

12. The state and local governments having land contiguous with the Federal lands in **Grizzly Country** should be invited to participate in **Grizzly Country** by designating lands to be included in it and proposing regulations for it. The Federal legislation described in 1 (above) should apply to lands so designated.

13. A fund should be established from grizzly bear fines and from entrance and use fees for all of the Federal lands comprising **Grizzly Country** for the payment of torts or rewards. This fund should also support research on grizzly bears and other predators of **Grizzly Country** on a continuing basis. The fund should be administered by an interagency group representing all government entities having land in **Grizzly Country**.

14. All law enforcement officers whose agencies are participants in **Grizzly Country** shall have the same law enforcement authority and it should apply throughout **Grizzly Country**.

15. The residents of **Grizzly Country** and those who visit it must come to realize that they are in a very special place....**true wilderness**....and that they and their fellow citizens have made a conscious decision that the grizzly bear in the Yellowstone area is worth preserving and that come what may, life in **Grizzly Country** will adapt itself to that end so that the grizzly bear (*Ursus arctos v. horribilus*) will not perish from this place.

* see also the third reviewed item in the next article (page 15) for a discussion involving the role of state participation in National Park Resource preservation

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The National Park Service in Law Reviews and Law Journals: A Fourth Update

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In 1981, when I first started producing these brief annotated bibliographies for The George Wright *FORUM*, I was dismayed by the fact that very few people were involved in the question of how law, legislative histories and court cases impacted on the operation of the National Park Service. However, over the intervening years, I have seen a gradual change. Discussions involving the legal issues of the NPS are beginning to appear more and more in the legal periodical literature. Special events such as a training course on Natural

Resources Law being given to the twenty-three Natural Resources Management Trainees at Clemson University in March of 1986 and a Seminar on 'External Development Affecting the National Parks: Preserving the Best Idea We Ever Had' being conducted by the Natural Resources Law Center in September of 1986 are occurring more and more frequently. In short, the law is beginning to receive the attention it deserves as the basis for management, planning and operation of the National Park System. The purpose of this article is to update managers and planners as to what new legal periodical literature is available to them.

Environmental Law (Vol. 16, No. 2, Winter 1986, pp. 207-254) contains an article entitled 'Can Indians Hunt in National Parks? Determinable Indian Treaty Rights and United States v. Hicks' by H. Barry Holt. The recent arrest and conviction of two members of the Quinault Indian Tribe for killing elk within Olympic National Park raised questions about the nature and extent of Indian treaty rights and the Federal government's policy toward these treaty rights. This article analyzes determinable Indian treaty rights and the government's traditional construction of those rights. The author argues that government interpretations are based on convenience, and are contrary to the canons of treaty construction and previous judicial decisions. Mr. Holt concludes that the Hicks defendants either have a treaty right to hunt in Olympic National Park or they deserve compensation for a taking of that property right.

Ecology Law Quarterly (Vol. 12, No. 4, 1985, pp. 747-778) contains 'Morne Trois Pitons National Park in Dominica: A Case Study in Park Establishment in the Developing World' by R. Michael Wright. The article details the long and painful process leading to the establishment of a national park on the Caribbean island of Dominica. The author suggests that park creation in less developed countries most often takes place when the government is convinced that creating a national park is in its own best interests. Thus, the primary task for a park proponent is to highlight the benefits of park establishment and to show the particular government that these benefits outweigh any alternative uses of the park site and its resources.

Land and Water Law Review (Vol. XXI, No. 2, 1986, pp. 397-416) contains an article entitled 'State Participation in Federal Policy Making for the Yellowstone Ecosystem: A Meaningful Solution or Business as Usual?' by Richard Schneebeck. Using Yellowstone National Park and the grizzly bear issue as an example, the author delves into the question of whether individual states can play an effective role in protecting parks and their resources from adverse external development. After analyzing Wyoming legislation, he concludes that current state legislation is an ineffective legal solution to the dangers facing the grizzly bear and Yellowstone National Park. He goes on to state: 'Finally, management of the grizzly bear and the Yellowstone region require a national response in which local participation is only one ingredient.....Local participation is necessary in deciding how to protect grizzly bear. Local interests

should not, however, dictate national policy, nor should they be used as a pretext to ignore the threats to the Yellowstone region."

