



Guidance "White Paper" Number 1

Issue: Cultural Resources and Wilderness

Date: November 30, 2002

Introduction to the Issue

Two of the purposes of the National Wilderness Steering Committee of the National Park Service are to serve as an advisory body to the Director on all matters pertaining to wilderness in the National Park System; and to enhance the ability of the agency to address critical wilderness stewardship issues. The presence and appropriate treatment of cultural resources in Wilderness areas has become just such an issue. For example, must historic structures be removed in Wilderness areas? Is it appropriate to use helicopters in Wilderness to conduct wildlife surveys, but inappropriate to use them for cultural resource surveys? Does any sign of the presence of humans in Wilderness transform or diminish the wilderness experience? Are natural values more important than cultural values in Wilderness? How to deal with this issue has led to passionate debates and controversy between wilderness managers and cultural resource managers in some parks and park offices.

As the cultural resource representative on the committee, Gary Somers was assigned the task of researching this issue, gathering input from cultural resource professionals across the country, and developing a position paper that addresses the issue. Three other members of the committee, Dave Morris, Steve Ulvi, and Jim Walters, volunteered to participate as members of the subcommittee looking into this issue.

In July 2001 a request was sent out to almost 30 people across the country, both inside and outside the National Park Service, asking for their thoughts, experience, suggestions and concerns regarding cultural resource issues in Wilderness areas. After discussing the results of this canvassing at the October meeting of the steering committee, the

subcommittee prepared this position paper and presented it at the April 2002 steering committee meeting where it was endorsed by the entire committee. It addresses the issue through a series of questions and answers, conclusions, and recommendations.

Relevant Laws and Policies

Question: As addressed in the Wilderness Act, are cultural resources part of Wilderness? Do they belong in Wilderness?

Answer: Yes. The Wilderness Act clearly directs our stewardship of cultural resources in Wilderness areas. In its definition of Wilderness in Section 2.(c) the Act states "an area of

wilderness . . . (4) may also contain ecological, geological, or other features of scientific, educational, scenic or historical value." The Act further addresses cultural resources in Section 4.(b) when it clarifies the use of wilderness areas. That sections states ". . . wilderness areas shall be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use."

For National Park Service Wilderness areas Section 4.(a)(3) is even more specific. Not only does it state "nothing in this Act shall modify the statutory authority under which units of the national park system are created" but it goes on to state that designation of Wilderness areas "shall in no manner lower the standards evolved for the use and preservation of such park, monument, or other unit of the national park system in accordance with the Act of August 25, 1916 [the Organic Act], the statutory authority under which the area was created, or any other Act of Congress which might pertain to or affect such area, including, but not limited to, the Act of June 8, 1906 [the Antiquities Act] . . . and the Act of August 21, 1935 [the Historic Sites Act]." It is significant that Congress specifically mentioned the Antiquities Act and the Historic Sites Act because in 1964 they were the foundation of the historic preservation/cultural resource programs. They have since been expanded by the Archeological Resources Protection Act of 1979, as amended, and the National Historic Preservation Act of 1966, as amended.

Question: Does the Wilderness Act supercede or override historic preservation laws, such as the National Historic Preservation Act and the Archeological Resources Preservation Act?

Answer: No. Section 4 of the Act makes this very clear. Section 4.(a) states "The purposes of this Act are hereby declared to be within and supplemental to the purposes for which national forests and units of the national park and wildlife refuge systems are established and administered . . ." As declared in the 1916 Organic Act "the purpose [of national park system units] is to conserve the scenery and the natural and historic objects and the wild life therein . . ." As stated above, for units of the national park system this idea of being

"within and supplemental" was reinforced in Section 4.(a)(3) and the historic preservation laws were specifically cited.

Question: Do cultural resource laws supercede or override the Wilderness Act?

Answer: No. Managers must comply with all of the cultural resource laws on all areas in all units of the National Park System, whether they are Wilderness or not. If the cultural resources are in a Wilderness area, however, the provisions of the Wilderness Act must also be complied with when conducting cultural resource activities, such as inventory, monitoring, treatment, and research.

Question: Do historic structures and other cultural resources need to be removed from Wilderness areas to protect Wilderness values?

Answer: No. As stated above, Congress specifically included cultural resources as part of Wilderness. In Section 2.(c), Definition of Wilderness, Congress stated "an area of wilderness is further defined to mean in this Act an area of undeveloped Federal land . . . which (1) *generally appears* to have been affected *primarily* by the forces of nature, with the imprint of man's work *substantially* unnoticeable [italics added];". The qualifiers in this portion of the sentence are significant. The area does not have to be "pristine" or "pure". It does not have to have no imprint from human activities. Simply put, it only needs to *appear* that way with the human imprint *substantially* unnoticeable. A landscape can have hundreds of prehistoric and historic archeological sites on it and still appear to have been affected primarily by the forces of nature. Even a maintained historic structure could be substantially unnoticeable if it were surrounded by many acres of land that did not contain other structures.

