

CHAPTER I

PRESERVING OUR HERITAGE

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Prepared by:
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Management Policies of the National Park Service
United States Department of the Interior

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PRESERVING OUR HERITAGE

"The Service thus established shall promote and regulate the use of the Federal areas known as national parks, monuments, and reservations...by such means and measures as conform to the fundamental purpose of said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations."

Act of August 25, 1916

The National Park System

With the establishment of Yellowstone National Park in 1872 the Congress articulated, for the first time, the policy of national ownership of superlative resources for the common good. The national park idea was expanded in 1906 from natural areas to areas of historic and scientific interest with the establishment of Mesa Verde National Park, and the passage of the Antiquities Act. This Act also gave the President the authority to proclaim national monuments on lands already under Federal jurisdiction.

In 1933 an Executive Order transferred to the Department of the Interior, for administration by the National Park Service, the national memorials and parks of the Nation's Capital, national monuments, and historical and military parks administered by other Federal agencies. And, with the passage of the Historic Sites Act of 1935, Congress established

"...a national policy to preserve for public use historic sites, buildings and objects of national significance for the inspiration and benefit of the people of the United States."

In 1937 the evolution of the National Park System continued with the establishment of the first national seashore at Cape Hatteras. Lake Mead, the first of the recreation areas, was established by Congress in 1964. The Service's involvement in urban areas was greatly accelerated in 1972 with the addition of Golden Gate and Gateway National Recreation Areas to the National Park System. The national park idea was again broadened in 1978 with the establishment of Lowell, Pinelands and Santa Monica, which contain a mix of public and private lands that will be protected through the use of different types of management techniques.

The future of the National Park System has been, and will continue to be, shaped by Congress. Congress declared in the General Authorities Act of 1970 "that the national park system, which began with the establishment of Yellowstone National Park in 1872, has since grown to include superlative natural, historic and recreation areas in every major region of the United States, its territories, and island possessions...and that it is the purpose of this Act to include all such areas in the System..."

Today the National Park System comprises over 320 areas and 76 million acres in 49 states, the District of Columbia, Guam,

Puerto Rico, Saipan, and the Virgin Islands.

The Meaning of National Parks Today

"The parks are ...places where recreation reflects the aspirations of free and independent people ...an object lesson for a world of limited resources ...great laboratories of successful natural communities ...(and) living memorials of human history on the American continent."

Professor Joseph Sax,
University of Michigan Law School
Unpublished Paper, June 1979

Our national parks are special places; "islands of hope." A park experience is essentially one that is defined by the visitor--that individual should meet the park on its own terms. Parks should not provide entertainment, but rather should teach the visitor to be perceptive and introspective.

National parks provide a marked contrast for today's highly consumptive society, and are a valuable lesson for a world of limited resources. "The parks promote intensive experience, rather than intensive use. The more one knows, searches and understands, the greater the interest and satisfaction of the park experience." The Service shall urge non-consumptive use and a resource-oriented experience. This does not mean denying access, but rather guiding the visitor's experience in, and perception of, the park.

The parks are great outdoor classrooms. They are scientific reserves whose substantial ecological integrity provides a precious standard with which to measure the effects of humanity on most of the rest of the world. Nature contains some applicable lessons that we can learn from and apply in our human communities. "...one can see in any park a multitude of examples of efficiency and adaptation--in architecture, in food production and gathering, in resistance to disease, in procreation and energy use--all of which have counterparts in human society."

The National Park System contains outstanding examples of our history as a people. The parks collectively preserve evidence of the roots of this nation and its cultural predecessors. "These places are essential to the aspirations of a free people, for without our history we are at large and vulnerable in the present." If nature is a storehouse for insight and adaptation of ideas to the human community, human history is at least equally instructive in the lessons of adaptation and succession, struggle and continuity, diversity and change.

The National Park System is an integral part of a national ecosystem of natural, cultural, and recreational resources spanning the whole spectrum of human experiences. It comprises many parts of a mosaic, assuring a diversity of human experiences.

