private corporation for its operations. We tested applicable sections of the above statutory sections, the License Agreement and other applicable chapters, articles and sections of the West Virginia Code plus general State regulations as they pertain to fiscal matters. Our findings are discussed as follows.

Development Debts And Reimbursements

The License Agreement (Agreement) between the West Virginia Department of Commerce (Department) and Canaan Valley Resorts, Inc. (Licensee) dated December 31, 1988 states in part:

"... The Licensee as reimbursement for development debts required by this Agreement shall retain the "State Reimbursement", which is defined for purposes of this Agreement to be the sum of Six Hundred Thousand Dollars (\$600,000) per annum. If in any month gross receipts are not adequate to reimburse the Licensee the state reimbursement, the amount of such deficiency is to be carried forward to the succeeding month or months and is to be reimbursed to the Licensee before any payments are made to the Maintenance Fund described

below, or before any additional payments are made to the Department above "the guaranteed minimum",...."

Effective July 1, 1991 the Department's Maintenance Fund was authorized to receive 4% on gross receipts in excess of \$8,000,000 after the guaranteed minimum of \$400,000 and the State reimbursement of \$600,000 per annum has been met.

As stated above, the Agreement clearly expects the Licensee to go in debt in order to finance the improvements and the Department is clearly willing to allow the Licensee to withhold \$600,000 per year after its \$400,000 guaranteed minimum has been met. In our reading of the Agreement, we could find nothing which implied the Department would reimburse for debts not used for the improvements called for in the Agreement. The following is a summary of the development debts and their uses from January 1, 1989 to June 30, 1991:

<u>Date</u>	<u>Description</u>	<u>Amount</u>
09/12/89	New Development Debt	\$4,100,000
09/12/89	Refinanced Old Development Debt Plus Interest	<u>452,432</u>
09/12/89	Proceeds Available For Improvements	3,647,568
Improvements:		
11/30/89	Lodge Areas, Reroofing and Refurbishing Lodge Rooms	<u>2,715,079</u>
06/30/90	Remaining Proceeds After Construction Payments	932,489
06/30/90	Interest on Lodge Areas, Reroofing and Refurbishing Lodge Rooms	<u>335,912</u>
06/30/90	Remaining Proceeds After Construction Payments Interest	596,577
08/22/90	Additional Development Debt	<u>470,000</u>
08/22/90	Proceeds Available for Improvements	1,066,577
Improvements:		
12/31/90	Lodge Areas, Reroofing and Refurbishing Lodge Rooms	<u>636,456</u>
12/31/90	Remaining Proceeds After Construction Payments	430,121

06/30/91	Interest on Lodge Areas, Reroofing and Refurbishing Lodge Rooms	<u>416,934</u>
06/30/91	Development Debt Proceeds Not Used For Improvements	<u>\$ 13,187</u>

The above summary indicates only \$13,187 were not used for the construction of the improvements. We believe this amount should have been greater, because the Licensee received all of the loan proceeds on the dates of the loans (September 12, 1989 \$4,100,000 and August 22, 1990 \$470,000). If the Licensee had received the loan proceeds as needed to pay the contractors, interest costs would have been much less. The following analyzes the loan proceeds available for improvements and payments to the contractors:

09/12/89	Development Debt Proceeds Net	\$3,647,568
08/22/90	Development Debt Proceeds	<u>470,000</u>
	Total Proceeds Available For Improvements	4,117,568
06/30/91	Total Payments To Contractors	<u>3,351,535</u>
	Balance	<u>\$ 766,033</u>

The above analysis indicates part of the \$470,000 loan was obtained to pay interest costs because the Licensee choose to receive the loan proceeds up front and not as needed to pay the contractors. We do not believe the Division should allow the Licensee to classify all of the \$470,000 loan as a development debt.

1. *We recommend the Division determine how much of the \$470,000 should be considered as development debt. We recommend the Division analyze the development loan proceeds on a as needed basis and not allow any of the principal and related interest as development debt which is in excess of as needed. Finally, we recommend the Division attempt to renegotiate the development debt*

reimbursement provision to specify the reimbursements be used to retire the development debts and any excess reimbursements be returned to the Division at the termination of the Agreement.

