

National Park Service
U.S. Department of the Interior
Commercial Services Program



Director's Order 35B: Sale of National Park Service Produced Utilities

Concessions Management Advisory Board
September 2010

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EXISTING POLICY



- Existing policy for the sale of NPS produced utilities was set in 1983 as Special Directive 83-2, and then amended in 1985.
- Recovery of operational and cyclic costs were a part of 83-2.
- Recovery of capital costs were specifically excluded in 83-2.

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CAPITAL COST RECOVERY



- 1990 Memo from the Associate Director of Administration and Budget to the Field Directorate directing recovery of capital costs was never implemented.
- January 1991 – OIG Audit made recommendations to charge for capital cost recovery.

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CAPITAL COST RECOVERY



- 1998 OIG report follow-up on the 1991 report concluded the NPS had not implemented the recommendations and made the same recommendations.
- The NPS agreed to implement 5 of the 6 findings by October 1999.

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FIVE 1998 OIG RECOMMENDATIONS

Audit Report Number - OIG-98-406



- Revise Special Directive 83-2 to include identification and recovery of capital costs through utility rates
- Establish oversight process to ensure full recovery of operational and capital costs and document any exceptions
- Issue guidance of recovering operational costs
- Ensure that training is provided for personnel formulating utility rates
- Ensure internal controls on separation of billing and collection functions

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LEASEHOLD SURRENDER INTEREST (LSI)



- CFR 36, Part 51, Subpart G, addresses Leasehold Surrender Interest.
- Capital utility costs are not capital improvements constructed by the non-NPS user.
- The collection of capital costs for utility systems used by non-NPS users are generally not considered for LSI.

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IMPLEMENTATION STATUS



- Discussions between the Deputy Director, Facilities and NPS Concessions occurred in August 2007 with regards to implementation.
- Agreement was made to go forward but that the sensitive nature required some outreach to both the concessions and facility communities.
- Concessions Chat Presentation – January 2008
- Concessions Workshop – February 2008
- Concession Advisory – March 2008
- Maintenance Advisory Group – April 2008
- NPS Headquarters Briefing – July 2009
- Concession Advisory – October 2008
- To the Federal Register – fall 2009
- Comments Due – March 2010
- Status to CMAB – September 2010

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DRAFT REFERENCE MANUAL



■ Describes

- Options on different types of rate setting
- What can be included in the rate base
- A maximum increase in costs of 10%/year until a new contract with the non-NPS user is in place
- 100% cost recovery of capital costs for assets installed year 2000 or later – none for assets installed before 2000.

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DO-35B COSTS TO BE RECOVERED



- Operations and maintenance
 - No change from SD 83-2
- Cyclic (Component Renewal) and Repair and Rehabilitation
 - No change from SD 83-2
- Capital costs
 - New, expansion, or replacement (recapitalization) of assets
 - Major change in DO 35B

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DO-35B AND CAPITAL INVESTMENTS



- A utility will often have multiple capital acquisitions and expected life.
- Capital type investments are tracked as a whole but may have component renewal items installed within the estimated design life of the project that are tracked separately.
- Clearly defines what assets and equipment is and is not in the rate base.

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CAPITAL INVESTMENT STRUCTURES



- Only assets or stand-alone pieces of equipment will be part of the cost recovery.
- All Capital Costs for assets and major components will be identified and listed as a part of the first implementation rate and will be updated at the yearly rate computation if they are replaced or changed.
- All Component Renewal items will be identified and listed like the Capital Costs at the implementation date and updated annually.
- If a Component Renewal or Capital Cost is not done when scheduled, the cost will go to zero for that item until it is completed.

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CAPITAL COSTS



- Cost burden is a commensurate share of use so that NPS and non-NPS users are treated equally.
- Replacement cost is pro-rated over the life of the asset so there is no lump-sum payment or inflation component.
- Facilities installed prior to 2000 will not be included in the capital rate until they are replaced.

