



# United States Department of the Interior

NATIONAL PARK SERVICE  
Pacific Northwest Region  
931 Fourth and Pike Building  
Seattle, Washington 98101

IN REPLY REFER TO:

A98  
(PNR)C

September 10, 1970

## Memorandum

To: Superintendents, Pacific Northwest Region  
Chief, Portland Field Office

From: Director, Pacific Northwest Region

Subject: National Environmental Policy Act of 1969

We are enclosing copies of Director Hartzog's August 19 memorandum on the subject and the report entitled "Study of National Park Service Statutory Authority, Administrative Regulations, Current Policies and Procedures Pursuant to the National Environmental Policy Act." Your comments, if any, should be sent to this office for transmittal to the Legislative Task Force.

  
John A. Rutter

Enclosures



# United States Department of the Interior

NATIONAL PARK SERVICE  
WASHINGTON, D.C. 20240

IN REPLY REFER TO:

August 19, 1970

## Memorandum

To: Directorate and All Field Directors

From: Director

Subject: National Environmental Policy Act of 1969

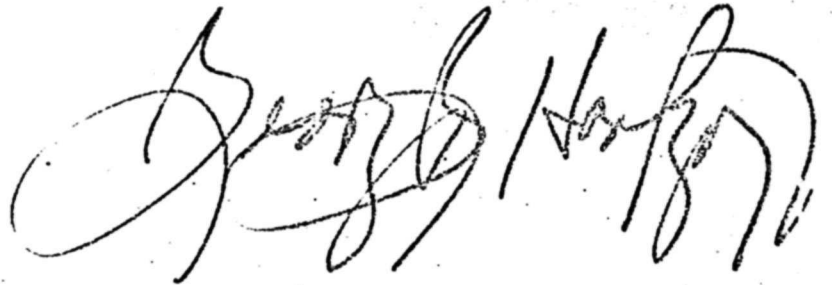
We have had a number of inquiries from the field about the meaning of the National Environmental Policy Act of 1969 for the National Park Service. This memorandum is intended to keep you abreast of recent developments in this respect in Washington, D.C.

Section 103 of the act requires all Federal agencies to review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies in them which prohibit full compliance with the purposes and provisions of the act. The Director asked his Legislative Task Force, consisting of Messrs. Jackson E. Price, Chairman, Ronald F. Lee and Hillory A. Tolson, members, to perform this task for our Service. Their report, submitted July 21, 1970, is a thorough and careful statement on the subject which has been transmitted without change to the Department for use in a consolidated report that will be submitted to the Environmental Quality Council at the White House by September 1, 1970. A copy is attached for your information and review. Since it is a rather lengthy document, the following table of contents may assist you in using it:

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If you have any comments on this report the Legislative Task Force will be pleased to receive them. It will be particularly helpful to have your comments on the last paragraph of the report, regarding requests you may be receiving from other Federal agencies for technical advice on environmental matters. Any comments should be submitted by September 1, 1970, *if possible.*

Enclosure

A large, stylized handwritten signature in black ink, which appears to be "George H. W. Bush". The signature is written in a cursive, flowing style with large loops and is positioned to the right of the "Enclosure" text.

STUDY OF NATIONAL PARK SERVICE  
STATUTORY AUTHORITY, ADMINISTRATIVE REGULATIONS,  
CURRENT POLICIES AND PROCEDURES PURSUANT  
TO THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

The National Environmental Policy Act of 1969 (P.L. 91-190, 91st Congress) provides in Section 103 that "All agencies of the Federal Government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this Act" and shall propose to the President "such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in this Act." By memorandum of June 15 addressed to the Heads of all Bureaus and Offices, the Solicitor requested that the foregoing study be made and to furnish the results to him by July 15.

Because of the nature of the activities and programs of the National Park Service as an environmental enhancement agency and the large amount and complexity of its laws, policies and regulations having a significant bearing on the intent, purposes and procedures of the National Environmental Policy Act of 1969, it has not been possible to make a complete and comprehensive study within the limited time available. The following report represents the findings of a Task Force designated for this purpose and, while it is hoped and believed that it is substantially complete, it may be necessary to submit additional and supplementary material at a later date.

In making the study, it has been considered that the purposes and objectives of the activities and programs of the agency must be taken into account. This would seem to be implied in Section 101(b) of the Act which requires use of "all practicable means" which are "consistent with other essential considerations of national policy." Applying this guide to the National Park Service, the standards used, in meeting the Act's requirement of enabling "full compliance" with its "purposes and provisions" must be of the highest order because, as an environmental enhancement agency, the Service's purposes and objectives are basically consistent with those of the Act.

The report presents a coverage of the subject matter specified in the Act under four headings which correspond to the matters referred to therein, namely (a) statutory authority, (b) administrative regulations, (c) current policies and (d) procedures.