*Year-end Settlement Payments Not Received Timely-
No Interest Received On The Late Payments*

Year-end settlement payments from the licensee fee due the Division of Tourism and Parks, as compensation for the license, above the guaranteed minimum of \$400,000 were not received by the fifteenth day of the month following year-end, nor did the Division receive interest on the late payments as specified in the contract. Section 5, paragraph 2 and 4 of the License Agreement states in part:

"...Such ...payments shall be delivered on or before the fifteenth day of each month for the preceding calendar month to the Park Superintendent..."
"...For failure to make timely payments to the Department as herein provided, the Licensee shall pay interest on the unpaid fees at the rate of eighteen percent (18%) per annum until payment is received."

Since the beginning of the current License Agreement effective January 1, 1989, gross income to the Licensee to warrant year-end settlement payments to the Division has only been sufficient for the past two calendar years. For calendar years 1992 and 1993, the Division was due by January 15, 1993 and 1994 year-end settlement payments in the amounts of \$20,760.21 and \$190,802.99, respectively. The calendar year 1992 payment was received on June 10, 1993, approximately 145 days late and the calendar year 1993 payment was received on March 1, 1994, approximately 44 days late. Interest earnings the Division should have received amounted to \$1,505.10 and \$4,197.60 for calendar

years 1992 and 1993, respectively.

From reviewing the Division's correspondence, it appears the Division was also late in requesting these funds and we saw no evidence of correspondence regarding a request for interest on late payments. For the payment due the Division on January 15, 1993, we saw Division correspondence dated May 20, 1993 requesting the payment. We saw no evidence of correspondence requesting the payment due January 15, 1994.

By not receiving the payments in a timely manner nor receiving the interest on the late payments, the Division lost the benefit of having the funds available for expenditure and potential interest earning should the funds have been invested.

2. We recommend the Division enforce compliance with the License Agreement by requiring the Licensee to make timely payments and collect the interest of \$5,702.70 due the Division for previous late payments.

Maintenance Fund Should Be In State Account

The Maintenance Fund is to be used for obligations which are the responsibility of the Division for Maintenance, repairs and equipment, and for such other expenses as are mutually agreed to by the Licensee and the Division. These monies should be deposited in a State account in the State Treasury instead of a local bank account since its funding is derived from the annual payment due the Division. Also, Chapter 12, Article 2, Section 2(a) of the West Virginia Code, as amended, requires these fund to be deposited with the State Board of Investments. Section 2(a) states in part:

"All officials and employees of the state authorized by statue to accept moneys due the

state of West Virginia shall keep a daily itemized record of such moneys so received for deposit in the state treasury ..."
(Emphasis added)

Section 4, paragraph 4 of the License Agreement states in part:

"The Maintenance Fund shall be established at the Lowndes National Bank, Clarksburg, West Virginia in an interest bearing account with the interest being added to the account...."

The Fund is funded by a percentage of the revenues due the Division as compensation for the license. The Agreement states that 4% of the applicable percentages due the Division shall be deposited into a maintenance fund whenever gross receipts are in excess of \$8,000,000. There was an excess of gross receipts for calendar years 1992 and 1993. A maintenance fund was established in June 1993 with the initial deposit of \$12,013.90 from calendar year 1992 and additional revenues were deposited in the fund in the amount of \$28,321.20 in February 1994 for calendar year 1993. According to the Licensee by letter dated February 22, 1994, the current balance is \$40,505.50 which includes interest earnings of \$170.40. Expenditures from the Fund also appear to indicate that the Fund should be in a State account. Expenditures from the "maintenance fund" are stated in Section 6 of the License Agreement which states in part:

"All expenditures from the Maintenance Fund shall be for obligations which are the responsibility of the Department for maintenance, repairs and equipment, and for such other expenses as are mutually agreed to by the Licensee and the Department...."

Although the License Agreement does state that the maintenance fund shall be established in a local bank account and that the Licensee shall direct the application of the funds, the

agreement also states in part:

"... which funds shall be used solely for park maintenance, repairs, alterations, furnishings and equipment which the Department has heretofore been or hereafter becomes obligated to so maintain, repair, alter, furnish and equip...."

With the Maintenance Fund being in a separate local bank account in the name of the Licensee and its expenditures being directed by the licensee, the possibility exist of expenditures being made without the knowledge of the Division. Also, the fund was not available to the State for investment. The utilization of this local bank account has the effect of precluding oversight of expenditures from the account by the State Auditor. As a result, the possibility for these funds to be used for purposes other than intended in the contract or as allowed under State law is increased. We believe these funds should be deposited into an account within the State Treasury as required by Chapter 12, Article 2, Section 2(a)(10) and thereby be subject to the provisions of the State Code as contained in Chapter 12, Article 3, Section 9 of the West Virginia Code, as amended.

