
book reviews

Our Common Lands: Defending the National Parks. Edited by David J. Simon. National Parks and Conservation Assn., Island Press, Washington, D.C. 1988. xiii + 569 pp. \$24.95. ISBN 0-933280-57-2. \$45.00. ISBN 0-933280-580

Our Common Lands is about law but, the editor continues, it is intended for the much broader audience of all those interested in parks and park protection. The book contains 498 pages, 18 individually authored chapters divided into four parts: The Realities of Park Protection (one paper), General Authorities (six papers), Protecting Specific Park Resources (six papers), and Regulating Development in and Around National Parks (five papers). Also included are four appendices, 51 pages in length, containing a list of National Park Service (NPS) environmental impact statements, a list of Bureau of Land Management wilderness study areas adjacent to NPS units, approximately 150 selected references for those interested in more detailed study, and A Basic Primer on Legal Source Materials for Non-lawyers. The book has an excellent index; extensive documentation for each article comprises 100 pages of footnotes, notes and references.

The 18 chapters vary considerably in length and in detail. The abrupt endings result from placing conclusions and recommendations in the beginning rather than at the end. Many readers will read only select portions that are of most personal interest or will use the book only as a reference. This, however, does not detract from the book's utility.

The work is mixed in its presentation of legal possibilities, legislative musts, and present authorities; it contains a wealth of well-documented information and thought-provoking ideas.

The editor states in the preface the book's three key messages: (1) the National Park Service has substantial existing authority to protect park resources, (2) existing authority "permits – and requires – the NPS" to be a pro-active land management agency, and (3) litigation should be used as a last resort. Working to meet these goals, the authors point to past and present failures to fully use numerous existing authorities to protect parks. They present, in detail, specific existing legislation and legal precedent and specify a number of laws that provide powerful and useful authority for use in protecting parks.

As one reads through the book, however, one gets a clear sense that it would be much easier to protect parks with specific legislation. This argument begins with Joseph Sax's discussion of the difficulties encountered in attempting to enact park protection legislation in support of "resources based, natural system management." The topic is expanded by William Lockhart, with a plea for specific modern legislation that would provide clear-cut jurisdictional authority to NPS to protect park resources from the complex threats posed by both private development and other government agencies. In lieu of this option, other authors endeavor to argue with varying degrees of strength that other laws or authorities are available. These laws are discussed in detail in Chapters 2 through 18. Thus, Joe Sax describes this book as being about the use of "de facto park protection legislation."

Another important message which may escape the casual reader but is supported by a number of the authors is that the NPS is limited in its ability to protect resources by its lack of resource information. This is

true whether we are dealing with the very specific requirements of the Endangered Species Act, the Clean Water Act or the Clean Air Act, the Park Specific Authorities of the Park Planning, Historic Resources or the National Historic Preservation Act, the Organic Act and the Geothermal Steam Act, or the potential protection provided by the National Environmental Policy Act, the Wild and Scenic Rivers Act, or the Federal Reserved Water Rights Doctrine. A number of examples are cited of the need to enter into adversary proceedings, both administrative determinations and litigation, where the Service's options were, and are, limited under existing statutes because the necessary inventory and monitoring data do not exist, making it impossible to establish a clean-cut cause and effect relationship between resource threats and resource deterioration.

In summary, this work is pro-preservation and often critical of past actions or lack of action on behalf of the long-term preservation of National Park resources. *Our Common Lands* should be must reading for NPS personnel and others in the public or private sectors responsible for, or interested in, preserving park resources.

Ray Herrmann
NPS Water Resources Division