## I. STATUTORY AUTHORITY

### INCONSISTENCIES IN STATUTORY AUTHORITIES

#### General Laws:

1. The Act of February 15, 1901 (31 Stat. 790; 16 U.S.C. 79), authorized the granting of rights-of-way through Yosemite and Sequoia National Parks and General Grant National Park for electrical plants, poles, and lines; for telephone and telegraph purposes; for canals, ditches, pipes, and pipe lines, flumes, tunnels or other water conduits; and for water plants, dams, and reservoirs. This authority has been extended to a number of other parks by express legislative provisions. While it is a grant of discretionary authority, the subject matter involves activities of a nature that is wholly inconsistent with park purposes and objectives. This Act and all later extensions of it should be repealed.

2. The Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 3), authorizes the Secretary to permit grazing in the parks. Repeal of this provision should be considered.

3. Section 1 of the Act of March 18, 1950 (64 Stat. 27; 16 U.S.C. 7a), as amended, authorizes the Secretary to construct and operate "airports in the continental United States in, or in close proximity to, national parks, national monuments, and national recreation areas" provided they are in the National Airport Plan. This authority, insofar as it covers airports in parks and monuments, is inconsistent with park and monument purposes to such an extent that it should be repealed.

4. Section 67 of the Act of August 30, 1954 (68 Stat. 919, 934; 42 U.S.C. 2097); authorizes the Atomic Energy Commission to issue leases or permits for prospecting for, mining of, or removal of deposits of source materials in national parks and monuments "when the President by Executive Order declares that the requirements of the common defense and security make such action necessary." It is possible that existing circumstances make this authority unneeded. If so, it should be repealed.

5. The Act of March 4, 1911 (36 Stat. 1253), as amended by the Act of May 27, 1952 (66 Stat. 95; 16 U.S.C. 5, 420, 523), authorizes the head of a department to grant an easement, not exceeding fifty years, for rights-of-way upon lands of national forests and reservations for electric poles and lines for transmission and distribution of electric power and poles and lines for radio, television and other forms of

communication, provided such right-of-way shall be allowed in any national park only upon the approval of the chief officer of the department and upon a finding by him that the same is not incompatible with the public interest. This authority, while restricted, is contrary to park preservation and should be repealed.

Specific Area Laws:

1. Acadia National Park

a. The Act of August 24, 1935 (49 Stat. 795) authorized the use of certain lands by the Department of the Navy for naval radio purposes. If this use is no longer necessary to national defense, the authority should be repealed.

2. Bryce Canyon National Park

a. The Act of February 17, 1931 (46 Stat. 1166; 16 U.S.C. 402f) added lands to the park and provided that nothing therein should affect rights of stockmen to continue to drive stock "over the lands now under an existing stock driveway withdrawal." The repeal of this nonconforming use may be possible now and should be considered.

3. Carlsbad Caverns National Park

a. The Act of May 4, 1934 (48 Stat. 664) authorized the Secretary, in connection with acquisition of certain lands, to grant to the owner thereof the privilege to use a specified shaft or tunnel for the purpose of mining and removing guano, and also authorized the Secretary to authorize removal of guano from Federal lands adjacent to such deposit. This Act should be repealed and if any rights have been granted under it, they should be extinguished upon payment of appropriate consideration.

4. Crater Lake National Park

a. Section 3 of the Act of May 22, 1902 (32 Stat. 202; 16 U.S.C. 123) contains the following proviso:

"Provided, That said reservation shall be open, under such regulations as the Secretary of the Interior may prescribe, to all scientists, excursionists, and pleasure seekers and to the location of mining claims and the working of the same."

The mining provision seems to have been impliedly negated by the Act of August 21, 1916 (39 Stat. 521; 16 U.S.C. 127), which authorized the Secretary to make regulations to preserve from injury or spoliation, among other things, "mineral deposits other than those legally located prior to the passage of this Act." It would seem desirable to remove any doubt, however, by a specific repeal of the provision in question.

#### 5. Everglades National Park

a. Various acts authorize the acquisition of lands subject to reservations of oil and gas and mineral rights under certain conditions and limitations (16 U.S.C. 410d; 16 U.S.C. 410e, f, g and h; 16 U.S.C. 410j). These reservations have termination dates which seem to make it unnecessary to take any further action with respect to them at this time.

b. Section 6 of the Act of July 2, 1958 (72 Stat. 280; 16 U.S.C. 410n), which prescribes boundaries for the park, requires the park to permit drainage from the east across park lands, unless finding is made, after notice and hearing, that this would be "seriously detrimental" to the park. It would be desirable to consider repeal of this provision.

c. The Act of September 2, 1960 (74 Stat. 577; 16 U.S.C. 410r-1) authorized the acceptance of a donation of 1,160 acres of land and submerged land subject to reservations for public utility easements and rights-of-way for the public, including a causeway from Everglades City to Chokoloskee Island. These deeds have been accepted with the reservations included and it is not believed desirable to attempt to extinguish the rights reserved in the donation.