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RATE IMPLICATIONS OF DO-35B



- The application of 83-2 is inconsistent among parks. DO 35B should give this consistency.
- Cyclic type work is allowed in 83-2 but some parks have not included it – it is hard because the cyclic work varies from year to year. Applying the cyclic (component renewal) costs uniformly may change the rates but it is not due to the changes in 35B.

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FACILITY MANAGEMENT SOFTWARE SYSTEM (FMSS)



- A module in FMSS is under development to use for capturing the capital, component renewal and operating costs of a utility.
- The assets and equipment associated with each utility system will be recorded and tracked in FMSS to promote consistency among the parks.

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MEASUREMENT, ACCOUNTABILITY, AND BILLING



- All utilities are to be measured or metered for all users (including NPS)
- The rate base, per unit cost, is applied to all users and the billing is only for the units of measurement that are used for each.
- At the time of implementation, only capital assets installed after 2000 will be part of the rate base.
- Utility capital assets constructed after implementation will be added to the rate base at 100% of the construction cost (including design) until they are replaced or their life expectancy is reached.

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EXCEPTIONS



- A waiver of the full implementation requirements may be granted by the Associate Director (PPFL) in consultation with the Associate for Business Services after a careful feasibility analysis is conducted.
- Where complying with this Director's Order would jeopardize the economic viability or result in unreasonable rates for visitor services, a waiver must be requested. The waiver must utilize a financial analysis as the basis for the waiver. The waiver will be for those costs identified, not a total waiver (in most cases).

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PARKS AFFECTED



- Based on survey done by Concession Management in 1999 and supplemented by 2009 information:
 - DO35B will potentially affect 100 parks that provide approximately 300 different utility systems – water, wastewater, power/electrical, solid waste and fuel
 - 90 parks provide water services
 - 70 parks provide wastewater services
 - 51 parks provide power and electrical distribution
 - 47 parks provide solid waste services and
 - 23 parks provide fuel services

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CONSOLIDATED COMMENTS FROM THE FEDERAL REGISTER NOTICE – MARCH 2010



- Rates in the parks are higher than outside the parks
- Why is the NPS providing utilities?
- Concern of oversight and control of utility rates
- The study of 8 parks cannot be applied to all parks
- How will the rate change be implemented?
- The rate change only applies to concessioners (and not to others, like Cooperating Associations)
- Including capital costs is “double taxation” or “double dipping” to the visitor
- Efficiencies will not reduce the rate

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RATES ARE HIGHER IN THE PARKS



- Most utility areas are larger than those in the NPS and fixed costs can be distributed over more users
- Seasonal operations are more expensive
- Many utilities have part of their costs in special assessment, property or other taxes.
Improvement districts also add to this burden in additional taxes. These costs are not included in the published rate but are a part of the total cost of the utility

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WHY IS THE NPS PROVIDING UTILITIES



- The NPS only provides utilities when there is not another local utility option
- The preferred provider for utilities is a local utility provider

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CONCERN OF OVERSIGHT AND CONTROL OF UTILITY RATES



- DO 35B brings consistency for documentation and transparency that does not presently exist
- There will be Regional and Washington oversight of the rates and rate setting process
- There is a 90 day notice in advance of the rate change.
- All rate bases and rate setting will done in a uniform manner through the Facility Management Software System (FMSS).
- The non-NPS user is encouraged to ask and look for the information used to set rates

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THE STUDY OF 8 PARKS CANNOT BE APPLIED TO ALL PARKS



- The study of 8 parks is specific to those parks – each park will have to have the same analysis
- The study was used to develop an implementation process and policy
- There were a small subset of comments that gave examples of how DO 35B would affect them – most of these were not done in accordance with the draft Reference Manual.

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HOW WILL THE RATE CHANGE BE IMPLEMENTED?