"Every board or officer authorized by law to issue requisitions upon the auditor for payment of money out of the state treasury, shall, before any such money is paid out of the state treasury, certify to the auditor that the money for which such requisition is made is needed for present use for the purposes for which it was appropriated; and the auditor shall not issue his warrant to pay any money out of the state treasury unless he is satisfied that the same is needed for present use for such purposes."

3. We recommend the License Agreement be amended to comply with Chapter 12, Article 2, Section 2(a) of the West Virginia Code,

as amended, and require the Maintenance Fund be deposited in a State account in the State Treasury.

Development And Improvement Project Audit Reports
Not Completed As Required

The Licensee did not submit signed and certified audit reports to the Division, as specified by the License Agreement, for each phase of development and improvement. The one audit report received was not submitted in the time frame specified by the Agreement. Sections 8 of the License Agreement states in part:

"...A signed and certified audit report from an independent certified accountant covering in detail all aspects of the project, including investment, expenditures, insurance, and other such data and information as the Department may require shall be provided within 45 days of the completion date of each phase of the Park's development and improvement projects...."

During our review, we noted only one audit report had been submitted to the Division and it covered two development and improvement projects, lodge area improvements and reroofing and refurbishing of lodge rooms. The report was dated September 27, 1991, approximately 89 days from the period covered by the report which was March 1, 1989 through June 30, 1991. However, we believe the completion dates of the above developments and improvements to be November 1989 and December 1990.

4. We recommend the Division require the Licensee to comply with the License Agreement and submit a signed and certified audit report 45 days from the completion date of each development and improvement project.

Revenues Generated From License Agreement
Insufficient To Pay Operating Expenses and Debt Service

We noted during our review that the Division of Tourism and Parks is not receiving sufficient revenues, after allowing the Licensee to retain a portion of revenues for reimbursement of development debt, to meet the expenditures for operating expenses and debt service of Canaan Valley State Park. As previously mentioned, the Division receives from the Licensee a percentage of annual gross revenues generated from Park operations with a guaranteed minimum of \$400,000 per year. For the last two calendar years, the Division has received additional revenues above the guaranteed minimum. For calendar years 1992 and 1993, the Division received \$20,759.81 and \$190,802.98, respectively, in additional revenues above the guaranteed minimum. However, even with the additional revenues, revenues have not been sufficient to meet operating expenditures and debt service.

The Division maintains a staff of 12 employees at the Park to perform the duties required of the Division by the License Agreement which primarily includes maintaining the grounds and exterior of all buildings on the premises. Operating expenditures for the Park for the five year audit period averaged \$427,000 annually. Canaan Valley State Park was one of four State parks constructed and acquired with Park Development Revenue Bonds issued in 1969. During the past five fiscal years 1989 through 1993, Canaan Valley's annual share of the debt service payment have averaged \$526,765. These bonds are scheduled to be paid off in November 1994. During the period, debt service payments for the park averaged \$953,765. It is apparent from these amounts that the

revenues received from the License Agreement have not been sufficient to meet the State's expenditures for the Park and revenues from other sources or parks have had to be utilized. If the Division was allowed to retain all of the revenues due it from the License Agreement including the development debt reimbursements, revenues should be sufficient to meet the above expenditures.

5. We recommend an attempt be made to renegotiate the License Agreement to have the minimum share of revenues due the Division be increased to an amount at least equal to the operating expenditures incurred by the Division.

LICENSE AGREEMENT ITEMS NOT IN THE BEST INTEREST OF THE STATE

During our review of the License Agreement, we also noted areas that do not appear to be in the Division's best interest. These areas follow:

1. The License Agreement requires the Licensee to submit an annual signed and certified audit report from an independent certified public accountant covering all operations conducted pursuant to the Agreement. This requirement is not to the Division's advantage since the Division is not the client and therefore does not set the scope of the audit.
2. The License Agreement does not require the following developments and improvements to be made until the year 2002: This is not in the best interest of the Division because the Licensee is receiving development reimbursement from the Division continually even though the following developments and improvements are not scheduled for many years.

a. Ski area and sewage facilities -- commencing no later than April 1, 2002 and completed by December 1, 2002 which is approximately 12 years from the date of the developments and improvements completed by March 1, 1991 and April 1, 1991.