#### 6. Glacier National Park

a. Section 1 of the Act of May 11, 1910 (36 Stat. 354; 16 U.S.C. 161), which established the park, contains a proviso which provides for the acquisition of rights-of-way for steam or electric railways and provides "that the United States Reclamation Service may enter upon and utilize for flowage or other purposes any area within said park which may be necessary for the development and maintenance of a Government reclamation project. This should be repealed.

## 7. Grand Canyon National Park

a. The Act of February 26, 1919 (40 Stat. 1175; 16 U.S.C. 221-228) preserves the right of the Havasupai Indians to use and occupy certain lands (Section 3); makes the February 15, 1901 Right-of-Way Act applicable to park and authorizes the Secretary to grant easements or rights-of-way for railroads in the park (Section 5); and authorizes the Secretary to permit utilization of areas in the park for development and maintenance of a Government reclamation project. The foregoing provisions should be repealed, except for the Havasupai Indian grant.

b. The Act of March 7, 1928 (45 Stat. 234; 16 U.S.C. 221e) added certain lands to the park and provided that livestock permitted to graze in the adjoining national forest areas shall be "allowed to drift across the land described herein to private land north thereof within the park." This provision should be repealed.

c. The Act of May 28, 1962 (76 Stat. 79) authorized the acquisition of the Orphan Mining Claim subject to reservations of (a) mineral rights for 25 years, (b) right to operate Grand Canyon Inn until 1966, (c) surface rights to three-acre tract for 25 years, (d) right to operate existing aerial tramway for two years, and (e) right to haul ore across park lands. The right to remove uranium ore from under park lands, upon payment of specified royalties, was also granted. This was a settlement of a long-standing withholding problem in the park, which was made acute by the uranium discovery. A new look at this situation should be taken in the light of existing conditions with a view to possible acquisition of the remaining reserved rights.

## 8. Grand Teton National Park

a. The Act of February 26, 1929 (45 Stat. 1314; 16 U.S.C. 406-406d), which originally established the park, granted right to adjoining livestock grazers to graze livestock on park lands and to secure dead or down timber. This should be repealed if still in effect.

## 9. Great Smoky Mountains National Park

a. The Acts of February 16, 1928 (45 Stat. 109; 16 U.S.C. 403e) and February 4, 1932 (47 Stat. 37; 16 U.S.C. 403f) authorized the Secretary to grant leases of park lands in certain circumstances. The leases granted have expired or are being eliminated, so it is believed



that no action need be taken with respect to these provisions. The foregoing also applies to Isle Royale, Mammoth Cave and Shenandoah National Parks.

10. Hawaii Volcanoes National Park

a. Section 2 of the Act of August 1, 1916 (39 Stat. 432; 16 U.S.C. 393) makes the 1901 Right-of-Way Act applicable to the park. This should be repealed.

11. Hot Springs National Park

a. Various acts granted rights-of-way to individuals and corporations to construct, maintain and operate railways within the park. To the extent that these grants are not being exercised, they should be repealed.

12. Kings Canyon National Park

a. The Act of March 4, 1940 (54 Stat. 41; 16 U.S.C. 80-80d), in Section 1, provided that no grazing permit issued and in effect on January 15, 1939, application for whose renewal is filed before expiration, shall be affected by the Act which established the park. This should be repealed.

b. Section 2 of the 1940 Act added General Grant National Park and provided that this should not interfere with the movement of stock and vehicular traffic without charge to and from the national forest on either side of the park extension. This should be repealed.

13. Lassen Volcanic National Park

a. Section 1 of the Act of August 9, 1916 (39 Stat. 442; 16 U.S.C. 201), which established the park, provides that the United States Reclamation Service may enter upon and utilize for flowage or any other purposes any area within the park which may be necessary for the development and maintenance of a Government reclamation project. This provision should be repealed.

14. Mesa Verde National Park

a. Section 3 of the Act of June 29, 1906 (34 Stat. 616; 16 U.S.C. 113) authorizes the Secretary to permit examinations, excavations and

other gathering of objects of interest in certain specified circumstances. While this authority is discretionary, consideration should be given to its repeal.

b. The Act of June 25, 1910 (36 Stat. 796) authorizes the Secretary to grant leases and permits for the use of park land or the development of the resources thereof; however, the Act of January 26, 1931 (46 Stat. 1043; 16 U.S.C. 115) provides that no permit, license, lease or other authorization may be granted for prospecting, development, or utilization of the mineral resources. It would seem desirable to repeal the June 25, 1910 Act in its entirety.

15. Mount McKinley National Park

a. The Act of February 26, 1917 (39 Stat. 938; 16 U.S.C. 349), in Section 3, makes the 1901 Right-of-Way Act applicable to the park. Section 4 provides that nothing in this Act, which established the park, shall in any way modify or affect the mineral land laws then applicable to lands in the park (16 U.S.C. 350). These provisions should be repealed.

b. The Act of January 26, 1931 (46 Stat. 1043; 16 U.S.C. 350a) specifically authorizes prospecting and mining in the park under regulations issued by the Secretary. Mining and prospecting in the park is again recognized in the Act of March 19, 1932 (47 Stat. 68; 16 U.S.C. 355), which added lands to the park. These statutory provisions should be repealed.