- The current draft implements the Director's Order at a maximum increase of 10%/year until the next contract is in place
- The 10% cap also includes 83-2 costs that are not being collected as we find many parks are not at full recovery for operational costs
- The revised rates will be used as part of the financial analyses during prospectus development
- The analyses will include the projected projects affecting the rate base that are probably to come up through the life of the contract

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THE RATE CHANGE ONLY APPLIES TO CONCESSIONERS



- The rates applies to all customers, including the NPS. The rate does not discriminate between users. The billing is based on the amount used for each user.
- Cooperating Associations use Director's Order 32 as guidance to providing utilities and it largely rests with the Superintendent on whether the Association is billed or whether the NPS absorbs the cost – our recommendation puts more oversight into that so the decision to not charge can only be done by a waiver process in Region and/or Washington

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INCLUDING CAPITAL COSTS IS DOUBLE “TAXATION”



- Congress, in House Report No. 92-742, states “Most members of the committee believe that those people who are fortunate enough to be able to take the time to use and enjoy these areas ought to be willing to help to some reasonable degree, to defray the cost of providing them with these opportunities. No one wants to price anyone out of these outdoor areas, but neither do they want to unduly burden those who never visit such areas – either for economic or other reasons - with all of the costs of making these areas and their related facilities available.”
- As an example - a visitor pays taxes and an entrance fee, but they are also charged a use tax for any fuel that they buy that could have gone into that road – utility costs are based the same – on use.

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EFFICIENCIES WILL NOT REDUCE THE RATE



- Using less water from one year to the next may not reduce the rate (cost per gallon) but it will reduce the bill for that user.
- Unless everyone reduces the same amount, the cost to the efficient user will go down, even if the rate actually goes up. The most efficient user will see their bill decrease.
- We are seeing this same trend in communities. Rates rise because use is less, but, again, the most efficient user will see their bill decrease.
- The long term affect may be that an enlarged facility will not have to be built

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OPTIONS GIVEN IN THE FEDERAL REGISTER COMMENTS



- The comments suggested various methods of putting the Director's Order into play.
- A common comment was not to do anything at all, but this is not consistent in the agreements we have made with the Inspector General.
- A phase-in of the policy was seen often. That is consistent with the existing draft with the 10% cap
- Deferring implementation until the next contract. This would mean that implementation could be delayed, in some cases, for many years. This is inconsistent with the direction that we have agreed to with the Inspector General

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OPTIONS BEING CONSIDERED



- For non-NPS users under contracts (such as concessioners), implement only when a new contract is put into place. Some phase-in may have to happen to do this.
- Use the methods in the existing draft of 35B. This would bring capital costs put into place since 2000 into the rate base
- Include capital costs into rates when the Director's Order goes into place. This would not bring the capital costs into the rate base until at least 2012. The 10% phase-in would continue until a new contract is in place.

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OBSERVATIONS



- Each park will have to be evaluated separately to determine how the rates will be implemented – there is no one answer
- The percentage change is not always indicative of the impacts.
- Parks with a lot of non-NPS use will not see a large rise in rates with a large project
- Small to medium parks are much more susceptible to the impact of large projects
- The ability to forecast and plan the rates will be an invaluable tool to both the park and the concessioner in planning for future years

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OBSERVATIONS AND TIME LINE



- There are a lot of park rates that do not include all of the allowed costs under 83-2. If they are properly implemented, some operators will see their costs go up more than 10%, unless it is limited by DO 35B
- A letter will be sent to all people who sent comments into the Federal Register after briefings with the NPS leadership occurs.
- No decisions have been made for a final document.
- DO 35B will result in a consistent application of utility rates across the NPS.