Ski area developments and improvements - A ski area base building of approximately 20,820 square feet combined with the renovation of existing A, B, and C buildings, to provide an expanding facility which includes a lift ticket sales area, ski equipment rental shop, ski rental/storage rack, gift shop, large restaurant, kitchen equipment, cafeteria equipment, restaurant furnishings, warming area, restrooms, nurseries/day-care centers, lounge, and other related facilities.

Additional sewage treatment facility - Including the improvement of the sewage treatment capacity of the ski area to 20,000 gallons per day capacity, employing an aerated treatment lagoon system, with chlorinator, and an existing polishing pond. The State reimbursement for development debt will total \$7,950,000.

b. Golf course -- commencing no later than April 1, 2002 and completed by April 1, 2004 which is approximately 12 years from the date of the development and improvements completed March 1, 1991 and April 1, 1991.

Golf course development - Including an expanded clubhouse facility, support equipment to service at minimum an additional 9-hole golf course and operating expenses to support the additional golf course expansion. The State reimbursement for development debt will total \$7,950,000.

c. Ski parking -- commencing no later than Septmeber 1, 2002 and completed by December 1, 2002 which is approximately 12 years from the date of the developments and improvements completed by March 1, 1991 and April 1, 1991.

Ski area parking - Including the expansion of the ski area parking to include approxamately 200,000 square feet of crushed stone paving to accommodate cars, vans, trailers and buses with a bituminous paved access road, culvert crossing of Mill Run, and a six foot wide pedestrian trail and footbridge from the expanded ski area parking to the base buildings. The State reimbursement for development debt will total \$8,200,000.

d. Cottage area -- commencing no later than April 1, 2003 and completed by April 1, 2004 which is approximately 13 years from the date of the developments and improvements completed by March 1, 1991 and April 1, 1991.

Cottage area development - Including eight (8) guest cottages, each with approximately 1,500 square feet including four bedrooms, two baths, kitchenette, living/dining areas, closets, fireplace, deck, porches, and wood storage box completely furnished and equipped as set forth in the request for proposal, including all site utility improvements and crushed stone paved driveways. The State reimbursement for development debt will total \$8,550,000.

3. The License Agreement does not require the Division to supervise or monitor the Licensee in performance or compliance with the terms of the License Agreement.

4. As discussed earlier, the License Agreement does not specifically state that the "State reimbursement" of \$600,000 must be used to pay off the development debts; although this appears to be the contractual intent. Nor does the Agreement address the issue of any excess development debt reimbursement.

5. The License Agreement contains many vague statements as to standards to be used for measurement of service, quality, pricing maintenance and repairs. The standards given are general in nature and not specific. Also, no time tables have been established as to when specific things are to be done or how often. This is not in the best interest of the Division because not having specific standards or set time tables could allow items or areas to deteriorate before being repaired or replaced. For example:

a. Section 15 of the Agreement concerning "Service, and standards" states in part: "The Licensee agrees to operate the concessions in a highly attractive and efficient manner... The food and service of this facility shall be of a high quality and shall meet applicable commercial standards."

b. Section 17 of the Agreement concerning "Equipment" states in part: "...The Department has heretofore provided the initial decoration of certain building to be utilized under this license. Further decorations and redecorations shall be by the Licensee at its own expense as required from time to time to keep the premises attractively decorated, subject to the approval of the Department."

c. Section 19 of the Agreement concerning "Maintenance and repairs" states in part: "...The Licensee shall be responsible for maintenance of water distribution lines and other components of the golf course irrigation system within the golf course and of the entire snowmaking systems....The Licensee shall maintain all equipment within and upon the licensed premises in good operating condition, in accordance with the manufacturer's recommendations....The Licensee agrees to maintain the licensed premises in an attractive, clean and sanitary manner in accordance with all health laws and regulations....The Licensee shall cut the grass in areas

agreed upon by the Licensee and Park Superintendent and shall be responsible for the maintenance of the golf course and golf course maintenance equipment and ski slope trails and trail maintenance equipment."

6. Section 21 of the License Agreement concerning "Inspection" may not be in the best interest of the Division in that the Agreement does not specify a time frame for inspection by representatives of the State of West Virginia. This could allow the premises to deteriorate before an inspection would be conducted.