16. Rocky Mountain National Park

a. Section 1 of the Act of January 26, 1915 (38 Stat. 798; 16 U.S.C. 191), which established the park, provided that the United States Reclamation Service may enter upon and utilize for flowage or other purposes any area within the park which may be necessary for the development and maintenance of a Government reclamation project. Section 2 of this Act makes the 1901 Right-of-Way Act applicable to the park. These provisions should be repealed.

b. Section 2 of the Act of June 9, 1926 (44 Stat. 712; 16 U.S.C. 196) authorizes the Secretary, by permit, lease or license, to permit use of park land for maintenance and operation of Arbuckle No. 2 Reservoir. Repeal should be considered.

17. Sequoia National Park

a. The 1901 Right-of-Way Act is specifically applicable to this park and should be repealed (Act of February 15, 1901, 31 Stat. 790; 16 U.S.C. 79).

b. Section 3 of the Act of July 3, 1926 (16 U.S.C. 45c) authorizes the issuance of permits for grazing in the park. This should be repealed.

18. Yosemite National Park

a. The 1901 Right-of-Way Act is specifically applicable to this park and should be repealed.

19. Zion National Park

a. The Act of May 28, 1928 (45 Stat. 787) authorized and directed the Secretary, under reasonable regulations, to grant permission to the town of Springdale, Utah, to divert through piping facilities for domestic and other uses water from specified springs in the park. This authority should be checked for possible repeal (see Act of July 8, 1943).

20. Bandelier National Monument

a. Proclamation of February 11, 1916 (39 Stat. 1764) established the monument and contained the following provision:

"The reservation made by this Proclamation is not intended to prevent the use of the lands for forest purposes under the proclamation establishing the Santa Fe National Forest. The two reservations shall both be effective on the land withdrawn, but the National Monument hereby established shall be the dominant reservation, and any use of the land which interferes with its preservation or protection as a national monument is hereby forbidden."

Proclamation of February 25, 1932 (47 Stat. 2503) added lands to the monument and excluded it from the national forest and provided for its administration by the National Park Service under the Act of August 25, 1916. This would seem to cancel the national forest use as to this monument. However, similar national forest use reservations still exist as to the following national monuments:

Devils Postpile National Monument  
Gila Cliff Dwellings National Monument  
Jewel Cave National Monument  
Lava Beds National Monument  
Lehman Caves National Monument  
Oregon Caves National Monument  
Pinnacles National Monument  
Saguaro National Monument  
Sunset Crater National Monument  
Timpanogos Cave National Monument  
Walnut Canyon National Monument

The reserved national forest use of the foregoing national monuments should be canceled.

22. Chaco Canyon National Monument

a. The Act of February 17, 1931 (46 Stat. 1165) grants to owners of private lands in the monument, who own other land adjoining the monument, to drive stock across the monument at an accessible location, such right to accrue to successors in interest or lessees of such owners; and also permits acceptance of title to certain lands subject to such reservations by the grantors as will enable the University of New Mexico, and/or the School of American Research to continue scientific research thereon and, if such reservation is relinquished by the grantor, authorizes the Secretary to grant similar rights with respect to other ruins and locations. Consideration should be given to extinguishing or limiting the foregoing grants.

23. Death Valley National Monument

a. The Act of June 13, 1933 (48 Stat. 139; 16 U.S.C. 447) extended the mining laws of the United States to the monument subject to the Secretary's regulations of the surface use of lands. This should be repealed.

24. Dinosaur National Monument

a. The Proclamation of July 14, 1938 (53 Stat. 2454) added lands to the monument and provided that "this reservation shall not affect the operation of the Federal Water Power Act of June 10, 1920 (41 Stat. 1063), as amended, and the administration of the monument shall be subject to the Reclamation Withdrawal of October 17, 1904, for the

Brown's Park Reservoir Site in connection with the Green River project." The foregoing provision should be repealed.

b. Section 3 of the Act of September 8, 1960 (74 Stat. 857) provided for the renewal of grazing privileges, from time to time, of persons having grazing privileges on lands in the monument. This Act should be repealed.

25. Fort Pulaski National Monument

a. Section 4 of the Act of June 26, 1936 (49 Stat. 1979), which established boundaries for the monument, reserves for unlimited use by the Corps of Engineers for deposit of dredging materials and other purposes, a strip of land along north shore of Cockspur Island; and also reserves a portion of Cockspur Island to the Treasury Department for use for a quarantine station. These provisions should be repealed.

26. Glacier Bay National Monument

a. The Act of June 22, 1936 (49 Stat. 1817) made the minerals within the monument, exclusive of the lands containing them, subject to disposal under the mining laws and granted right of occupation and use of the surface of the lands for mining or removal of the minerals under the Secretary's regulations. This statutory provision should be repealed.