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In Depth Studies Of 5 Parks

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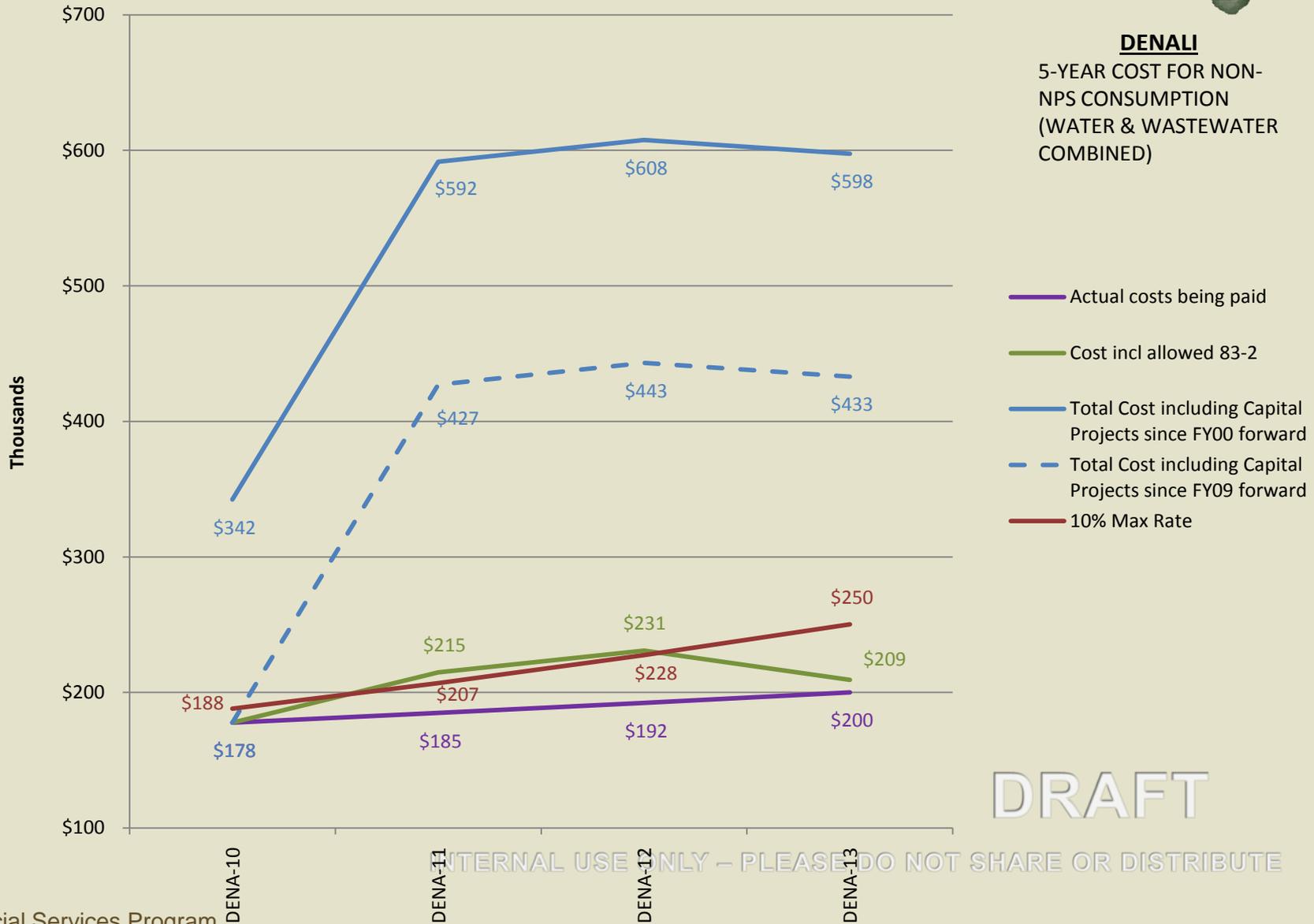
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Denali , Mount Rushmore, Olympic, Shenandoah, and Yellowstone

DENALI



DENALI
5-YEAR COST FOR NON-NPS CONSUMPTION
(WATER & WASTEWATER COMBINED)