7. Sections 29 and 30 of the License Agreement contain provisions for the Division to hold a lien on the personal property of the Licensee in certain situations, however the Agreement does not specify which lien, such as first, second, third or fourth the Department is to hold. This would not be in the best interest of the Division, since the order of the lien is not specified. If there would be other lien holders, the Division would stand a greater chance of not collecting on a lien. Sections 29 and 30 are stated in part below:

a. Section 29 concerning "Default of Payment" states in part: "It is expressly agreed that the Department shall have a continuing lien subordinate to that of any lender during the period of debt on all personal property of the Licensee..."

b. Section 30 concerning "Removal of Personal Property" states in part: "...the Department may cause same to be removed and stored at the cost of the Licensee, and the Department shall have a lien thereon..."

6. Since the Agreement appears to be loosely written, we recommend the Division assign one of its employees to be responsible for the administering of the Agreement and to spot check the information furnished the Division by the Licensees for accuracy.

INDEPENDENT AUDITORS' OPINION

The Joint Committee on Government and Finance:

We have audited the statement of cash receipts and disbursement of the West Virginia Division of Tourism and Parks, Canaan Valley State Park for the years ended June 30, 1993 and June 30, 1992. The financial statement is the responsibility of the management of West Virginia Division of Tourism and Parks, Canaan Valley State Park. Our responsibility is to express an opinion on the financial statement based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note A, the financial statement was prepared on the basis of cash receipts and disbursement, which is a comprehensive basis of accounting other than generally accepted accounting principles.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the cash collected and disbursements made by the West Virginia Division of Tourism and Parks, Canaan Valley State Park for the years ended June 30, 1993 and June 30, 1992, on the basis of accounting described in Note A.

Our audit was conducted for the purpose of forming an opinion on the basic financial statement taken as a whole. The supplemental information is presented for purposes of additional analysis and is not a required part of the basic financial statement. Such information has been subjected to the procedures applied in the audit of the basic financial statement and, in our opinion, is fairly stated in all material respects in relation to the basic financial statement taken as a whole.

Respectfully submitted,



Thedford L. Shanklin, CPA, Director
Legislative Post Audit Division

April 26, 1994

Auditors: Nick Arvon, Supervisor
Charles Lunsford, Auditor-in-Charge

**WEST VIRGINIA DIVISION OF TOURISM AND PARKS
 CANAAN VALLEY STATE PARK
 STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS**

	<u>Year Ended June 30, 1993</u>		
	<u>Special</u>	<u>Lottery</u>	<u>Combined</u>
	<u>Revenue</u>	<u>Fund</u>	<u>Total</u>
Cash Receipts:			
License Income	\$420,810	\$ 0	\$420,810
Lottery Net Profits	0	364,476	364,476
Royalties	14,584	0	14,584
Governor's Summer Youth Program	2,634	0	2,634
Insurance Proceeds	0	0	0
	<u>438,028</u>	<u>364,476</u>	<u>802,504</u>
Disbursements:			
Personal Services	14,061	207,920	221,981
Employees' Benefits	1,412	77,808	79,220
Current Expenses	106,039	602,368	708,407
Repairs and Alterations	23,865	35,392	59,257
Equipment	0	9,283	9,283
Building	0	0	0
	<u>145,377</u>	<u>932,771</u>	<u>1,078,148</u>
Cash Receipts Over (Under) Disbursements	292,651	(568,295)	(275,644)
Transfers (Out) In	0	0	0
Cash Receipts Over (Under) Disbursements/Transfers	<u>\$292,651</u>	<u>(\$568,295)</u>	<u>(\$275,644)</u>

See Notes to Financial Statement

Year Ended June 30, 1992

<u>Special</u>	<u>Lottery</u>	<u>Combined</u>
<u>Revenue</u>	<u>Fund</u>	<u>Total</u>
\$400,421	\$ 0	\$400,421
0	381,778	381,778
12,211	0	12,211
0	0	0
<u>1,519</u>	<u>0</u>	<u>1,519</u>
414,151	381,778	795,929
18,485	202,292	220,777
2,523	77,521	80,044
521,210	50	521,260
54,816	17,028	71,844
0	27,607	27,607
<u>0</u>	<u>6,000</u>	<u>6,000</u>
<u>597,034</u>	<u>330,498</u>	<u>927,532</u>
(182,883)	51,280	(131,603)
<u>(280,035)</u>	<u>280,035</u>	<u>0</u>
<u>(\$462,918)</u>	<u>\$331,315</u>	<u>(\$131,603)</u>

WEST VIRGINIA DIVISION OF TOURISM AND PARKS

CANAAN VALLEY STATE PARK

NOTES TO FINANCIAL STATEMENTS

Note A - Accounting Policies

Accounting Method: The Park's accounting method is on a cash basis. Therefore, certain revenue and related assets are recognized when received rather than when earned, and certain expenses are recognized when paid rather than when the obligation is incurred. Accordingly, the accompanying financial statement is not intended to present financial position and results of operations in accordance with generally accepted accounting principles.