27. Montezuma Castle National Monument

a. The Proclamation of February 23, 1937 (50 Stat. 1817) added lands to the monument "subject to the withdrawal for the Salt River Irrigation Project, Arizona." Elimination of this provision would be desirable.

28. Organ Pipe Cactus National Monument

a. The Proclamation of April 13, 1937 (50 Stat. 1827), which established the monument, provided for its administration to be subject to (1) right of Papago Indians to pick fruits of the organ pipe cactus under regulations, (2) reservation of a 60-foot strip along the Mexican boundary for a highway (partially revoked but leaving a tract to be used for custom and immigration inspection purposes), and (3) reservation of a 40-acre tract for a public water reserve. No action seems needed with respect to these provisions.

b. The Act of October 27, 1941 (55 Stat. 745; 16 U.S.C. 450z) made minerals within the monument, exclusive of the lands containing them, subject to disposal under the mining laws and granted the right to use and occupy the surface of the lands for mining and removal of the minerals under regulations of the Secretary. This statutory provision should be repealed.

29. Tonto National Monument

a. The Proclamation of April 1, 1937 (50 Stat. 1825) added lands to the monument "subject to the withdrawal for the Salt River Irrigation project, Arizona." Consideration should be given to the elimination of this provision.

30. Virgin Islands National Park

a. The Act of October 5, 1962 (76 Stat. 746) authorized the addition of certain offshore lands and submerged lands to the park and provided that nothing in the Act should be construed to limit "customary uses of or access to the areas \* \* \* for bathing and fishing (including setting out of fishpots and landing boats)," subject to regulations of the Secretary. No action seems needed or appropriate as to this provision.

31. Cape Hatteras National Seashore

a. The Act of August 17, 1937 (50 Stat. 669; 16 U.S.C. 459, 459a-3), which established the area, provided that legal residents of villages would have the right to earn livelihood by fishing within boundaries to be designated by the Secretary. No action needed.

b. The Act of June 29, 1940 (54 Stat. 702; 16 U.S.C. 459a-1) authorized hunting, in conformity with the Migratory Bird Treaty Act and Secretary's regulations, upon certain specified lands and waters. It is believed this authorization need not be rescinded.

Conclusion

It will be seen from the foregoing that existing statutes authorize nonconforming uses of an important number of national parks and monuments. These uses threaten environmental values and are clearly inconsistent with preservation of these areas as parts of our national heritage. In its recent report, the Public Land Law Review Commission cited such provisions as open invitations to conflict. We subscribe

to the Commission's recommendation "that these provisions be repealed and that Congress enact a general statute enumerating the types of uses and activities prohibited in all such areas now in existence or to be created in the future." The Service will be glad to prepare a draft bill for this purpose and submit it through regular channels for consideration as a part of the Department's legislative program for the next Congress.

DEFICIENCIES IN STATUTORY AUTHORITY AND PROPOSED REMEDIES:

The National Environmental Policy Act of 1969 states that "it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may -"

" . . . (4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain whenever possible, an environment which supports diversity and variety of individual choice . . ."

As the principal Federal agency charged by law with the preservation of important historic, cultural and natural aspects of our national heritage, the National Park Service has a special responsibility to contribute toward the improvement and coordination of Federal plans, functions, programs and resources which directly affect that heritage. Based on a careful review of applicable present statutes, we conclude that the present authority of the Service is deficient in four important respects, and that in each case a statutory remedy is needed to bring Service authority into conformity with the intent, purposes and procedures of the act.

1. There are gaps in the National Park System which need to be filled so the nation will be certain to preserve uniquely important natural, historic and cultural aspects of our national heritage.

The National Park Service has a National Park System Plan in an advanced state of preparation. Legislation to authorize certain units of this plan to fill widely recognized gaps in the System have been recommended by the Department to present Congress including, for example, the proposed Voyageurs National Park, Sleeping Bear Dunes National Lakeshore, Apostle Islands National Lakeshore, Gulf Islands National Seashore and Chesapeake and Ohio Canal National Historical Park. When the next legislative program is formulated the Service plans to recommend a number of proposals of this nature to the Department for possible consideration by the next Congress.

2. Fund ceilings or land acquisition authority is inadequate to protect a number of national parks, national monuments and historical areas from serious environmental damage caused by adverse use of adjoining lands.

Among historical areas, for example, the integrity of Morristown National Historical Park, George Washington Birthplace National



Monument, Colonial National Historical Park, Minute Man National Historical Park, and Fort Frederica National Monument is jeopardized by deficient fund ceilings or land acquisition authority. Among natural areas there are similar serious deficiencies at the Virgin Islands National Park, Everglades National Park, Cape Cod National Seashore, and Grand Canyon National Park among others. The Service has recommended an omnibus bill to the Department to correct many of these deficiencies. Other legislation, including authorizations for zoning, easements, or other less than fee interests in land to permit proper protection of heritage resources in the National Park System will be recommended on a case by case basis as circumstances warrant.

