Story of Two Mines

One of the main priorities of the land protection program was to acquire all of the patented mining claims within the park complex. Dating to the late nineteenth and early twentieth centuries, mining in the North Cascades was a colorful subject in the region's history. Here, as elsewhere in the American West, hopeful prospectors flooded into the range looking for its hidden wealth of gold and other valuable minerals. Leaving more often than not with empty pockets and little to show for their hard life in the extreme mountain conditions, prospectors left a legacy in the landscape; it was a legacy of environmental conquest as well as their own failure. River beds and mountain slopes bore the physical scars of prospecting and excavation. Mining machinery lay scattered among the ruins. Nevertheless, the hope of finding new wealth persisted. That hope persisted in both patented and unpatented mining claims. When the park complex was established in 1968, there were ninety-one patented mining claims, amounting to approximately 1,660 acres, all of which were south of Highway 20, and there were some 7,000 unpatented claims throughout the park complex. Despite the large number of unpatented claims, the most serious threat from renewed mining activity came from the patented claims. The owner of a patented claim, having proven his claim contained a commercially viable mineral deposit, had full fee ownership of the minerals and the surface. More importantly, he had the legal right to develop his claim for any purpose. [6]

Throughout the early 1970s, agency officials carried out a rather successful program of acquisition or invalidation of unpatented mineral claims. But they were less successful in purchasing the patented claims that presented the greatest threat to the park's wild setting. These claims were in the areas of Cascade Pass and Thunder Creek. In 1971, North Cascades managers gave these claims their highest priority, but before they could negotiate and purchase these clusters of claims, the original appropriation for land acquisition was all but exhausted. Around this same time, the owners of the Skagit Queen mining claims, located in the upper Thunder Creek basin, voiced their interest in developing their claims. The claims stretched for several miles along both sides of Skagit Queen Creek, a tributary of Thunder Creek, below Boston Glacier. Park managers considered this drainage "one of the most beautiful areas" within the park, and its "destruction...for commercial purposes would strike a devastating blow to one of the most spectacular areas in the Pacific Northwest." [7]

It had been nearly seventy years since the area had been "improved" for mining. In the first decade of this century, the Skagit Queen Consolidated Mining Company and later the British Mining Company set up mining operations. Surface developments included a power house, a barn, assay office, pumphouse, and machine shop, among other structures. Subsurface developments were never as impressive as those on the surface, but they did include a 670-foot crosscut adit. The operation itself, however, proved less successful than the construction of the mining facilities. By 1915 the mine owners had patented most of the property, most likely with the intent of selling out, and subsequently abandoning the developments to the elements.

But in 1972, the Skagit Queen claims suddenly became a valuable commodity, not so much as a storehouse of minerals but as a piece of real estate. The government needed to purchase these private in-holdings in order to protect the park's wilderness character, and the current owner of the mining claims, Glenn Widing, believed the government would pay a substantial amount for his land. He was disappointed. In the summer and fall of that year, the Park Service's mineral appraisals determined that the mining claims had no mineral value, and furthermore, that the traces of minerals discovered were of insufficient quantity and quality to show a commercial value for ownership. Moreover, contractors for the Park Service determined that the timber values of the claims were high, but the costs of removing the timber from such a remote location made the net value of the timber nearly nothing after harvest. Finally, without mineral or timber values, the land was appraised at $168,700. This was hardly the figure, it seems, Widing had hoped for when he purchased the claims from the Natural Resources Development
Corporation, which retained an interest in the mining claims by contracting with Widing to buy the property for a low down payment. When the Park Service offered to purchase the claims for their appraised value in January 1973, Widing turned it down. [8]

In response to this "unsatisfactory price," Widing and his associates informed the Park Service that they planned to conduct more "exploratory work" that summer, their apparent intent was to determine for themselves whether the minerals of the Skagit Queen claims would pay. What followed were two proposals -- or veiled threats -- aimed at forcing the government to increase substantially its offer for the claims. The first of these proposals was to construct a road up Thunder Creek in order to bring heavy equipment to the site for mineral exploration. The road, naturally, would have to cross national park land and into the park's proposed wilderness area. Under federal mining law, mining claim holders retained a right of "reasonable" access to their properties within national parks if their claims existed prior to the park's establishment. For this reason, the Park Service might have been obligated to grant such a permit. Park officials, faced with the possibility of such wholesale destruction to this wild region, planned to condemn the land to prevent the road's construction. Yet before using condemnation procedures, agency managers had a relatively new management tool at their disposal: the environmental impact statement (EIS) required under the 1969 National Environmental Policy Act (NEPA). In January 1973, Superintendent Lowell White informed Widing and company that before construction could proceed they would have to provide information for an EIS. Expensive and time consuming, the EIS provides a detailed statement describing the proposed action -- or project -- taking place on federal land, its direct and indirect impacts to the natural environment, the cumulative and long-term effects, alternatives to the proposal (which includes a "no-action" alternative), and identifies any irreversible impacts to natural resources. In short, the EIS, with its comprehensive analysis and public disclosure, could conceivably stall or halt a project altogether.