(All quotes in the above section are from Professor Sax's Unpublished Paper, June 1979).

Protecting Park Resources

Until 1961, many parks were established either by setting aside portions of the public lands or from lands donated to the Federal government initially by public or private interests. The authorization of Cape Cod National Seashore in 1961 marked a new concept in the development of the National Park System; the use of appropriated funds to purchase land for public enjoyment as a park.

In addition to outright purchase of land, Congress over the years has looked at other ways to protect park resources. The "Cape Cod formula" set out in the legislation establishing that area, suspended the Secretary of the Interior's authority to acquire private inholdings if the local governments imposed zoning requirements consistent with standards promulgated by the Secretary, and if the landowners complied with them. This provision was also applied to other seashore areas.

In the 1968 Act establishing Redwood National Park, Congress gave the Service authority to acquire interests in land from, and to enter into contracts and cooperative agreements with, the owners of land surrounding the park in order to fully protect park resources.

The Area of National Concern/Greenline Park concept, exemplified by Lowell, Pinelands and Santa Monica, envisions close, cooperative preservation efforts among Federal, State and local governments, and the private sector. These areas contain a mix of public and private land which will be protected through a variety of land management

techniques to supplement a core program of fee acquisition. In these areas the Service has a cooperative planning and preservation mandate.

Each of these concepts has demonstrated a greater and more sophisticated effort on the part of Congress to protect valuable resources.

The Service will bring new ideas to traditional land use practices and will consider a variety of land protection methods and the legal options that are available to it--in addition to fee acquisition--to ensure protection of park resources. Zoning, scenic or restrictive easements, cooperative planning and management, and cooperative agreements, among others, will be considered and used when allowed by the legislation establishing the park area and when the protection of park resources can be assured.

Stewardship Responsibility

"If we are going to succeed in preserving the greatness of the national parks, they must be held inviolate. They represent the last stand of America. If we are going to whittle away at them we should recognize, at the very beginning, that all such whittlings are cumulative and that the end result will be mediocrity. Greatness will be gone."

Newton Drury
Director, National Park Service
1940-1951

The 1916 mandate of the National Park Service was strongly reiterated in the 1978 Amendment to the Redwood National Park Act. Section 101(b) of P.L. 95-250 states that:

"Congress further reaffirms, declares, and directs that the promotion and regulation of the various areas of the National Park System...shall be consistent with and founded in the purpose established by the first section of the Act of August 25, 1916, to the common benefit of all people of the United States. The authorization of activities shall be construed and the protection, management, and administration of these areas shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established, except as may have been or shall be directly and specifically provided by Congress."

This legislation emphasizes the National Park Service's responsibility for the integrity of the parks it administers. The Service is guardian of national treasures and must maintain high ideals of management to protect and preserve them. Threats to park resources from such things as adjacent land uses, air and water pollution, visual blight, development, and energy extraction, shall be recognized and dealt with promptly. The Service shall permit no internal or external action that jeopardizes the legislative purpose of a park, and will explore all ways and utilize any appropriate methods to avoid impairment of the resources.

In order to ensure the protection and preservation of our nation's natural and historical heritage the Service shall:

- build a base of scientific and historic information--
benchmarks or baseline measurements--about park resources;

- establish thresholds above which it will not permit degradation to occur because damage to the resource will result;

- develop an early warning system based on this scientific data base and these management standards; and

- make the output of the latest and best in science and technology, preservation techniques and technology, and professional resource management expertise available to the park manager to upgrade the reliability and suitability of decisions on resource management in a format that is both understandable and has specific applicability to the field situation.

To carry out these expanding mandates, the Service must be increasingly concerned with activities occurring on the lands outside the parks. The National Park Service shall endeavor to cooperate with park neighbors and others to carry out its stewardship responsibility. However, the primary responsibility of the Service is to protect park resources.