3. Present statutory authority is inadequate to permit a much-needed comprehensive national program to identify, register, and preserve significant small natural areas through the coordinated efforts of Federal, State and local governments and public and private organizations.

Under authority of the Act of August 21, 1935 the National Park Service has established a National Register of Historic Places and a National Registry of Natural Places to identify and encourage protection of important historic and natural aspects of our national heritage. Initial entries were made on the basis of parallel national surveys and natural areas conducted by the Service, according to well-established criteria, and regardless of ownership. Until four years ago these surveys were limited to the comparatively small number of historic and natural places of national significance.

In 1966 Congress found that a more comprehensive historic preservation program was needed because . . . "in the face of ever-increasing extensions of urban centers, highways, and residential, commercial and industrial developments, the present governmental and nongovernmental historic preservation programs are inadequate to insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation. . . ." The National Historic Preservation Act of 1966 to which this statement was a preamble, authorized the Secretary of the Interior to expand the National Register of Historic Places to identify districts, sites, buildings, structures and objects significant in American history, architecture, archeology and culture, including not only those of national significance, but also those of regional, state, and local significance. The latter categories are nominated by the governors of the States, based on state surveys. Furthermore a program was authorized of matching grants-in-aid to the States for comprehensive statewide historic surveys and plans,

and for projects. Matching grants were also authorized to the National Trust for Historic Preservation. Registered sites and buildings enjoy important procedural rights of protection from the adverse effects of federally supported construction projects and may benefit from preservation grants.

It is the view of the National Park Service that the expanded National Register of Historic Places has already proven itself to be a highly important institution for effective management of the environment.

It is now proposed to seek statutory authority to expand the National Registry of Natural Places to include natural areas of regional, state and local significance in addition to those of national importance in a manner parallel to the historic preservation program.

It is proposed to seek authority for matching grants-in-aid to the States for comprehensive statewide surveys of natural areas, and for preparation of preservation plans. Grants-in-aid for acquisition and preservation projects are also proposed. Registered natural areas will (1) enjoy superior protection from the adverse effects of federally supported construction projects; (2) provide essential basic data for all land planning and construction agencies, enabling them to divert projects from such locations while they are still in the planning stage and thus avoid unnecessary expenditures and controversies; (3) directly contribute to future State land use plans the systematic preparation of which, on an accelerated basis, is contemplated by legislation now before Congress; (4) contribute directly to preservation of natural areas for scientific and educational purposes at all levels of government and in all geographic regions of the nation; (5) set an objective and standard for conserving the natural aspects of our national heritage at all levels of our society; (6) contribute toward the quantification of "presently unquantified environmental amenities and values" as stated in the act; and (7) make available to "States, countries, municipalities, institutions and individuals advice and information useful in restoring, maintaining, and enhancing the quality of the environment".

The National Park Service will submit a proposed bill through regular channels for consideration as part of the legislative program for the next Congress.

4. The National Park Service lacks adequate statutory authority to provide needed technical assistance to developing countries to plan and establish national parks and preserve historic and architectural monuments.

The National Environmental Policy Act of 1969 authorizes and directs all agencies to "recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment."

The National Park Service is uniquely qualified to provide technical assistance to other countries who seek to plan and establish national parks and preserve historic and architectural monuments as a part of worldwide environmental conservation. The importance of these unique natural and historic resources transcends national boundaries. They are part of the heritage of all mankind. The Agency for International development has called on the Service to provide technical assistance in Jordan, Turkey and Tanzania. Under other arrangements the Service has provided technical assistance to Australia, Thailand and Greece. However, a large number of requests for technical assistance in planning national parks and historic sites made by other developing countries to the United States have had to be rejected for lack of authority and funds.

The Council on International Educational and Cultural Affairs, chaired by an assistant Secretary of State, recently sponsored a study of the international activities of 44 Federal organizations including the National Park Service. It concluded that "there is need for statutory authority under which the domestic agencies could legitimately devote resources to international cooperative activities with non-A.I.D. countries without having to relate them specifically to domestic objectives or to A.I.D. authority. . . Domestic agencies need to gear themselves for effective technical cooperation . . . Each agency should be enabled to provide administrative staff and delegated authority necessary for the successful management of international cooperative activities within its technical fields . . ." Several Federal agencies already have such independent statutory authority, including the Bureau of Public Roads, Weather Bureau, Federal Aviation Authority, Office of Saline Water, National Science Foundation and Public Health Service.

At an appropriate time the National Park Service intends to propose legislation to provide similar authority in the field of national parks and monuments. The precise nature and timing of such a proposal will depend upon complex factors which cannot be fully foreseen. Meanwhile, the Service, at the suggestion of A.I.D., intends to seek immediately an amendment to Executive Order 10973 to delegate authority specifically to the National Park Service to accept and use donated funds in furtherance of the purposes of the Foreign Assistance Act of 1961, as amended.