Perhaps for these reasons, Widing and the Natural Resources Development Corporation met the request with silence. Two years later, in January 1975, they submitted another request for a permit to move ahead with mineral exploration and development, having conducted assessments of ore samples the previous year. Apparently, these samples boosted their interest in the value of the mining claims. Once again, a main feature of the project was the construction of a road up Thunder Creek. And once more, Widing and his associates did not comply with the park's request for information to prepare an EIS. As if to force the Park Service's hand, the owners of the claims flew a crew by helicopter into the millsite that summer to survey the claims and conduct further mineral assessments -- all under careful watch of park rangers. [9]

This work led to the second proposal that seemed intent on pushing the Park Service to pay a higher price for the claims. The proposal had nothing to do with developing the minerals but logging the timber from the mining claims. In late September 1975, Widing and company filed an application with Washington State's Department of Natural Resources to log 220 acres of their claims. The state required the application under the Forest Practices Act, even though the mining claims were privately owned. Similar to their road proposal, the claim owners failed to provide enough information about the proposed logging operations. And a month later, the state, the claim owners, and Superintendent White met to discuss the project. The owners, again, seemed less interested in the logging proposal itself as they did in the threat it posed, for they reduced the amount of land they would log to twenty acres. They also renewed their request to construct a road up Thunder Creek, to aid in the removal of timber and to bring in heavy equipment to the site. [10]

The requests for permission to log and to construct a road -- and thus develop the mining site -- appeared to be more a threat than a reality. By the end of 1975, the owners of the mining claims had not submitted more information to the state in order to receive their logging permit. Under the state's version of NEPA, the logging project might require an EIS, another potentially expensive and time-consuming roadblock. Moreover, Widing and his associates had not supplied enough information about their proposed road up Thunder Creek, and park managers assured them that the road project would require an EIS, since it would enter the park's proposed wilderness area and have such "a major impact." Preparing the report would require a minimum of a year, given the project's extent and the fact that surveys could not begin until the snowpack melted in the late spring or early summer. [11]

Whether or not the owners of the Skagit Queen claims actually intended to go through with developing a mine did not matter. The plain fact was that the Park Service could not force the owners off their property by legislative or administrative means. Besides mining, the owners of the claims could not only log the land, but under existing regulations they could also subdivide it for private residences or a commercial backcountry tourist operation. Above
all, the threat of mining itself required action. In December 1975, Regional Director John Rutter informed Representative Lloyd Meeds about the issue. The problem, Rutter suggested, was very simple. The only way to solve the threat of mining up Thunder Creek was to acquire the claims through purchase or condemnation. Both approaches required money. (To carry out condemnation, the government needed to have sufficient funds to cover the cost of the land itself.) As of early 1973, however, North Cascades was out of acquisition funds authorized under its enabling legislation. [12] Most likely, Meeds carried this message to Congress, for on October 1, 1976, the president signed into law an omnibus bill that raised the appropriation ceilings for land acquisitions in a number of national parks, and North Cascades was among them. The law granted the park an additional $1 million for land acquisition because the original estimate from 1967 "did not include funds for acquisition of outstanding mineral interests." More importantly, the central reason for the increase was "to forestall" the "imminent" threat of mining in the Thunder Creek Basin. [13]

Meanwhile, in 1976 Congress passed another law, the Mining in the Parks Act, which would allow the Park Service to regulate mines on national park lands. The act's purposes were broad and general, stating that "all mining operations in areas of the National Park System should be conducted so as to prevent or minimize damage to the environment and other resource values." Park managers found little comfort in the law's language or its provisions for strict regulations of mining activities in national parks. The implication was that mining would happen in North Cascades, though the law enabled the Secretary of the Interior to close all units of the park system to further mineral location and mining entry under the Mining Law of 1872. The law also empowered the secretary to declare as invalid all existing unpatented claims within units of the park system not properly recorded by September 28, 1977. [14]