Note B - Combined Total

Combined Totals: The combined totals contain the totals of similar accounts of the various funds. Since the cash receipts and disbursements of certain funds are restricted by laws, rules and regulations, the totaling of the funds is for memorandum only and does not indicate the combined totals are available in any manner other than provided by such laws, rules and regulations.

Note C - Pension Plan

All eligible employees are members of the West Virginia Public Employees' Retirement System. Employees' contributions are 4 1/2% of their compensation and employees are vested under certain circumstances. The Park matches contributions 9 1/2% of the employees' compensation. The Park's matching follows:

	<u>Year Ended June 30,</u>	
	<u>1993</u>	<u>1992</u>
Special Revenue	\$ 0	\$ 0
Lottery Funds	\$22,047	\$21,302

SUPPLEMENTAL INFORMATION

WEST VIRGINIA DIVISION OF TOURISM AND PARKS

CANAAN VALLEY STATE PARK

STATEMENTS OF CASH RECEIPTS AND DISBURSEMENTS

	<u>Year Ended June 30,</u>	
	<u>1993</u>	<u>1992</u>
<u>ARA Park Operations - Account 8545-14</u>		
Cash Receipts:		
License	\$420,760	\$400,421
Royalties	14,634	12,211
Insurance	<u>0</u>	<u>1,519</u>
	435,394	414,151
Disbursements:		
Personal Services	10,241	18,485
Employees' Benefits	1,049	2,523
Current Expenses	45,056	521,210
Repairs and Alterations	<u>14,306</u>	<u>54,816</u>
	70,653	597,035
Cash Receipts Over (Under)		
Disbursements	364,741	(182,884)
Transfer to Lottery Net		
Profits - Account 8546-06	<u>0</u>	<u>(280,035)</u>
Cash Receipts Over (Under)		
Disbursements/Transfers	<u>\$364,741</u>	<u>(\$462,919)</u>

WEST VIRGINIA DIVISION OF TOURISM AND PARKS

CANAAN VALLEY STATE PARK

STATEMENTS OF CASH RECEIPTS AND DISBURSEMENTS

	<u>Year Ended June 30,</u>	
	<u>1993</u>	<u>1992</u>
<u>Special Works Program Account 8545-17</u>		
Cash Receipts:		
Summer Youth Program	\$2,634	\$0
Disbursements	0	0
	<u>0</u>	<u>0</u>
Cash Receipts Over		
Disbursements	<u>\$2,634</u>	<u>\$0</u>
 <u>State Park Operating Account 8545-32</u>		
Cash Receipts:		
Insurance	\$ 0	\$0
Personal Services	3,820	0
Employees' Benefits	363	0
Current Expenses	60,983	0
Repairs and Alterations	9,559	0
	<u>74,724</u>	<u>0</u>
Cash Receipts (Under)		
Disbursements	<u>(\$74,724)</u>	<u>\$0</u>

WEST VIRGINIA DIVISION OF TOURISM AND PARKS

CANAAN VALLEY STATE PARK

STATEMENTS OF CASH RECEIPTS AND DISBURSEMENTS

	<u>Year Ended June 30,</u>	
	<u>1993</u>	<u>1992</u>
<u>Unclassified-Lottery Net Profits Account 8546-06</u>		
Cash Receipts:		
Lottery Net Profits	\$364,476	\$381,778
Disbursements:		
Personal Services	207,920	202,292
Employees' Benefits	77,808	77,621
Current Expenses	602,368	50
Repairs and Alterations	35,392	17,028
Equipment	9,283	27,607
Building	0	6,000
	<u>932,770</u>	<u>330,498</u>
Cash Receipts (Under) Over Disbursements	(568,294)	51,280
Transfer from ARA Park Operations Account 8545-14	<u>0</u>	<u>280,035</u>
Cash Receipts (Under) Over Disbursements/Transfers	<u>(\$568,294)</u>	<u>\$331,315</u>

STATE OF WEST VIRGINIA

OFFICE OF THE LEGISLATIVE AUDITOR, TO WIT:

I Thedford L. Shanklin, CPA, Director of the Legislative Post Audit Division, do hereby certify that the report of audit appended hereto was made under my direction and supervision, under the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, and that the same is a true and correct copy of said report.