The Role of the Park Manager

The job of managing our nation's parks is becoming increasingly complex and challenging. As the National Park Service enters the 1980's, park managers must assume three roles:

1. Stewards of the Land

This is the Service's principal responsibility. The Service is charged with protecting our nation's natural and historical heritage from external and internal threats. The influences on a park from outside its boundaries, and the influences of the park upon the adjacent communities, are a direct concern of the superintendent. The job of protecting park resources is a proactive one, and the park manager must be alert to all potential threats.

In order to carry out this stewardship responsibility the superintendent:

- must participate in regional, State and local planning decisions, including zoning hearings and council meetings, whenever possible;
- should make known the objectives of the park and encourage local jurisdictions to take these into account to the maximum extent in planning for the use of the land;
- must communicate effectively with park neighbors;
- must be alert to any proposals that could impact upon park resources; and

-- should offer technical advice and assistance on planning, zoning, and historic preservation matters, where requested and where this can positively impact upon park resources.

The superintendent's performance as the chief operating officer will be judged in large part on how effectively this stewardship responsibility is carried out.

2. Teachers

"We abuse the land because we regard it as a commodity belonging to us. When we see land as a community to which we belong, we may begin to use it with love and respect."

Aldo Leopold, A Sand County Almanac

Parks are classrooms, and park staff are all educators. The resources the National Park Service manages are for use and enjoyment and enlightenment. In this role, the Service must be concerned with environmental ethics and education, and energy conservation. The National Park Service manages more than buildings and wilderness, lands and monuments, and unique geologic features; it has custody of a great idea, a value system. It must communicate this to the public.

To fulfill this teaching role the park manager:

-- must develop, operate and focus significant public attention on environmental education programs;

- must develop and operate effective interpretive programs in harmony with the Service's mission and the purpose of each park;

- must communicate and foster a land use and conservation ethic, an understanding of our prehistoric heritage, the values of outdoor recreation, and the significance of these things to the lives of our citizens; and

- should transmit to the public an attitude of conservation toward the built and natural environment.

3. Public Administrators

Park managers shall carry out the dual mandate of the National Park Service -- preservation and use. However, they must be sensitive and equitable in carrying out this role. Parks fulfill the needs of people and the Service must constantly evaluate its effectiveness as providers of services to our visitors.

To carry out this public administrator responsibility the superintendent:

- shall keep the public informed about the activities occurring in the park;

- shall conduct an open planning and decisionmaking process;

-- will work with communities, park neighbors, State and local agencies and groups, and other Federal agencies; and

-- shall assure the safety of park visitors.

Legal Tools Available for Protecting Park Resources

In seeking to provide the maximum protection for park resources, park managers should consider each of these options. The use of these tools and keeping track of these actions is the responsibility of the superintendent.

1. State or Local Administrative or Zoning Actions -

There are a wide variety of State and local administrative or zoning type proceedings that may concern proposed actions within or adjacent to park areas harmful to park resources or values. Examples include Forest Practice Boards, County Zoning Commissions, and Mining Practices Boards.

Deliberations concerning matters that could effect park resources or values should be followed carefully, and the views of the National Park Service should be presented.

Awareness and careful preparation for these hearings and deliberations is also an essential part of establishing protection through Service regulations, Federal lawsuits, or legal actions by others. Failure to participate in these processes will jeopardize these alternatives.

2. State, Local and Private Compliance with Federal Laws -

There are many Federal statutes that impose affirmative responsibilities on State and local governments and require private compliance, i.e., the Clean Air and Clean Water Acts. Both State and local compliance actions and private responsibilities under these Federal statutes can present the Service with a opportunity to express its concern for protecting park resources.

3. Proposed Actions by Other Federal Agencies -- the National Environmental Policy Act (NEPA) and Other Federal Requirements

Parks may be harmed by the actions of other Federal agencies. The National Park Service should present its views concerning these actions in a timely fashion. Typically, this will be done through the NEPA process. Information concerning proposed Federal actions should be carefully coordinated to ensure that NEPA compliance is taking place and that the concerns of the Service are being adequately presented. Federal agencies also have the responsibility to comply with a wide variety of Federal environmental requirements -- such as the Endangered Species Act, section 106 of the Historic Preservation Act, and section 4(f) of the Department of Transportation Act -- that may serve to protect or consider park resources. These responsibilities should be identified and reviewed as part of the NEPA process whenever possible.