Condemnation was the preferred procedure for dealing with the Skagit Queen claims. In 1978, the Park Service initiated condemnation procedures, and three years later, on September 16, 1981, the court proceedings ended in favor of the agency. The court awarded the Skagit Queen mining claim owners $277,000 for approximately 645 acres. "This action," wrote Superintendent Keith Miller, "assures the visual and resource integrity of this superb area located in the heart of the North Cascades National Park." [15]

Following the resolution of the Skagit Queen controversy, park managers continued to pursue the acquisition of the remaining private lands within the park. Fee acquisition, according to the park's 1983 draft land protection plan, was the "only alternative that adequately satisfies the requirement for complete protection" and preservation of the park's resources. There were six patented mining claims, two mill sites, and one mineral right making up the sole remaining private interests within the park; they encompassed approximately 236 acres. The claims were clustered in and near Thunder Creek, Cascade River, Boston Basin, Bridge Creek, and Lake Anne. [16] Of these, park managers rated the Thunder Creek Mines (or Dorothy claims as they were also known) as their highest priority for acquisition. There were at least two reasons for this. First, this one property totaled around 126 acres; this accounted for more than half of the remaining private lands. The property was made up of six patented claims of approximately 121 acres and one mill site of approximately 5 acres. Second, like the Skagit Queen claims, this property was located in the park's proposed wilderness, and its potential development now represented the wilderness' greatest threat. By comparison, the other claims were much smaller and the likelihood of their development did not seem as imminent. [17]

Like the Skagit Queen mine, the Thunder Creek mines were a going concern early in this century in the upper Thunder Creek drainage. In 1921, the Thunder Creek Mining Company was issued patents for its claims -- the Dorothy claims -- and mill site. The company erected a number of structures as part of its operation and pressed hard for access to the site. In 1929, the Forest Service issued the company a special use permit to construct a roadway up Thunder Creek so trucks could reach the mine. The company also considered a more ambitious plan to construct a narrow gauge railroad from Diablo up Thunder Creek to its property. Neither project was ever realized, and mining had long since ceased on the Dorothy claims. [18] The idea of mining, however, has carried on, especially after the establishment of North Cascades National Park. And in the early 1980s, the new owners of the claims embarked on their own mining venture.

Similar to the controversy over the Skagit Queen claims, this mining venture aimed to profit from rising property values more than it did from the mineral wealth contained in the property itself. After all, the Dorothy claims were surrounded by a national park and some of the country's most spectacular wild country, and the new owners expected great returns on their investment. To protect this pristine landscape, they believed, the government would
be willing to pay a substantial sum. Proving the property's value, though, became something of a life-long mission for the mine's owners, for the gulf between what the Park Service and what the owners believed was a "fair" market value for the property was as wide and deep as the Thunder Creek drainage itself. Trying to bridge this gap would lead to one of the park complex's longest cases involving mining properties.

The story begins with an old mining company, the Thunder Creek Silver-Lead Mines, Inc., dissolving in 1965. William H. Webster, an officer in the company, became the liquidating trustee, and continued to pay taxes on the land and thus retained ownership. In the early 1970s, as part of its land acquisition program, the Park Service offered Webster $1,000 per claim. Webster refused the offer, stating that he had been paying taxes on the property for more than fifty years and that several mining engineers had assured him that his claims contained "very valuable ore." Thus, he expected an offer of around $2 million for the property. In the late 1970s, in an attempt to resolve the issue, the Park Service conducted two appraisals of the claims, one for their mineral values and the other for their overall property values. In 1978, the agency determined that the property had no commercial mineral values; that is, similar to the Skagit Queen assessment, gold and other precious metals did not exist on the property in "sufficient quantity and quality" to justify a commercial venture that would realize a profit. Around this same time, the Park Service appraised the value of the property itself at $38,800. [19] Obviously, this was far below what Webster desired.

Matters only grew more complicated. In 1980, William Webster passed away. His two nephews, William C. and John C. Webster, who lived in Tonka Bay, Minnesota, inherited their uncle's estate and eventually gained clear title to the property. In order to satisfy the numerous shareholders in the now defunct mining company, the Websters were forced to purchase the claims at a public auction on June 17, 1983, for $67,000, almost twice the appraised value. Meanwhile, the Webster brothers were anxious to sell their property to the United States, but like their uncle, they believed it was worth "substantially more than $38,000" and, of course, the price they paid at auction. Over time, their figures would range from $3 million to $50 million, far beyond the Park Service's appropriations for the acquisition of all private lands within the North Cascades complex.