Given under my hand this 13th day of June,
1994.

Thedford L. Shanklin

Thedford L. Shanklin, CPA, Director
Legislative Post Audit Division

Copy forwarded to the Secretary of the Department of Administration to be filed as a public record. Copies forwarded to the Commissioner, West Virginia Division of Tourism and Parks; Director, Division of Natural Resources; Attorney General; Governor; and, State Auditor.



Gaston Caperton
Governor

Department of
Commerce, Labor
& Environmental
Resources

John Ranson
Cabinet Secretary

Division of
Tourism & Parks
State Capitol Complex
2101 Washington St., E.
P.O. Box 50312
Charleston, West Virginia
25305-0312

FAX: 304/558-0108

1 800 CALL WVA

James B. Lawrence
Commissioner
304/558-2200

Administration
304/558-2358

Advertising/
Public Relations
304/558-2288

Sales & Marketing
304/558-2288

Parks & Recreation
304/558-2764
FAX: 304/558-0077

June 13, 1994

Theodford L. Shanklin, CPA, Director
Legislative Post Audit Division
Joint Committee on Government and Finance
West Virginia Legislature
Building 5, Room 751A - Capitol Complex
Charleston, WV 25305

Dear Mr. Shanklin:

Listed below is our response to the revised Finding:

FINDING: Development Debts and Reimbursement

RESPONSE: We must thoroughly review the finding and explore the recommendations and will provide a more detailed schedule regarding interest charges as they relate to construction costs. We further note that the current concessionaire has since collateralized the development loan with first lien deeds of trust on properties they own and that are appraised at approximately \$5 million.

If you have any questions or require additional information, please don't hesitate to contact me.

Sincerely,

James B. Lawrence
Commissioner

JBL/b



Gaston Caperton
Governor

Department of
Commerce, Labor
& Environmental
Resources

John Ranson
Cabinet Secretary

June 7, 1994

Theodore L. Shanklin, CPA, Director
Legislative Post Audit Division
Joint Committee on Government and Finance
West Virginia Legislature
Building 5, Room 751A - Capitol Complex
Charleston, WV 25305

Dear Mr. Shanklin:

Per your request, we are enclosing our comments concerning your post audit report and recommendations on Canaan Valley Resort State Park as follows:

FINDING: [REDACTED]

RESPONSE: [REDACTED]

FINDING: Year-end Settlement Payments Not Received Timely
- No interest Received On The Late Payments

RESPONSE: We will comply with your recommendation.

FINDING: Maintenance Fund Should Be In State Account.

RESPONSE: We will take steps to transfer the Maintenance Fund to a State Account with the West Virginia State Treasury.

FINDING: Development And Improvement Project Audit Reports Not Completed As Required

RESPONSE: We accept your recommendation and will take steps to ensure that this stipulation is complied with.

Division of
Tourism & Parks
State Capitol Complex
101 Washington St, E.
P.O. Box 50312
Charleston, West Virginia
25305-0312

AX: 304/558-0108

800 CALL WVA

James B. Lawrence
Commissioner
04/558-2200

Administration
04/558-2358

Advertising/
Public Relations
04/558-2286

Sales & Marketing
04/558-2286

Parks & Recreation
04/558-2764
AX: 304/558-0077

Theford L. Shanklin, CPA, Director
June 7, 1994
Page Two

FINDING: Revenues Generated From License Agreement Insufficient To Pay Debt Service And Park Operations

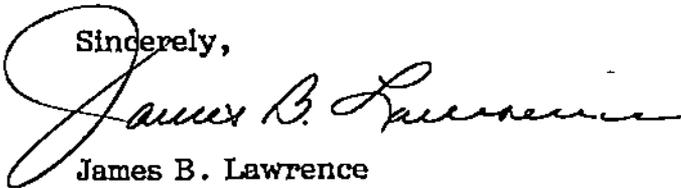
RESPONSE: During calendar year 1993 revenues exceeded operating expenses and based on projections we believe this will not be a concern in the future.

