

THE WILDERNESS ACT AND THE NPS ORGANIC ACT

A WHITE PAPER DISCUSSION

Jonathan B. Jarvis

March 1994

LACK OF CONSISTENCY:

Ever since the passage of the Wilderness Act in 1964 (PL 88-577), the National Park Service has reluctantly embraced the concept of designated Wilderness within national park units. This is well documented in the records and lore of the agency and easy to prove. Today, many national park units still remain without designated wilderness in spite of numerous studies completed in the early 1970's. The agency has forwarded few of those to Congress. Further evidence comes from the lack of consistency in implementation of Wilderness policy and management from park to park. The 1985 NPS Wilderness Task Force stated:

Management of individual wilderness areas of the National Park System is not carried out on a systematic, consistent basis Servicewide. This lack of consistency is true for designated, potential, proposed, and defacto wilderness. The primary reasons for lack of consistent management appear to be:

- varying interpretations of, or failure to follow, the Service's Management Policies
- no central coordination of Servicewide wilderness management policies.
- different concepts of wilderness between eastern and western parks
- lack of guidance on specific management issues (e.g. aircraft use)
- insufficient exchange of information about wilderness management techniques among National Park System areas and among the different bureaus that manage wilderness areas.

My personal favorite example of inconsistency was the mid 1980's EPA acid precipitation survey of the Cascades, Olympics and Sierra mountain ranges. Permission was requested to land a helicopter to collect samples along the crest of these mountains. The USFS denied permission in all designated wilderness areas. The NPS left it upto the individual Superintendents and OLYM denied permission while NOCA, CRLA and MORA all granted permission.

It is my contention that these inconsistencies are still true today, but there is a deeper more pervasive reason not fully recognized by the 1985 Task Force. That is that NPS managers interpret the Wilderness Act as just one of the many uses in the mission of the National Park Service and do not afford it any particular priority in carrying out the mandates of the NPS Organic act. Wilderness "management" is equated with park or backcountry "management". It is this flawed thinking that has led to conservation organizations call for a "National Wilderness Service" and for Congressman Bruce Vento's oversight hearings and legislation mandating a "Wilderness Management" organization within the NPS and the BLM.

THE WILDERNESS ACT IS DIFFERENT

The Wilderness Act is different than the NPS Organic Act (16 USC 1a1) and the individual acts establishing the NPS units. A simple but perhaps extreme difference is that the development on the south rim of the Grand Canyon and Yosemite valley are compatible with the NPS Organic Act, but certainly not the Wilderness Act. Obviously, this level of development could not take place within Wilderness, but it can take place within national parks, on lands that have wilderness character.

Some have contended that the greatest contribution of Wilderness designation in National Parks, is that it protects them from the National Park Service. There is an element of truth in this statement. The 1972 NPS Master Plan for North Cascades National Park called for a series of trams from the state highway into the pristine subalpine and alpine zones of the park. It also called for a new road to the head of Ross Lake and downhill ski areas in Ross Lake NRA. These remained as official NPS proposals until the 1986 Washington Parks Wilderness Act designated Wilderness in the Park and adjacent Recreation Areas eliminating all possibility of these developments. In 1982, the Superintendent of Crater Lake National Park authorized the use of three wheelers on a park trail, only to be reversed when the area was identified as "proposed wilderness". I have personally witnessed this kind of limitation of "discretion" result in a lack of support for designation of wilderness within parks and the drawing of wilderness boundaries that are not based on wilderness values, but on adequate non-wilderness for future development or use options. (An example is the current debate at Voyagers over a snowmobile trail.)

Specific differences between the Organic Act and the Wilderness Act are:

CONGRESSIONAL INTENT

The NPS Organic Act as umbrella and the specific area legislation serve to provide broad congressional intent to the NPS to provide for visitor use and preservation. The NPS then has the discretion to find that balance.

The Wilderness Act is a specific umbrella that created "instant wilderness" and allowed for future congressional designations. The intent of Congress is clear that the NPS is to manage them for wilderness values and discretion is strictly limited.