Their reasons for such a high asking price were based on independent evaluations, evaluations which markedly differed from those commissioned by the Park Service. In September 1983, for example, George Weaton, a mining engineer, appraised the value of the Dorothy claims for the Websters at approximately $5 million. Two months later, however, Luther Clemmer, a Park Service mining engineer, appraised the mineral value of the same claims at $6,500. Clemmer argued that Weaton's report was poorly done, incomplete, and inconsistent with "proper appraisal technique," for the report failed to demonstrate whether the ore could be mined, processed, and marketed at a profit," which, Clemmer concluded, it could not. Without proof of the claim's economic potential, there was no valuable ore reserve and thus no mineral value that one could attach to the mine, save for "mine-related improvements and exploration potential." Weaton's estimate of value, moreover, was not based upon objective research but "the fantasies and speculation found in old reports prepared 50 years ago." [20]

Although William C. Webster, the main spokesperson of the two Webster brothers, maintained that he wanted to sell his land to the Park Service and "protect" the scenic wonders of the North Cascades, he was adamant about getting a large sum of money in return. To force the issue, he proposed a number of development schemes, none of which actually materialized, but they nevertheless generated concern from park managers. In 1984, Webster proposed the first of several ventures: a logging operation on the Dorothy claims. The operation was highly unlikely. Like the mining proposal, logging would not be economical; the terrain was too steep, the trees were too mature, and the area was too remote. Access, a central issue in any case involving private lands surrounded by a national park, would be a serious problem. In order to protect the wilderness values of the Thunder Creek basin, among other things, Park officials would not allow a road to be built up Thunder Creek, and so the only way to reach the claims and remove timber was by helicopter, an expensive prospect. Furthermore, Webster's proposed logging operation would have to pass a complete environmental assessment by the state, a review open to public comment. The logging proposal faded from sight. [21]

Webster's interest in proving the value of his property remained strong. In 1985, Webster received another report on the potential value of his property, this time from a geologist, that was quite optimistic -- "overly optimistic" in the Park Service's opinion. With this report in hand, Webster announced plans to conduct more ore sampling and map vein exposures. Although it appeared that he might be preparing to develop the mine, Webster's main interest was establishing -- and perhaps proving the Park Service's assessments wrong -- the true mineral values of his property.
While Webster was free to develop his property under the Mining Act, he could not do so without consulting the Park Service first. This stipulation had come with the passage of the Mining in the Parks Act in 1976. To be sure, the act did not enable the Park Service to eliminate mining altogether, but it did allow the agency to implement stricter controls over mine operations, the central feature of which was a "plan of operations." The plan described the proposed operations, set forth the timetable of those operations, provided a reclamation plan, outlined the steps taken to meet federal and state environmental standards, and supplied an environmental analysis of the mine's potential impact. [22]

Naturally, this did not mean that mining would not occur, only that Webster and others would have to supply detailed information about their projects before the Park Service would approve them. On July 9, 1985, the Park Service approved Webster's first plan of operation (phase one) to collect mineral samples by blasting trenches and to map the claims. Without a road, Webster accessed his claims by helicopter. Core drilling (phase two) was to have followed this initial phase, if it proved promising, and also would have been subject to the agency's approval. Apparently, the samples demonstrated what the Park Service had stressed all along -- that the mineral values of the Dorothy group of claims simply were not worth developing; phase two of the project never began. [23]

Webster's plans, however, kept Park Service managers and real estate specialists busy. Mostly, they attempted to convince Webster what the federal government meant by "fair market value." In August 1985, Harlan Hobbs, then the Pacific Northwest Region's Chief of the Division of Lands, informed William Webster that the government has "a responsibility and a duty to pay 'just compensation' for the property we are acquiring." By law, just compensation was "the fair market value of the property at the time of taking." Simply put, fair market value was the price a knowledgeable seller and buyer would agree upon. Moreover, fair market value did not involve the "mere possibility of minerals" or other valued resources; one could not put a fair price on such a possibility. Fair market value also did not involve "any special value of the property to the owner not directly reflected in the market value," such as a sentimental attachment to or associations with a particular place. Finally, the "Fifth Amendment allows the owner only the fair market value of his property; it does not guarantee him a return on his investment." [24]

Nevertheless, Webster, now a partner in the recently formed Thunder Creek Mines company, pressed on with his challenge. His challenge was not only to establish the value of his property but also to test agency policies about access to his property. In May 1986, he informed park managers that he planned to develop a wilderness camp on his claims. The camp would have been for outdoor recreation -- hiking and mountaineering -- as well as for rock collecting, specifically quartz crystals. Quartz crystals were the most recent minerals of value, he asserted, found on his property. In order to make this new operation work, Webster would once again need some means of access to his land. He proposed using helicopters that would leave from Colonial Creek Campground. He also proposed using all-terrain vehicles along the Thunder Creek Trail to reach the camp from, and take materials out to, Highway 20. He would once more be disappointed with the Park Service's response.