FINDING: License Agreement Not In Best Interest Of The State

RESPONSE: We acknowledge the fact that not all items in the contract are in the best interest of the State, however, we will continue to work with the Licensee to see that the State's best interests are served. We will review your recommendation and give it full consideration.

If you have any questions or require additional information, please don't hesitate to contact me.

Sincerely,



James B. Lawrence
Commissioner

JBL/b

CANAAN VALLEY RESORT STATE PARK
 CONCESSIONAIRE DEVELOPMENT ACCOUNT
 1/1/89

PARK IMPROVEMENTS AS DEFINED IN ADDENDUMS #7 & #8 OF 9-25-71 AGREEMENT

PERIOD INCURRED

6/30/84	ORIGINAL COST OF SKI LIFT		\$1,200,000
1988	SUPERVISING AND INSTALLING IMPROVEMENTS TO SKI AREA DESTROYED AS A RESULT OF A FIRE		\$1,303,231
			\$2,503,231
6/30/84	REIMBURSEMENT - STATE OF WV	\$150,000	
6/30/85	REIMBURSEMENT - STATE OF WV	\$150,000	
6/30/86	REIMBURSEMENT - STATE OF WV	\$150,000	
6/30/87	REIMBURSEMENT - STATE OF WV	\$150,000	
6/30/88	REIMBURSEMENT - STATE OF WV	\$150,000	
12/31/88	REIMBURSEMENT - STATE OF WV	\$128,523	
	TOTAL REIMBURSEMENT		(\$878,523)
			\$1,624,708
BALANCE 1-1-89			

REIMBURSEMENT WAS MADE BY REDUCTION OF PAYMENTS DUE THE DEPARTMENT.

**CANAAN VALLEY RESORT STATE PARK
CONCESSIONAIRE DEVELOPMENT DEBT ACCOUNT
12/31/93**

BALANCE- 1-1-89	\$1,624,708
DIRECT CONSTRUCTION COSTS:	
REROOFING AND REFURBISHING LODGE ROOMS	\$1,247,195
LODGE AREA DEVELOPMENT AND IMPROVEMENTS	\$2,346,707
DEVELOPMENT DEBT INTEREST	<u>\$1,522,543</u>
	<u>\$6,741,153</u>
LESS: STATE REIMBURSEMENT OF FUNDED DEBT FIVE YEARS @ \$600,000 PER YEAR	<u>(\$3,000,000)</u>
BALANCE 12-31-93	<u>\$3,741,153</u>

NOTES:

- A: DIRECT CONSTRUCTION COSTS WERE INCURRED BEGINNING IN 1989 AND WERE COMPLETED BY F/Y 6-30-91.
- B: SUMMARY OF DEVELOPMENT DEBT INTEREST BY PERIOD IS AS FOLLOWS:

PERIOD	AMOUNT
1-1-89 -- 6-30-89	\$45,315
7-1-89 -- 6-30-90	\$335,912
7-1-90 -- 6-30-91	\$416,934
7-1-91 -- 6-30-92	\$320,834
7-1-92 -- 6-30-93	\$245,418
7-1-93 -- 12-31-93	<u>\$158,130</u>
TOTAL	<u>\$1,522,543</u>

CANAAN VALLEY RESORT STATE PARK
 LEASE INCOME SUMMARY
 FIVE YEAR PERIOD 1/89 -- 12/93

	<u>PERIOD</u>	<u>GROSS REVENUE</u>	<u>PCT.</u>	<u>LEASE REVENUE</u>
FIRST YEAR	1989	\$7,556,888	12.50%	\$944,611
SECOND YEAR	1990	\$7,203,689	12.50%	\$900,461
THIRD YEAR *	1991	\$7,775,149	12.50%	\$1,025,633
FOURTH YEAR	1992	\$8,300,348	14.00%	\$1,162,049
FIFTH YEAR	1993	\$8,708,029	14.00%	\$1,219,124
TOTAL GROSS REVENUE		<u>\$39,524,103</u>		
LEASE INCOME DUE STATE OF WV				<u>\$5,251,898</u>
DISPOSITION OF FUNDS:				
RETAINED BY CONCESSIONAIRE FOR STATE REIMBURSEMENT				\$3,000,000
DEPOSITED IN MAINTENANCE FUND				\$40,335
DEPOSITED BY STATE PARK IN SPECIAL REVENUE ACCOUNT				<u>\$2,211,563</u>
TOTAL FUNDS				<u>\$5,251,898</u>

* RATE CHANGE EFFECTIVE 7-1-91