4. Federal Permits and Licenses -

There are a number of Federal statutes that require Federal licenses and permits before private actions can proceed. Corps of Engineers permits on navigable rivers, Federal Communications Commission (FCC) and Federal Aviation Administration (FAA) permits for towers, Environmental Protection Agency (EPA) permits for handling toxic substances, are examples. Consideration and review of applications for such permits is an opportunity for presentation of Service concerns.

5. National Park Service Regulation -

There may be existing authority to adopt and implement regulations concerning actions occurring within park boundaries that can be shown to be directly harmful to park resources and values. These actions may include the use of private lands or waters, or interests therein, by the owners.

6. Federal Lawsuits -

Harmful activities within or adjacent to park areas that are not subject to effective State and/or local controls, may also be the basis for Federal legal action to protect a park area.

7. Legal Actions by Others -

Legal actions initiated by others -- either in Federal court or at the State and local levels -- may also serve as an important opportunity for presentation of National Park Service concerns with regard to harmful or potentially harmful activities within or adjacent to park areas. These actions may be against another Federal agency with regard to a Federal program or license, or they may concern a similar State program or license.

8. Water Rights -

Water rights adjudications, and the establishment of reserved water rights, are critical to the protection of National Park Service resources in water scarce areas.

9. National Park Service Permits -

Applications for permits to utilize or to cross National Park Service areas may also serve as a device for protecting park resources -- both from adverse use within the park and with regard to impacts on adjacent or related non-park areas.

Cooperating for Preservation

The National Park Service is a leader in the worldwide preservation movement. As such, the Service is in an excellent position to promote and articulate a land use ethic that goes beyond the boundaries of the National Park System. The natural parks are no longer isolated enclaves in remote areas of the country, and the historical parks are no longer pieces of real estate affecting and affected by themselves alone. Through cooperation and communication the National Park Service can have a positive and constructive influence on park neighbors. This will help in protecting park resources, and will assist those outside park boundaries in protecting and preserving their resources. The Service will seek to provide alternatives for land uses that threaten park resources.

The Service shall speak for and advocate the preservation of open space in this country in an effort to protect the best of what's left in America and the sites that give a better understanding of our historical heritage. The National Park Service will work actively with communities, park neighbors, State and local agencies and groups, and other Federal agencies on a national and international basis to avoid the consequences of unplanned growth, and to assist in preserving landscapes and historic scenes.

The Service will assist in identifying, advocating, planning, ensuring public involvement, and developing valuable natural and historical resources. This assistance will be provided in areas where the National Park Service could be the managing agency, is

totally eliminated as a land managing component, or is part of a mosaic of park management entities.

The Service recognizes that, in most park regions, the primary concern of the local citizenry and various planning agencies will be the economic health of the region. Realizing this, the Service will develop approaches that will ensure effective historical and environmental preservation and recreational opportunities, and provide viable development alternatives that will recognize and mitigate adverse economic impacts.

In addition to its responsibilities for managing the National Park System, the National Park Service will cooperate with others to plan for the use and enjoyment of significant natural, cultural, and recreational resources, and will assist in delineating appropriate management responsibilities for their preservation and use. The National Park Service, under authority available to the Secretary of the Interior, may enter into a variety of cooperative and other arrangements for the perpetuation and management of natural, cultural, and recreational resources of national significance. These include:

1. Cooperative agreements and contracts with States, municipal subdivisions, corporations, associations, or individuals to protect, preserve, maintain, or operate any nationally significant historic or archeological property that should be available to the public, regardless of ownership. Such agreements may not obligate the general fund of the Treasury unless or until Congress has appropriated money for such purpose.