Superintendent John Reynolds replied to Webster, stating that he was not opposed to the "idea of a wilderness camp," but he had concerns about the operation and there were regulations with which Webster needed to comply. First, park lands could not be used for helicopter operations without a special regulation. Second, regulations barred motorized vehicles on trails; moreover, the area through which he would travel was proposed wilderness and thus managed as legal wilderness, yet another reason for barring motorized travel. Third, his camp would require a commercial license. And finally, the removal of crystals or other rocks from the property -- even by guests of the wilderness camp -- was considered mining and required a plan of operations. [25]

Webster seemed less concerned about the future of his new business venture than he did about his "constitutional rights" to use his land "in a normal way, including mining gemstones." He suggested that the superintendent was interfering with his "prior existing rights," the language in the national park's legislation which allowed him to continue to use his property after the creation of North Cascades. In a comment that typified his thinking, Webster stated that Thunder Creek Mines would cooperate with the Park Service fully, and promised "not to harm the environment, but we certainly do not need an access permit to enter our property," and "we will not wait for one." [26]

However threatening Webster sounded, he eventually relented and provided the appropriate documentation to the Park Service; it was a pattern that repeated itself over the next decade. One reason Thunder Creek Mines submitted to the Park Service's regulations was that the agency was the only likely buyer for its property. Another reason was
the law. In October 1986, for example, the Park Service's solicitor, Richard Neely, asserted that the "right of access is not unlimited" but should be reasonable; access was also subject to regulation. Furthermore, the Park Service was not violating Webster's "constitutional rights" by subjecting his access to "reasonable regulation." Because Thunder Creek Mines acquired its patent long before the establishment of North Cascades, the "valid existing rights" proviso in the park's legislation did not apply. The status of Webster's property, in other words, was that of private land within a national park, the use of which was protected by the Constitution, but still subject to regulation. Congress, Neely pointed out, could "regulate mining in national park areas." Therefore, he advised that Webster "must comply with regulations and obtain an approved mining plan of operations with an access permit before attempting any type of exploratory or mining operations" on his property. [27]

In the meantime, Webster commissioned another mineral report, this time one evaluating his property's quartz crystal and other gemstones, to bolster his assertion that the property was extremely valuable -- and therefore its fair market value was worth considerably more than the Park Service's appraisal. In December 1986, Webster supplied Park Service real estate specialists with another proposal documenting the "potential" income from his property if Thunder Creek Mines developed a quartz mining operation. According to the mine company's authority, Gary Coleman, and its own calculations, Webster estimated that his business could expect an annual net income of $2.8 million over a period of ten years, which was evidently the amount of time it would take to mine all of the quartz. Therefore, Webster calculated that the real value of the property was $28.6 million. Add to this other "gemstones...timber, silver, lead, zinc, and gold, plus recreational income from heli-hiking, mountain climbing school leases, etc.," he noted, and the property's "income potential" increased substantially. The potential value of Webster's property, however, never seemed as attractive as finding a way to get the Park Service to buy it from him. As he concluded, "we are expecting the National Park Service to buy our property," and would be willing to settle for a figure less than $28.6 million. The question again was what was the fair market value? If it was not a figure in the millions of dollars, Webster implied, his company would begin mining at once.

The owners of Thunder Creek Mines spun elaborate plans and threatened to invade a wilderness setting in order to pressure the Park Service into buying its property for a much higher price than the agency's offer of approximately $69,000. The agency, though, stood firm. In 1987, Harlan Hobbs received an independent report appraising the quartz crystal value of the Dorothy claims. It disputed the findings of Webster's report and suggested that the quality of the crystal was not very impressive, and that there was "little probability" that Thunder Creek Mines could "develop a successful crystal-producing venture." Hobbs, whose patience was apparently wearing thin, informed Webster that it appears that "your efforts to rationalize some substantial mineral values have been a waste of time and money." [28]