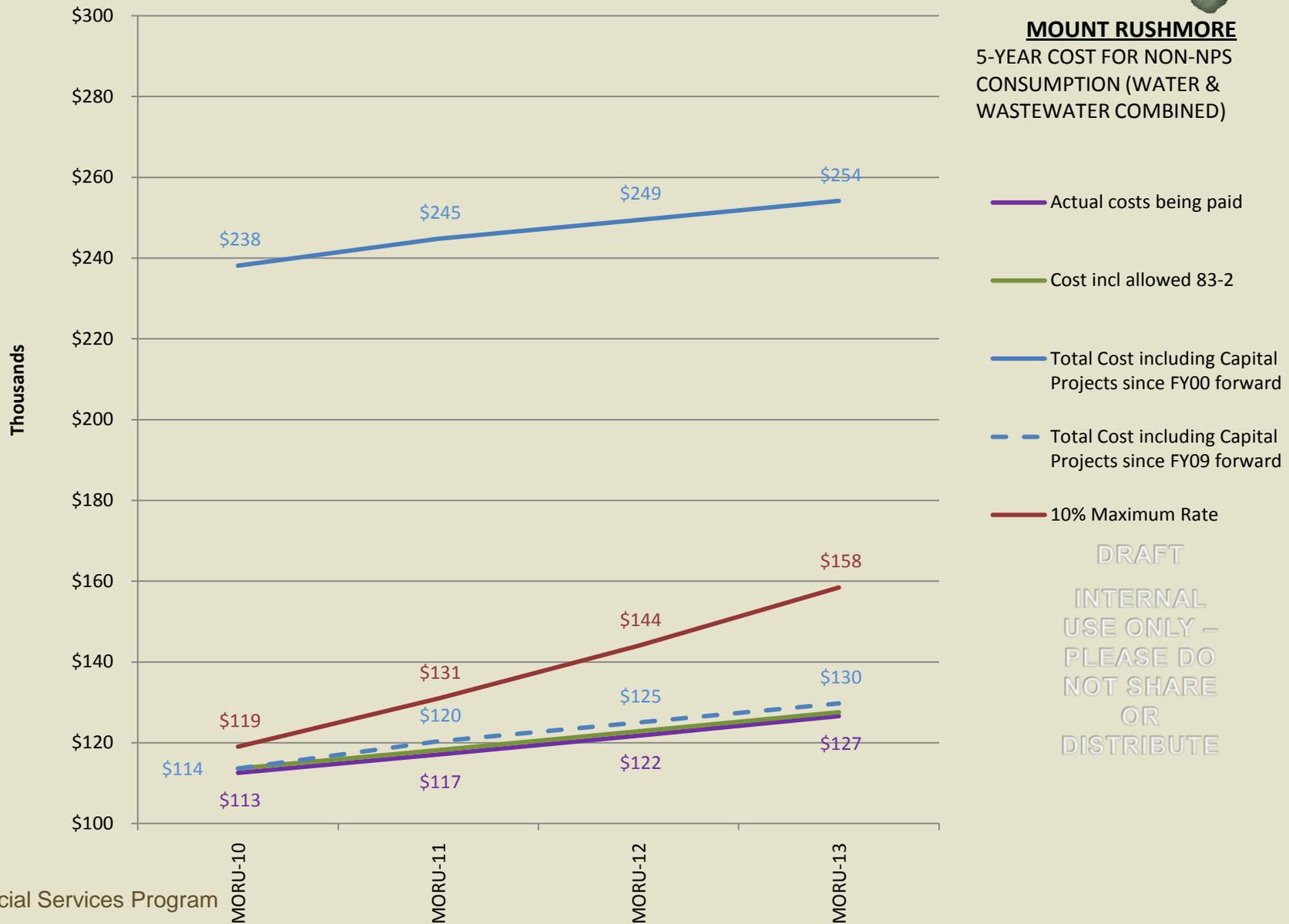
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MOUNT RUSHMORE