2. Cooperative planning, including financial assistance where specifically authorized by Congress, with other Federal agencies, with States, foreign countries and others for purposes of perpetuating, planning, commemorating, developing, and interpreting specific natural, cultural, or historic properties administered by the other parties. With regard to foreign aid, several legislative provisions are applicable, and the authorities of the Department must be carefully reviewed for each cooperative project.

3. Management, by the Service, through authority available to the Secretary, of the recreation resources of lands and waters of Federal reservoir projects through cooperative agreements.

4. Temporary exchange of personnel between Federal, State and local agencies, and universities, under the authority of the Intergovernmental Personnel Act of 1971.

5. The National Park Service will also engage in an international program for exchanging information and technical assistance with other countries in conjunction with natural, historical, and cultural area conservation, park and recreational programs. The Service will cooperate with appropriate domestic and international agencies in the development of proposals and the implementation thereof relating to the World Heritage Convention, the Man and Biosphere programme of the United Nations, and similar programs. The Service will also solicit actively the advice and assistance of other park and preservation units throughout the world, where such advice and assistance will be helpful in the management of the National Park System.

Growth of the System

In cooperation with the Congress, in their role of examining and considering areas for addition to the System, the National Park Service is asked to conduct studies of areas proposed for addition to the National Park System. The Congress, in 1976, in an effort to establish a more orderly process for the identification, study and

Congressional consideration of potential park areas, passed
P.L. 94-458, the General Authorities Act.

Section 8 of that Act directs the Secretary of the Interior to:

"...investigate, study, and continually monitor the welfare of areas whose resources exhibit qualities of national significance and which may have potential for inclusion in the National Park System. At the beginning of each fiscal year, the Secretary shall transmit to the...(Congress) comprehensive reports on each of those areas upon which studies have been completed...(and) a listing in generally descending order of importance or merit, of not less than twelve such areas which...may have potential for inclusion in the National Park System."

Thus, the purpose of the National Park Service New Area Studies Program is to collect information on which Congress can make legislative decisions as it considers individual areas for authorization.

National Wild and Scenic Rivers System

The Wild and Scenic Rivers Act (P.L. 90-542, as amended) established the policy that certain selected rivers of the nation which, with their immediate environments, possess outstanding scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, are to be preserved in a free-flowing condition and protected for the benefit and enjoyment of present and future generations.

The national system established by the Act includes both Federal- and State-administered rivers. Federally-administered rivers are designated as components of the system by an Act of Congress; State-administered rivers are added to the national system upon approval by the Secretary of the Interior of an appropriate application by the governor(s) of the State(s) involved.

The National Park Service conducts or coordinates studies of candidate rivers assigned to the responsibility of the Secretary of the Interior, as identified and authorized by the Congress.

Wild and Scenic Rivers located in the National Park System will be administered subject to the provisions of the Wild and Scenic Rivers Act and the various acts under which units of the National Park System are established and administered.

National Trails System

In 1968, the Congress passed the National Trails System Act (P.L. 90-543, as amended) which provided the framework for a national system of trails. The Act specifies that trails be established (1) primarily near urban areas of the nation and (2) secondly, within established scenic areas more remotely located, in order to "provide for the ever-increasing outdoor recreation needs of an expanding population and to promote public access to, travel within, and enjoyment and appreciation of the open-air, outdoor areas of the Nation."

The National Park Service conducts or coordinates studies of candidate National Scenic Trails identified and authorized by the Congress for possible addition to the National Trails System. It also administers the Appalachian National Scenic Trail, and has coordinating responsibility for the Lewis and Clark, Oregon, and Mormon Pioneer National Historic Trails, established by the National Trails System Act.

National Recreation Trails and side or connecting trails may be added to the System by the Secretary subject to agreement with the managing agency.

The Service will nominate selected park trails for Secretarial designation as National Recreation Trails, and cooperate with other governmental entities and the private sector to facilitate connecting trails with those out of the parks. Trails may be for pedestrians, equestrians, bicyclists or boaters with emphasis on trails permitting use by the handicapped, and trails close to centers of population.