## II. ADMINISTRATIVE REGULATIONS

### Regulations Review:

Section 102 of the National Environmental Policy Act of 1969 requires that, to the fullest extent possible, the regulations of the United States be interpreted and administered in accordance with the policies set forth in that Act. The Service will give such application to the regulations it has adopted for administration of the National Park System. The Service, further, has studied its regulations carefully to determine whether any of them are inconsistent with the aforesaid Act. It has determined that there are some regulations in existence which may require modification to adhere to the policy declarations of that act.

Examples of the foregoing are the following (references are to 36 CFR, Chapter 1):

Section 2.6 on closure of areas; section 2.19 on portable engines and motors; section 2.20 on preservation of public property, natural features, etc.; section 2.24 on sanitation; section 3.2 on permits for launching of vessels; section 3.15 restricting use of waters; section 3.17 on boat sanitation; sections 7.20 and 7.67 on vehicular uses at Fire Island and Cape Cod National Seashores; sections 7.28 and 7.34 on vehicular parking for hunting activities outside the parks; section 7.45 on commercial fishing at Everglades National Park; and section 50.41, also on boat sanitation requirements.

The Service plans to adopt appropriate amendatory provisions to these regulations so that they will fully accord with the purposes of the National Environmental Policy Act of 1969.

Certain other regulations affecting areas of the National Park System are designed to implement statutory authorizations (as mining, grazing and the grant of rights-of-way). The Service is recommending the repeal of such statutory provisions, following which there would be a revocation of the implementing regulations.

### III. CURRENT POLICIES

One of the purposes of the National Environmental Policy Act of 1969 is "to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may . . . (4) preserve important historic, cultural and natural aspects of our national heritage . . ." Generally speaking National Park Service policies are designed actively to further this goal. For purposes of clarity these policies will be discussed under three headings: A. Policies governing management of the National Park System; B. Policies governing cooperation with other Federal agencies, State governments and political subdivisions in support of environmental conservation; and C. Policies governing international cooperation in environmental conservation.

#### A. Policies governing management of the National Park System.

In 1964 the Secretary of the Interior and the Service officially recognized that Congress has included three different categories of areas in the National Park System--natural, historical and recreational and that each of these categories requires a separate set of administrative policies coordinated to form one organic management plan for the entire System. The underlying basis for these policies is found in successive acts of Congress to establish the System and Service passed during the course of the past century.

Between 1964 and 1968 the Service made a comprehensive and intensive review of all policies governing management of the System then in effect, and completely restated and re-codified them. The results have been published in three parts: Administrative Policies for Natural Areas of the National Park System (revised August 1968); Administrative Policies for Historical Areas of the National Park System (revised September 1968); and Administrative Policies for Recreational Areas of the National Park System (revised August 1968). In these policy re-statements, special attention was given to environmental concerns. Policies are clearly set forth, for example, on the quality of environment in National Park System areas, on research, landscape management, solid-waste disposal, water pollution abatement and control, air pollution, master plans, land classification, wilderness, public hearings, environmental education, roads, alternate methods of transportation, historic preservation and restoration, historic districts, zoning, and regional planning. The Service is profoundly aware of the never-ending problem of balancing preservation and use in the National Park System. As public use



continues to mount, policies and measures designed to keep use compatible with preservation, including the possible need to ration use in some special instances, are constantly under study.

A new review of Service policies has been made in accordance with directives contained in the National Environmental Policy Act of 1969. Our conclusion is that current policies on the management of the System contain no deficiencies or inconsistencies which prohibit full compliance with the purposes and provisions of the Act.

B. Policies governing cooperation with other Federal agencies, State Governments and political subdivisions in support of environmental conservation.

The National Environmental Policy Act of 1969 authorizes and directs all agencies of the Federal Government, to the fullest extent possible, to ". . . make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment."

It is the policy of the National Park Service to cooperate with other Federal agencies, State governments and local political subdivisions, and other concerned public and private organizations, to preserve important historic, cultural and natural aspects of our national heritage. Current policy is reflected in several Service publications issued in 1969 for the information of other agencies, including The Natural Landmarks Program; The National Historic Landmarks Program; The National Register of Historic Places; The Historic American Buildings Survey; National Park Service Archaeological Program; and in the three 1968 publications referred to above, which describe the administrative policies governing management of the National Park System.

These expressions of current policy have now been carefully reviewed in the light of directives contained in the National Environmental Policy Act of 1969. We conclude that Service policy in this area contains no deficiencies or inconsistencies which prohibit full compliance with the purposes and provisions of the act. As indicated elsewhere, however, there are important statutory deficiencies which the Service is actively seeking to correct.

C. Policies governing international cooperation in environmental conservation.

The National Environmental Policy Act of 1969 authorizes and directs all agencies of the Federal Government to ". . . recognize the

worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment."