PLANNING AND ZONING:

The NPS applies its planning process to achieve balance between use and preservation. This is then recorded in the park GMP. In areas without Wilderness designation, major development (example is the newest draft GMP for City of Rock NR, proposing \$58.5 million for construction) can occur essentially anywhere within the NPS area subject to NEPA compliance.

Wilderness designation has the authority of law and cannot be administratively changed like park zoning or General Management Plans.

ANTHROPOCENTRIC V. BIOCENTRIC

The NPS Organic act seeks a balance between the "human" side of park use v. the preservation of resources. The act is neither anthropocentric nor biocentric and the debate between use and preservation continues today.

The Wilderness Act is definitely biocentric in its approach, emphasizing above all, that a wilderness area "generally appears to have been affected by the forces of nature" and "is protected and managed so as to preserve its natural conditions.."

ADDITIONAL MANDATES:

The Organic Act, subsequent area legislation and the Redwoods Act of 1978 define the broad mandate of the NPS.

The Wilderness Act adds to the NPS mandate to maintain within Wilderness areas:

- outstanding "opportunities for solitude"
- outstanding opportunities for "primitive and unconfined type of recreation"
- affected "primarily by the forces of nature"
- where the earth and community of life are untrammelled by man
- where man himself is a visitor who does not remain
- where it retains its "primeval character and influence"
- without permanent improvements or human habitation

RESTRICTION OF CERTAIN ACTIVITIES

The NPS Organic Act and subsequent acts are rarely specific to "management" type activities within NPS lands. The Redwoods Act specified there be no "derogation of park values" without authorization of congress. This has been interpreted to restrict hunting and trapping by the courts but still leaves other activities such as snowmobiling and mountain biking upto the agency.

The Wilderness Act is specific as to certain activities that are prohibited (except in emergencies):

- no temporary roads
- no use of motor vehicles
- no use of motorized equipment or motorboats*
- no landing of aircraft*
- no other form of mechanical transport
- no structure or installation
- *(exceptions for pre-existing uses subject to restrictions)

BACKCOUNTRY V. WILDERNESS

The NPS Organic act is not

The Wilderness Act is fairly

specific as to how
"backcountry" lands will be
managed, other than no
derogation of park values.
Consequently within the NPS
there are wide variations
between party sizes, use of
campfires, collection of
firewood, landing of
helicopters, construction and
maintenance of shelters and
cabins, fire suppression,
trail construction, stock use
and recreational stock
grazing.

specific as to the objectives
of wilderness management:
--motorized equipment is
restricted
--aircraft are restricted
--natural forces are to be
allowed to dominate
--opportunities for solitude
are to be maintained
--structures and
installations are restricted
--the "imprint of man's work
substantially unnoticeable"

CONCLUSIONS

Ed Bloedel, USFS Wilderness Management Specialist said it well in 1987:

Wilderness management is not resource management "business as usual". This is perhaps the hardest concept for foresters, biologists, range conservationists and other resource professionals to understand or accept. It is not "management" in the sense of "doing something", "manipulating", or "improving" and "enhancing" each separate natural resource for maximizing a particular human benefit from those resources. It is preservation of the wilderness resource for humans to enjoy as wilderness.

Professor Rodrick Nash, in his Wilderness Resource Distinguished Lecture at the University of Idaho in 1978 spoke of Howard Zahniser (Executive Director of the Wilderness Society) selection of the word "untrammelled".

Zahniser stood by his original choice with good reason. A trammel, he explained, is a net for catching wild birds or fish. Alternatively the word signifies a shackle used to slow the gait of a horse. The central idea is that of restraint, control, management by man. Untrammelled means the opposite.

The Wilderness Act does not lower the NPS standards, on the contrary, when there is a conflict, the higher standard, the more stringent law is chosen. Wilderness areas within the NPS are to be managed at the highest possible standard afforded by U.S. law, for they have the protection of both the Organic act and the

Wilderness Act. Park managers must recognize in managing wilderness they may be meeting the intent of the NPS Organic Act while failing to meet the intent of the Wilderness Act. In Nash's words it is to "manage so that less management is necessary". This is no simple task. Management decisions and actions that affect wilderness must be considered in light of wilderness values of solitude, unrestricted natural forces and the all-too-human tendency to "trammel" all things natural.