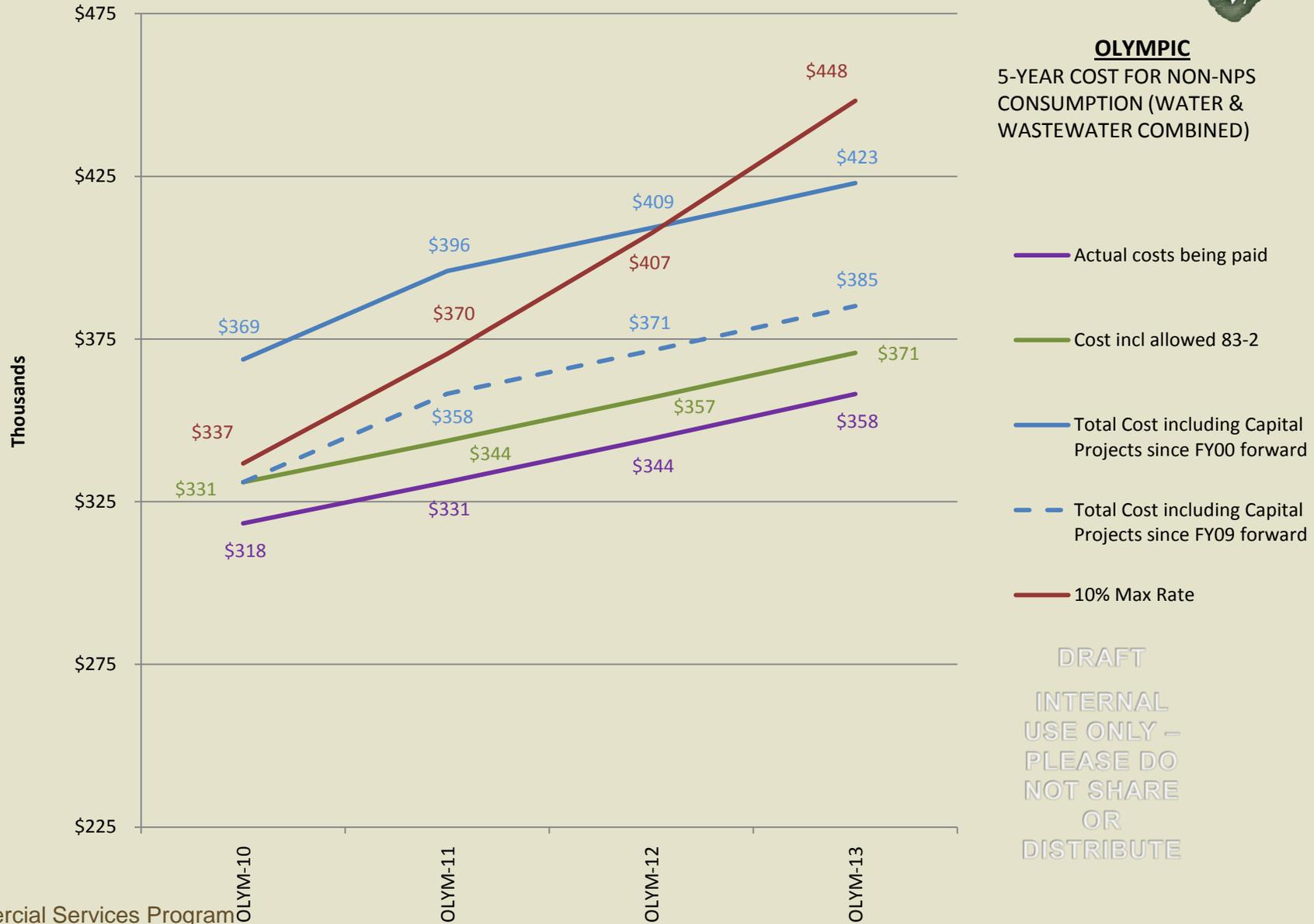


MOUNT RUSHMORE 5-YEAR COST FOR NON-NPS CONSUMPTION (WATER & WASTEWATER COMBINED)