In addition, as declared in Section 2.(a) of the Act the intent of Congress was to stop the "increasing population, accompanied by expanding settlement and growing mechanization" from "occupy[ing] and modify[ing] all areas within the United States". As noted above, Congress also clearly included historic resources within Wilderness areas. With this understanding, the prohibition on structures and installations in wilderness areas in Section 4.(c) clearly refers to modern, not historic, structures. This does not mean that all historic structures in Wilderness areas have to be maintained; but it also does not justify the assertion they all have to be removed.

Question: Do National Park Service Policies include cultural resources in Wilderness areas?

Answer: Yes.

The following quotes and references are from Director's Order 41: Wilderness

Preservation and Management.

- Section C.4. Cultural Resource Management in Wilderness

p. 38 "There has been extensive prior human use in most areas now designated as wilderness, resulting in archeological sites, historic structures, cultural landscapes and associated features, objects and traditional cultural properties that are contributing elements to wilderness. It is important to recognize that laws, . . . intended to preserve our cultural heritage, are applicable in wilderness . . . actions involving all cultural resource types in wilderness must comply with cultural resource laws, such as compliance actions and inventory requirements mandated by NHPA [National Historic Preservation Act]."

Note: The Archeological Resources Protection Act (ARPA) also has mandated inventory requirements.

- Section C.8. Scientific Activities in Wilderness

p. 42 "The Wilderness Act intended, and NPS policy provides for, the conduct of legitimate natural and cultural scientific use of wilderness . . . Scientific activities are to be encouraged in wilderness, provided that the benefits of what may be learned outweigh the negative impacts on other wilderness values."

The following quotes and references are from Reference Manual RM 41: Wilderness Preservation and Management.

- 6.3.6.1 "Scientific activities are to be encouraged in wilderness. Even those scientific activities (including inventory, monitoring, and research) that involve a potential impact to wilderness resources or values (including access, ground disturbance, use of equipment, animal welfare, etc) should be allowed when the benefits of what can be learned outweigh the impacts on the wilderness resource or values."
- 6.3.8 "Historic properties eligible for the National Register of Historic Places that have been included within wilderness will be protected and maintained according to the pertinent laws and policies governing cultural resources, using management methods that are consistent with preservation of wilderness character and values. These laws include the Antiquities Act of 1906 and the Historic Sites Act of 1935, as well as subsequent historic preservation legislation, including the National Historic Preservation Act, the Archeological Resources Protection Act, the Native American Graves Protection and Repatriation Act, and the American Indian Religious Freedom Act."
- 6.3.10 "Maintenance or removal of historic structures will additionally comply with cultural resource protection and preservation policies and directives, and the concept of minimal requirement management techniques for wilderness."

Question: Does the minimum requirement aspect of Wilderness apply to cultural resource activities?

Answer: Yes. Section 4.(c) of the Wilderness Act states "except as necessary to meet minimum requirements for the administration of the area for the purpose of this Act . . . there shall be no temporary road, no use of motor vehicle, motorized equipment or motorboats, no landing of aircraft, or other form of mechanical transport, and no structure or installation within any such area." Section 6.3.6.1 of RM 41 states scientific activities, which D.O. 41 specified as both natural and cultural, "must also be evaluated using the minimum requirement concept and include documented compliance which assesses impacts against benefits to wilderness. This process should assure the activity is appropriate and utilizes the minimum tool required to accomplish project objectives."

Analysis and Guidance

- National Park Service policies properly and accurately incorporate cultural resource stewardship requirements into the management standards for wilderness areas. They accurately reflect the requirements of the Wilderness Act as well as the numerous pieces of cultural resource legislation, including the Antiquities Act, the Historic Sites Act, the National Historic Preservation Act and the Archeological Resources Preservation Act.
- The ongoing controversy and debate about how stewardship of cultural resources fits in Wilderness seems to stem mainly from personal values and selective interpretation of parts of the Wilderness Act and National Park Service policies.
- The Wilderness Act and all of the cultural resource laws are part of the National Park Service's stewardship mandate and we must put our efforts into making them work in concert with one another, even when they appear to be in conflict with one another.
- All parks that contain Wilderness, whether it is suitable, studied, proposed, potential, recommended or designated Wilderness, must have and use a Minimum Requirement Decision Guide to effectively analyze proposed actions to minimize negative impacts to wilderness character and values. The superintendent must be the final approving official when the minimum requirement decision guide is used.
- Our management actions must be formulated based on the laws and National Park Service policies pursuant to those laws. It is clear from our experience and the canvassing we did in researching the issues discussed in this position paper, that not all wilderness managers understand or appreciate cultural resource laws, policies and values and not all cultural resource managers understand or appreciate the Wilderness Act and wilderness policies and values. Since all wilderness areas contain cultural resources, all wilderness managers should receive training in cultural resource values and management. In addition, all

cultural resource managers in parks that contain wilderness areas should receive training in wilderness values and management.

- We do not recommend the development of new training courses dedicated solely to these issues, however. Instead, we recommend the development and use of a cultural resource training module that can be inserted into existing wilderness training classes and a wilderness training module that can be inserted into existing cultural resource training classes. We recommend that the National Park Service work with the Arthur Carhart National Wilderness Training Center to develop and implement these modules.