It is the policy of the National Park Service to cooperate with other governments, within the framework of the foreign policy of the United States, in support of national park and historic preservation objectives and thus to help conserve mankind's environmental heritage. The National Park Service helped sponsor the First World Conference on National Parks held in Seattle in 1962, and is supporting a Second World Conference to be held in Yellowstone and Grand Teton in 1972. The Service established a Division of International Affairs as a permanent part of its organization in 1963. During the past five years, more than 160 representatives of sixty different countries have attended an international short course offered by the Service on the administration of National Parks and equivalent reserves. Technical assistance has been provided to a growing number of countries during the past few years including Guatamala, Thailand, Jordan, Turkey, Greece, and Tanzania.

Exchanges of information and ideas with other countries having well developed national park programs also have been initiated, particularly with Australia, Canada and Japan. Cooperation also has been extended to international organizations, such as UNESCO and FAO of the United Nations, and the International Union for the Conservation of Nature and Natural Resources (IUCN) and the International Council on Monuments and Sites.

The policies governing these activities have been carefully reviewed in the light of directives contained in the National Environmental Policy Act of 1969. We conclude that they contain no deficiencies or inconsistencies which prohibit full compliance with the purposes and provisions of the act. As indicated elsewhere in this report, however, there are important statutory and procedural deficiencies in this area which the Service is energetically seeking to remedy.



#### IV. PROCEDURES

A limited review has been made of the internal procedures used by the National Park Service in managing the National Park System and planning for its future growth. Your committee has found no procedures in effect which are inconsistent with the National Environmental Policy Act of 1969. It is noted that an ecologist, oceanographer and sociologist, have been added to each of the two Planning and Service Centers, to make the advice of such specialists even more readily available than before in master plan work, and at all other steps in the decision making process which involve the participation of those centers. These steps further strengthen the Service's systematic interdisciplinary approach to planning and decision making and further insure "integrated use of the natural and social sciences and the environmental design arts" in the management of the National Park System.

A procedure is needed now, however, to guide Service officials in determining which major Service actions require environmental statements under Section 102 of the act, and within the guidelines being provided by the Department to all bureaus. Such a procedure will be prepared by your committee in the near future.

External procedures utilized by the Service in its cooperative work with other Federal agencies and State and local governments have also been given limited review. Special attention has been given to the clause of the National Environmental Policy Act which authorizes and directs all agencies to "identify and develop methods and procedures, in consultation with the Council on Environmental Quality . . . which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decision making along with economic and technical considerations". The National Park Service makes at least three contributions toward this purpose of the law:

1. National Register of Historic Places and accompanying procedures to protect registered places.
2. National Registry of Natural Places and accompanying procedures to protect registered places.
3. Advisory assistance to other Federal agencies to help them contribute toward preserving important historic, cultural and natural aspects of our national heritage affected by their undertakings.

The procedures to protect properties on the National Register of Historic Places are well developed. These include a procedure under Section 106 of the National Historic Preservation Act of 1966 which requires that cases involving environmental damage to registered historic sites from Federal undertakings be referred to the President's Advisory Council on Historic Preservation for an opinion. Pending receipt of that opinion, Federal agency heads are required by law to withhold expenditures on the controversial undertaking, whether it be a construction project, a grant or a license. The procedure has been effective in preventing damage to a number of important historic sites, and has not proved administratively burdensome to the parties.

The procedures to protect properties on the National Registry of Natural Places in a parallel manner are not yet fully developed. However, Section 102 of the National Environmental Policy Act inaugurates a procedure for all Federal agencies which will have the ultimate effect of extending legal protection to registered natural areas in a manner generally parallel to the protection already afforded registered historic places under the above cited 1966 Act. Test cases are needed, however, under Section 102, to establish more clearly the modus operandi for protecting registered natural areas from the possible adverse effects of Federal projects. Legislation is also needed, as outlined earlier in this report, to authorize expanding the National Registry of Natural Places to include natural areas of regional, state and local significance in addition to those that possess outstanding national importance.

The procedures for providing technical assistance from the National Park Service to other Federal agencies, under the provisions of the National Environmental Policy Act, especially in the preparation of the environmental statements required by Section 102, are still in the formative stages. As an "environmental enhancement agency" the National Park Service has statutory authority in the field of environmental conservation as well as special expertise, which means that it will very likely be called upon for comments by other Federal agencies, particularly the "environmental impact" agencies. Requests for advice and comments are already coming to the Service in connection with such varied projects as a grant for a sewerage line, the aesthetic aspects of a complete river basin survey, the impact of highway construction on a particular environment, the effects of a jetport, a canal, and a dam, on various natural, historical and cultural aspects of our national heritage. Compliance with these kinds of requests is already becoming something of a problem in several Service field offices. It seems clear that procedures will be needed before long

to regulate this kind of technical assistance to other agencies in achieving environmental conservation, and to provide staff support and funding, perhaps on a reimbursable basis, for a good part of this work. The Service is studying this problem and in due course will recommend a procedure. This procedure is expected to include, as a means of implementation, a new publication carefully describing the technical services and programs of the National Park Service that contribute to environmental conservation, and how they may be made available in a specific case, for this information of other Federal agencies as well as State and local governments and other public and private organizations.

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