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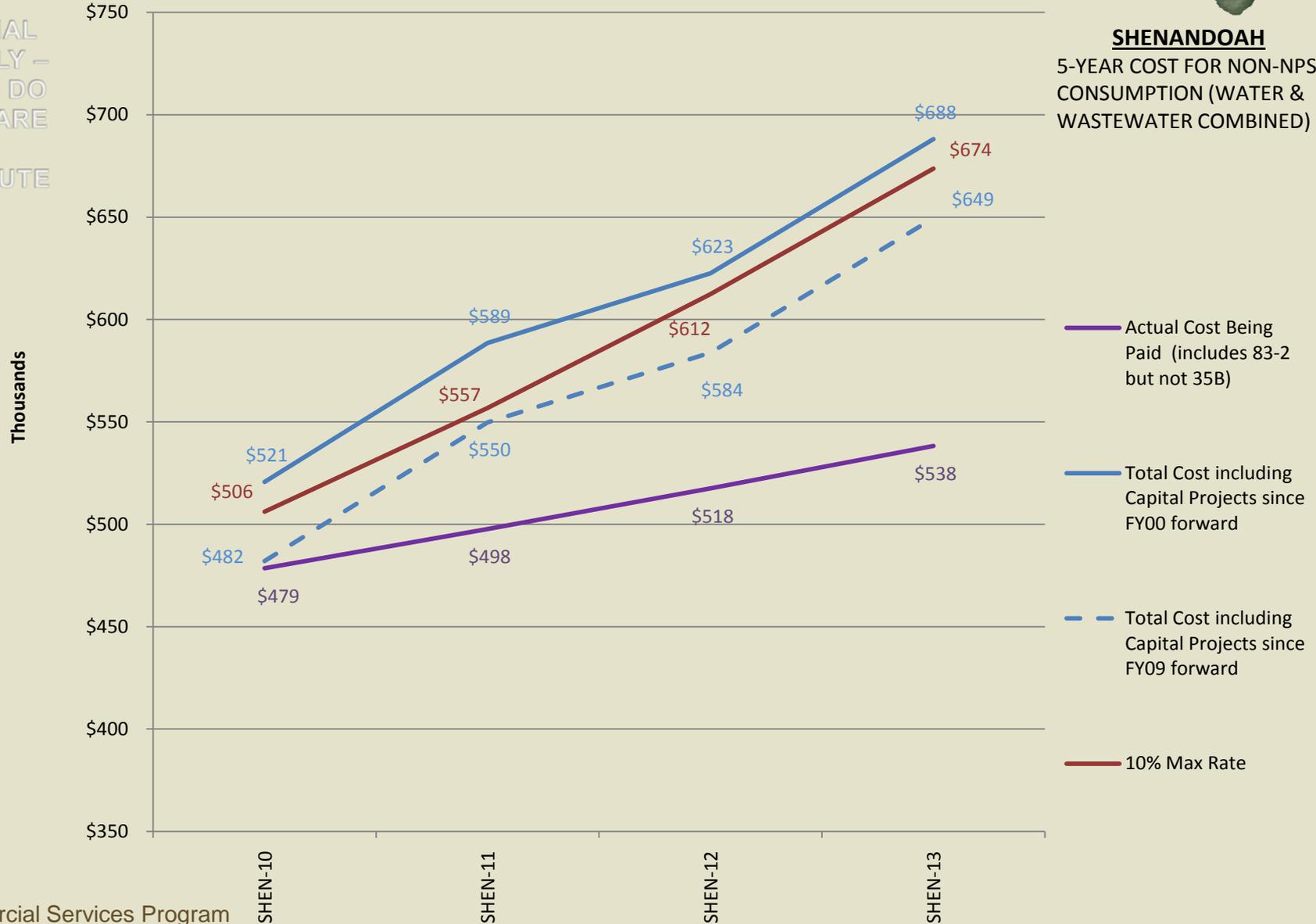