Not one to give up on a dream, Webster submitted Thunder Creek Mines' plan of operation for crystal collecting, which the Park Service approved in May 1987. The collecting evidently did not produce any new results, and in September of that year, Hobbs reminded the owners of the mine company of his agency's conclusions: mining might produce crystals in better condition but not of better quality. Moreover, he noted that his agency's experts concluded that there was no value to the crystals (or any other minerals) on the claim; even the mining company's own consultant had not attributed a value to the crystals. It seemed to Hobbs that at the very least the Webster brothers wanted to cover the cost of their original investment and expenses to prove the value of their property. William Webster, for example, believed his company could still profit from "a recreational crystal collecting operation," even if the gems did not have any commercial value. For this reason, Hobbs wrote, "he still wanted several million" for the claims "based on the hypothetical income" from this unproven venture. No matter what arguments the Websters presented, it was "simply not the government's responsibility to provide you a return on a bad investment." [29]

Resilient, though perhaps irrational to some, the Websters employed several new strategies over the next several years. In October 1987, they attempted to donate the property (as a tax-deductible charitable contribution) to the National Park Service. In doing so, they would have been able to reclaim their initial investment and through a complicated process have increased the value of the property enough to grant them a substantial profit. The Internal Revenue Service (IRS) turned down their proposal. In the IRS's opinion, the Websters did not have a fair market value established and the service would not issue a ruling to establish a value. In addition, the Websters' proposal called for forming a partnership, made up of them, who would buy the mining company and then donate their interests in the company (the mining claims and their "appraised" value) to the government -- provided that the appraisal exceeded "3 1/2 times their initial investment in order to reach an economic break-even point for federal income tax purposes." This proposal, the IRS noted, was not about "furthering a business purpose" but rather about
obtaining "a federal tax deduction based upon the appraised value of their partnership interests being significantly in excess of their acquisition cost of the partnership interests." In other words, the Websters wanted to form a dummy company to buy the Dorothy claims, inflate the value of their interests, and then donate their property to the Park Service. What they could not get from the Park Service in cash, they could get as a deduction on their taxes from the IRS. [30]

When this alternative failed, the Websters returned to familiar territory. They once more requested the Park Service to evaluate their property in the Thunder Creek drainage, primarily to determine the value of its quartz crystals. When that was not forthcoming, the Webster brothers laid plans to develop a permanent resort on their property. Presented in October 1988, this latest venture would resurrect the wilderness camp idea; the new operation would combine crystal collecting, mining, as well as recreational activities. The Websters estimated that two to three hundred people would visit their resort in the summer season. They would fly in by helicopter and initially stay in temporary buildings. Other developments included sewage systems and landing areas for the helicopters. The mine owners went so far as to hire recreational consultants to produce a prospectus for this service. Apparently, the venture proved to be more complicated than the Websters anticipated and it never got off the ground. [31]

The plan for a resort evidently did not have the desired effect; the Park Service continued to monitor the Websters' proposals but did not raise its offer for the Dorothy claims. On May 17, 1990, the agency made a second offer for the claims of $56,000, substantially less than its earlier offer. Naturally, the Websters considered this figure "unrealistically low." But the Websters had reason to believe the Park Service was still interested in their property, for the 1990 land protection plan for the park listed it as the highest priority for acquisition. So they began to consider other approaches that would move the acquisition process along in their favor. First, they alerted the Park Service that they had received an offer of $250,000 for mineral exploration rights to their property, but wanted to allow the government time to respond before they made any decisions. Second, when the government did not respond to this new development, the Websters then notified the Park Service that they had connections to Congressman Bruce Vento, who chaired the House Subcommittee on National Parks and Public Lands, and would take their case directly to him. Apparently, the Websters were interested in receiving a settlement similar to the recent one in Voyageurs National Park, where a park inholder agreed to sell for $1.2 million after a lengthy battle with the Park Service. [32]

Although their sights were still set high, the Websters had little to show for their efforts. William Webster continued to inform park managers of his interest in gaining access to his property to conduct more surface exploration to establish -- yet again -- the property's value. He also suggested that he and his brother might reconsider donating their property to the United States, presumably using another approach to write off the donation at a much higher value. On September 18, 1991, William Webster made his most concrete proposal to date; he offered to sell his property to the government for $3,387,600. The figure's exact amount was important, for it represented how the Websters arrived at their version of fair market value. Although the property was worth $21 million, "based on the projected consolidated appraisal" by Northwest Bank, William Webster stated, the Thunder Creek Mines would sell for the lower amount of $3,387,600 because it was a "fair price to pay." The price was the cost of his family's original investment in the property, compounded for sixty-five years at 4.7 percent interest. The Park Service, of course, legally could not pay the Websters this amount for their property, since it exceeded the fair market value. [33]