Journal of Energy Law and Policy (Vol. 7, No. 1, 1986, pp. 35-94) contains "Protecting National Park System Buffer Zones: Existing, Proposed and Suggested Authority" by John W. Hiscock. Mr. Hiscock gives a good overview of the parks threat issue, analyzes existing legislation, and proposes a model law for use by Congress in preparing future Park Protection legislation.

Also on the park protection issue is a Ph.D. dissertation from the Political Science Department at Colorado State University by John Freemuth. The 274 page dissertation is entitled *The Politics of External Threats: Visibility, Mining and the National Parks* (Summer, 1986). Using the Tar Sands issue in southern Utah and visibility questions under the Clean Air Act as case examples, Dr. Freemuth indicates that the natural resources policy of the administration in power, support from park policy specialists, and the role of resource oriented professionals will be vital to the resolution of the threats issue.

Another very interesting article on the park protection issue centers around the question of how to protect units of the National Trail System from adverse peripheral development. It is "The National Trails System Act and the Use of Protective Federal Zoning" by John S. Davis in *The Harvard Environmental Law Review* (Vol. 10, No. 1, 1986, pp. 189-255). Professor Davis uses the Appalachian Trail as an example to review techniques to protect the various resources and visitor experiences on these long narrow strips of land. He places particular emphasis on the concept of Federal protective zoning.

Those interested in Water Rights on Park System lands should read "Wyoming's Experience with Federal Non-Indian Reserved Rights: The Big Horn Adjudication" by Katherine Lamere Mead (pp. 433-453) and "Federal Reserved Water Rights in National Forest Wilderness Areas" by Nicholas Vassallo (pp. 381-396) in *Land and Water Law Review* (Vol. XXI, No. 2, 1986). The former is an analysis of the water rights adjudication process that involved a portion of Yellowstone National Park and the latter is a critique of Judge Kane's ruling that the establishment by Congress of a Wilderness Area also creates a Federal Reserved Water Right.

"The National Park Service Organic Act Prohibits Turning the Doorstep of Canyonlands National Park Into a Nuclear Wasteland" by Julie A. Bryan appears in the *Journal of Energy Law and Policy* (Vol. 7, No. 1, pp. 95-121). This article develops arguments against the proposed Department of Energy's nuclear waste repository sites at Davis and Lavendar Canyons near Canyonlands National Park. The same issue contains "Mountain Bicycles on Federal Lands: Over the River and Through Which Woods?" by Scott Havlick (pp. 123-144), which analyzes the rules and regulations of various Federal agencies, including the National Park Service, governing the use of mountain bikes. Mr. Havlick proposes strategies to limit any uses which could cause environmental damage.

'Clark v. Community for Creative Non-Violence: First Amend-

ment Safeguards—Their Sum is Less Than Their Parts' by James B. Putney appeared in the *University of Miami Law Review* (Vol. 39, No. 5, September 1985, pp. 997-1015). The article discusses the recent litigation over NPS regulations concerning camping that were used to prevent sleeping in the tent cities erected on the Mall and in Lafayette Park in Washington, DC.

An interesting perspective on cultural resources preservation is in 'Cultural Property Laws in India and Japan' by C. Franklin Sayre in *UCLA Law Review* (Vol. 33, No. 2, February 1986, pp. 851-890). The efforts, successes as well as failures, of these two countries to protect their broad range of cultural heritage are described and evaluated.

