

## Names of Yosemite's sacred sites threatened by trademark spat

By Kurtis Alexander

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Photo: Yosemite National Park

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The Ahwahnee Hotel is run by Delaware North, which says it owns the name as well as others linked to Yosemite National Park, a claim disputed by the National Park Service.

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Ken Yager, a Yosemite Climbing Guide and president and founder of Yosemite Climbing Association at the Mountain Shop in Curry Village stands with El Capitan behind him Saturday, Sept. 2, 2006 in Yosemite National Park. Yager has climbed El Capitan over 60 times during his life. (FOR THE CHRONICLE/GARY KAZANJIAN) Ran on: 03-08-2007  
Ran on: 03-08-2007

This video player must be at least 300x168 pixels in order to operate.

Just the mention of the Ahwahnee Hotel can conjure up the grandeur of Yosemite Valley. And talk of Curry Village hints at the sweet scents and sights of the high country.

But the names of these spots and others are at the center of an intellectual property dispute that threatens to retire some of the most evocative monikers at Yosemite National Park.

The private company that has the contract to run the park's lodges, restaurants and various attractions has sent letters to park officials saying it owns the names of the places under its watch.

The company, Delaware North of New York, is nearing the end of its contract with Yosemite. It says it bought the names of the sites long ago and wants as much as \$51 million to release its ownership of them if another company takes over the contract, according to park documents.

Park officials counter that Delaware North doesn't own the names of the park properties — and can't.

"The Ahwahnee Hotel and Curry Village: These are as much a part of Yosemite as Half Dome and El Capitan," said park spokesman [Scott Gediman](#). "These names belong to the American people."

While attorneys in Washington, D.C., are preparing to defend the park's right to the names, the [National Park Service](#) has also raised the possibility of abandoning the names outright. Officials have told companies interested in taking over the concessions contract that, in light of the disagreement, some sites could be renamed, including Badger Pass, the Wawona Hotel, Yosemite Lodge, Ahwahnee Hotel and Curry Village.

### **Up for grabs**

Delaware North's contract with the park ends in early 2016, and park officials are soliciting bids for a new concessionaire. The names of applicants have not been disclosed. Delaware North, which park officials say has performed well in its 20-plus years at Yosemite, has suggested it wants to stay on the job.

The concessions include not only hotels and dining spots but ski runs, stables and climbing classes. Together they gross as much as \$130 million a year, making the concessions contract the most lucrative in the national park system, according to park officials. Under the current contract, about 9 percent of the revenue goes to the park.

### **'Poison pill'**

Delaware North's claim to the names is fueling concerns that the company is lessening the value of the new contract for potential competitors — and thus for the park service. Because the company says it wants a payout from any new concessionaire, the fear is, others may not bid for the deal or may offer less for it. And if the names of the properties ultimately change, the businesses run by the concessionaire could lose value.

"Delaware North has seen a way to create a poison pill to discourage other would-be bidders," said author and historian [Alfred Runte](#), whose work has chronicled Yosemite's past and who has followed the moves of the concessions company.

Runte said the names of the park sites date to long before the company took over two decades ago. He called attempts to claim ownership of them "ludicrous."

"It's very muddy on the historical record about who named these things in the first place," he said. "These names often go back to the Yosemite landscape 150 years."

But Delaware North contends the site names indeed belong to the company. In an e-mail to The Chronicle, company officials said they paid for the names and don't want to lose that investment should someone else get the concessions

contract.

## Structures sold

Under the initial 1993 agreement between the company and the park, Delaware North was required to buy the assets of the previous concessionaire. Unlike today, that concessionaire owned the structures it managed, and Delaware North was obligated to purchase them and sell to the park service.

Delaware North officials said, however, that the 1993 transfer of hotels, restaurants and other buildings went only so far. Although structures were exchanged, items such as furniture and vehicles and, more significantly, intellectual property, including ownership of the site names, remained in the hands of the company, they said.

Should another company take over the concessions contract, Delaware North officials have told the park service they expect the new concessionaire to pay for what they still own, including \$51 million worth of intellectual property, park documents show.

The park agreed that Delaware North is owed for some of its assets, such as buses, hotel and dining room furnishings and supply inventories, but not for the intellectual property it claims, specifically the site names. Park officials said the names are owned by the park, noting that the company transferred the sites to the park service in 1993.

Delaware North is a behemoth in the concessions industry. The company operates food and hospitality services at sports arenas, airports and casinos. It owns Boston's TD Garden, gaming venues in at least seven states and concession contracts as far away as Europe and Australia. More recently, it has ventured into park accommodations.

Federal records show that, at Yosemite, the company has acquired trademark registrations for nearly all of the places it manages.

## Focus on first use of names

But attorney [Melville Owen](#) of San Francisco, who specializes in trademark law, said the registrations don't necessarily mean the company owns the names of the sites.

Owen said the trademark belongs to whomever used it first. Should the debate over the names at Yosemite escalate, the courts will look at when and where the names emerged and track down who had the rights to them and what happened to those rights, he explained.

"It will be fascinating to see how this plays out," Owen said. But "it doesn't seem like common sense to allow a concessionaire to own the name of the hotel that it happens to be managing."

*Kurtis Alexander is a San Francisco Chronicle staff writer. E-mail: [kalexander@sfchronicle.com](mailto:kalexander@sfchronicle.com) Twitter: [@kurtisalexander](#)*

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