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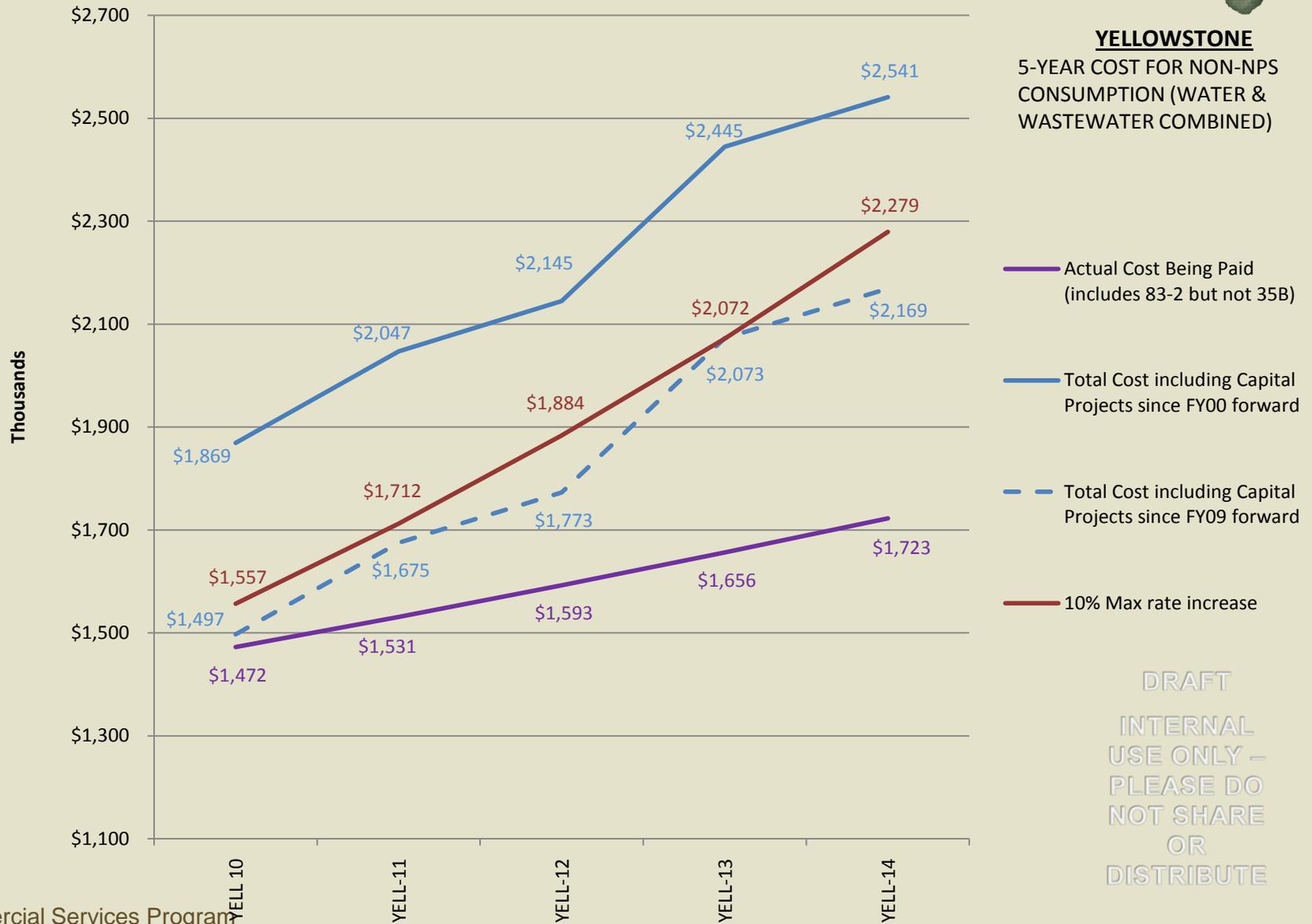


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SHENANDOAH 5-YEAR COST FOR NON-NPS CONSUMPTION (WATER & WASTEWATER COMBINED)



YELLOWSTONE





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