Nothing, it seems, had changed. William Webster continued to try and prove his right to have motorized access to his property, and agency officials continued to respond that he had misinterpreted the regulations and that they could deny his requests for access, at least the means of access. In February 1992, Webster offered to accept half of his earlier offer, and continued to strike an old theme -- that the Park Service had denied him his "constitutional rights" to access his property. Perhaps, he hoped, that the threat of a law suit, or the threat of driving a snowmobile or all terrain vehicle up Thunder Creek, would convince the Park Service to buy his land. Two months later, Webster attempted to increase the political pressure on the Park Service to meet his demands. He informed Rick Wagner, Hobbs' successor, that Vento's office agreed with his terms, evidently suggesting that "friendly condemnation" procedures should commence, in which the government would pay Thunder Creek Mines its most recent asking price of $1.7 million. [34]

Once more, Webster did not receive the desired response. Wagner related that it was not that simple. First, Congressman Vento could not dictate to the current administration that condemnation should proceed apace. He
simply did not wield that kind of influence. Second, condemnation was a slow process. Third, the Park Service could not even begin to think of initiating condemnation for the appraised value of the Dorothy claims because it barely had enough funds to cover the appraised value. Finally, Wagner suggested that, as an alternative, Webster and his lawyers might try to initiate an inverse condemnation, forcing the government into court and moving the proceedings along. Apparently, Webster was not interested in pursuing this option. [35]

In 1993, the option Webster chose instead was to mount more legal pressure, and over the next several years attempted to build a case of "taking" by the federal government. That is, the Park Service had denied him his legal right to the use of his property, while at the same time the agency had included the Dorothy claims as part of the national park. In support of this allegation, one of Webster's main points was that his company should have had motorized ("all weather") access up Thunder Creek. To support this claim, he argued that the trail and its bridges had been built by the original mine developers in late 1920s and early 1930s, an assertion based more on speculation than fact. This alone should have been enough information to suggest the trail somehow belonged to the current company and allow it to build a road and drive to the mine site. (One section of the mine company's so-called trail was under Diablo Lake.) Superintendent William Paleck notified Webster that, again, building a road where there had historically only been a trail, one which predated his company's ownership and now passed through what was now designated wilderness, did not constitute "reasonable access." The property owners, in his opinion, had not been denied access; they could reach their land by helicopter or by foot or pack animal over the trail. In fact, they could not produce any legal documents to prove ownership of the trail, after the Park Service noted that its historical research suggested that the "road" up Thunder Creek had never been finished by the Thunder Creek Mining Company. Furthermore, the Thunder Creek Trail was on federal land. [36]

Second, Webster argued that the Park Service maintained a trail through his property, and thus encouraged park visitors to trespass on his land -- and thus "use" his property. To this Paleck noted that, while park managers might have relocated the trail at some point, it was more likely that this trail had always crossed the property, for it was built early in the century. Any "trespass" by park visitors was unintentional, it seems. Third, there were other related violations of private ownership. Apparently, park staffers had destroyed one or more structures on the Webster's land, a claim, the superintendent noted, which could not be verified. And Webster claimed that the Park Service was trying to "regulate" commercial activities on private land, that is, requiring a permit for running the proposed wilderness camp. To the contrary, Paleck asserted, the park had required a permit because the camp would run some of its programs on park lands. [37]

Despite making these clarifications, the Park Service failed to convince Webster that it was not denying him or his brother the "real" value of their property. Park managers continued to inform Webster that regulations were legally binding, and yet Webster continued to propose ventures similar to previous ones, apparently in an attempt to build his case that the government had "taken" his land. [38] In support of this tactic, he asserted that the Park Service had been disingenuous in dealing with him and his family. Agency officials had attempted to cover up important facts about his uncle's ownership, such as the amount of money he had invested (and thus the figure of $165,000 the Webster brothers used to calculate their price for the property.) Of course, the Park Service denied this accusation, but in time it became clear that Webster was making this kind of assertion not only to further his legal and political battle but also to mount a media battle. [39]