Another article on what some countries are doing is 'A Systematic Method of Public Use Zoning of the Great Barrier Reef Marine Park, Australia' by K. D. Cocks, in *Coastal Zone Management Journal* (Vol. 12, No. 4, 1984, pp. 359-383). The article deals with the development of guidelines for making zoning decisions in a park and the use of a computer-aided technique to create a scheme for evaluating the zoning against those guidelines.

'Second-Class Sites: National Monuments and the Growth of the National Park System' by Hal Rothman appeared in *Environmental Review* (Spring 1986, pp. 45-56). In this article Mr. Rothman gives a brief overview of how the National Park Service has employed the Antiquities Act to create National Monuments. He argues that past NPS practices resulted in 'the denigration of national monuments' and that they become 'second-class sites.'

Two interesting articles on fire management reached my desk at about the same time last year. They were 'Uncle Sam and Forest Fires: His Rights and Responsibilities' by Norman J. Wiener in *Environmental Law* (Vol. 15, No. 3, Spring 1985, pp. 623-644) and 'Natural Fire Management in National Parks' by David J. Parsons and David M. Graber in *Environmental Management* (Vol. 10, No. 1, January 1986, pp. 21-24). The latter speaks to fire management in ecological terms with an eye toward natural processes while completely ignoring the legal liabilities and responsibilities emphasized in the former. Any manager who is preparing a Fire Management Plan would do well to read both articles to insure that both aspects of fire management are properly addressed.

As many decisions concerning the NPS, both within the agency and in courts deciding issues about the Service, are based on science and scientific evidence, one final work should be cited. It is Katherine Phelps Kitchell's MS dissertation entitled *A Needs Assessment-Based Review of the National Park Service Science Program in the Rocky Mountain Region* (Utah State University, 1985, 152 pp.). It is a good overview of how the NPS Science program does, and in some cases does not, work to provide the scientific data needed in the courtrooms.

As in the past, I would like to remind the reader that the above-cited pieces of literature do not necessarily reflect the official position of the U.S. National Park Service or the Department of the Interior. And, certainly, a quick reading of the articles will not make

the reader an expert on any aspect of the law. But, a grasp of the concepts and principles in the literature will help managers or planners more easily wind their way through the various legal mazes they encounter.

* see the discussion regarding this thesis in this issue of FORUM

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700-Year-Old Ceramic Pot Discovered at Isle Royale National Park

Bruce Weber

The recent discovery of a 14th Century ceramic clay cooking pot at Isle Royale National Park is one of the most remarkable archeological finds in the Great Lakes basin in recent years and is attracting considerable interest by archeologists and the public. Isle Royale is a wilderness island located in Michigan waters of Lake Superior, twenty miles from the Ontario mainland.

Discovery. The basketball-size relic was found in August 1985 lying in a bed of sand at a depth of 70 feet in Rock Harbor, where cold waters (probably 35°F year round) kept it in an optimal, stable environment for 700 years. The discovery was made accidentally by Scott McWilliam, a trained diver working with the National Park Service's Submerged Cultural Resource Unit, while performing an underwater search for the remains of a pontoon plane that crashed in 1935. The SCRU dive unit is completing a five year study of Isle Royale's underwater cultural resources which includes major shipwrecks and land-based cultural sites.

Significance. Dr. Pat Martin, Archeologist at Michigan Technological University who is studying the fourteen-inch-tall vessel, said the actual discovery in the well-used Rock Harbor waterway is remarkable in itself, but the pot has significance in several other ways as well.

First, the vessel is nearly intact; 75% of the original pot remains in one piece. This is highly unusual in a northern environment such as that found around Lake Superior, where relatively porous vessels such as this one typically succumb to damage caused by moisture and the 'freeze-thaw cycle.' Because frost-heaving commonly breaks ceramics into small pieces, very few vessels of this age that are this complete have survived from the Upper Great Lakes.

The pot is also a significant indicator of wide-area cultural contact. The vessel's distinctive style and technique of manufacture give several clues as to its age and cultural origin. The way that the