Ms. Fran Mainella
Director
National Park Service
1849 C Street, N.W.
Washington, D.C. 20240

September 13, 2004

Dear Ms. Mainella:

I am writing to you on behalf of Public Employees for Environmental Responsibility (PEER) concerning improper use of rental revenue by Yellowstone National Park and the potential that similar misappropriations are taking place throughout the national park system.

According to agency records that PEER obtained under the Freedom of Information Act, Yellowstone National Park has been illegally using lease funds from telecommunications companies to pay staff salaries and other expenses.

Over the last several years, the National Park Service (NPS) issued six rights-of-way for cell phone towers in Yellowstone National Park. Two are issued to Union Telephone Company of Wyoming. Four were issued to interests now owned by Western Wireless Corporation. The annual fee from these two companies covers both the cost of administering the right-of-way and the rental for the use of federal land. The former funds are allowed to remain within the park to defray their costs. However, funds derived from the rental of land are to be deposited with the U.S. Treasury, as miscellaneous receipts.

Yellowstone National Park collects land rental fees of $500 per month for each of the six rights-of-way, for a total of $36,000 each year. Yellowstone has failed to deposit these funds in the U.S. Treasury in violation of law and Office of Management and Budget Circular A-25 that states “Unless a statute provides otherwise, user charge collections will be credited to the general fund of the Treasury as miscellaneous receipts, as required by 31 U.S.C. 3302.” Instead, the Park Service has used the monies derived form leasing parklands as right-of-way to pay for employee salaries and other park expenses (see ledger entries [Attachment I]).

A related impropriety involves the NPS obtaining in-kind services from the lessee, and then reducing the amount of the rental due. At Yellowstone, the NPS received 70 free cell phones from MetaCom and 5,000 free minutes per month (see special use permit provision [Attachment II]).

The retention of rental fees from rights-of-way in park operating budgets is not just improper, it creates a positive incentive for a park manager to say “yes” to a prospective right-of-way applicant. For this reason, funds derived from the sale or lease of Federal lands and resources must not be retained. There are already enough pressures influencing a manager's decisions. We do not need to add the temptation of un-appropriated cash.

PEER suspects that the treatment of the six cell phone tower rights-of-way at Yellowstone NP is not unique. We have reason to believe that Yellowstone NP may be mishandling rentals from other rights-of-way.

In addition, PEER believes that other parks may also be putting Federal park land on the lease block and keeping the rental monies as their own slush funds. PEER has examined only one small set of rights-of-way in a single park but we would call upon the NPS to aggressively review the practices of all of its units in this area in a timely manner so as to obviate the need for further external investigation.

Sincerely,

Jeff Ruch
Executive Director

PS. As you know, one of the cell towers at issue in Yellowstone NP was illegally sited overlooking the Old Faithful Historic District, without required public notice and built in violation of its permit conditions. We understand that Yellowstone officials will soon meet with Western Wireless representatives to see what the company is willing to do to mitigate the situation. PEER would suggest that the best way for the National Park System to remedy these violations is to simply remove this illegal and inappropriate structure.