In 1995, Congressman Jim Ramstad inquired with the Park Service, on behalf of William Webster, regarding the Thunder Creek Mines. At that time, Acting Regional Director William C. Walters responded to Ramstad, assuring him that his agency had followed the letter of the law. More importantly, the Park Service lacked "appropriated funds to acquire the property," and as had been the case for some twenty-five years, "there appears to be a large difference between the potential appraised value [of the mining property] and Mr. Webster's asking price." Ramstad's concern, apparently, was that the agency was not negotiating in good faith. Although Walters' agency intended to "gladly resume earnest negotiations" for the property, it could only do so when "funds become available for a current appraisal and potential acquisition." What Webster believed, and the reason he had contacted Ramstad, was that the Land and Water Conservation Fund could be used to purchase his land for his asking price. While it was true that the fund was the source for the agency's land purchases, the Park Service reminded Webster that it could only pay him the appraised value, for Congress closely monitored any purchases drawn from the fund's trust account in excess of the market value. Congress had to approve any negotiated settlement exceeding market value. Meanwhile, William Webster was submitting information regarding his case to CBS's news show, "60 Minutes,"
regarding Land and Water Conservation Fund abuses and the unconstitutional taking of private property. Apparently, his case was a prime example. [40]

The outcome of all this was a stalemate. Lawsuits waited in the wings. CBS camera crews might show up at park headquarters any moment. William Webster continued to propose new ways to establish the value of his property. The most recent plan, which emerged in 1995, was to use an air-crane helicopter (Sikorsky) to fly some forty to sixty loads of galena ore from the Thunder Creek mine to trucks on the Cascade River Road, and from there transport the ore to a smelter in Canada, where it would be processed and finally the property's mineral value would be firmly established. As of July 1997, Thunder Creek Mines was still finishing its plan of operations for this latest project, and many questions remained to be answered concerning environmental impacts and restoration. Perhaps the most intriguing was whether or not the project was possible. Could a Sikorsky helicopter carry its maximum load of nine tons, or a load near this, at such a high elevation? Could it then safely ascend and fly over Cascade Pass to waiting trucks? Meanwhile, Webster pressed for purchase of his land through an appropriation from the Land and Water Conservation Fund; his most recent valuation, factoring in potential revenues from galena ore as well as tungsten and molybdenum, came in at $7 million. Once more the idea of a donation surfaced, so that Webster could deal with the IRS rather than the Park Service in justifying the fair market value of the Thunder Creek Mines' property. In the end, in the words of Superintendent Paleck, the "fundamental difficulty is the tremendous difference of opinion" over the value of the Webster's property. [41] And it was on this point that the issue began and currently rests.

Footnotes:


7 Keith M. Watkins to Regional Director, April 1, 1975, Lloyd Meeds Papers, box 63, file [North Cascades National Park], University of Washington.

8 Watkins to Regional Director, April 1, 1975. Widing's visions of profit could be seen in his purchase of the claims on December 18, 1972, several months after the Park Service had completed its appraisals.


11 Ibid. I have concluded that the mine owners were interested in the "threat" of mining as a way to force the government's hand from former Superintendent Lowell White. Personal interview with Lowell White, July 19, 1996. "Bid to Log in National Park Will Get Scrutiny," Seattle Post-Intelligencer, October 24, 1975.


16 North Cascades National Park Service Complex, "Land Protection Plan: North Cascades National Park," 1983 (draft), 15-16. Lake Anne was an additional parcel lying on the park's boundary; the rest of it lay within national
forest. Around ten acres of it was within the park. According to the 1990 land protection plan, the parcel was no longer a factor, apparently having been purchased or acquired in some other way by the Forest Service.


21 See, for example, Dan Allen to David Malsed, May 25, 1984, file Y34, Webster file.


23 James Rouse to Regional Director, July 1, 1985; William J. Briggle to Superintendent, North Cascades National Park Service Complex, July 9, 1985, file L1415, Webster file.

24 Harlan F. Hobbs to William C. Webster, August 30, 1985, file L1425.


29 Harlan F. Hobbs to John C. Webster, September 14, 1987, file L1425.

30 William C. Webster to Internal Revenue Service, October 22, 1987; Michael J. Montemurro to William C. Webster, May 3, 1988, Webster file.

31 Although the record is not clear, it seems that the venture failed because it involved satisfying Park Service requirements, especially since this section of the park had been officially designated wilderness in 1988. It also involved meeting the requirements of Skagit Count--such as permits for land use and sewage systems.

32 William C. Webster to Bruce F. Vento, August 10, 1990, Webster file.

33 William C. Webster to John Earnst, September 18, 1991, Webster files.


35 Wagner telephone notes.

37Ibid.


