

## Managing subsistence activities in the national parks: general prohibitions vs. local sensitivities

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In Alaska, managing subsistence activities is one of the most challenging tasks of federal land management agencies. Contentious and widely misunderstood, subsistence conjures up a host of meanings; how the term is defined is largely in the eyes of the beholder. Non-natives, for example, typically view the issue in narrow economic or biological terms, while to natives, subsistence encompasses an entire world-view with a host of cultural and lifestyle connotations. Because subsistence has so many emotional ramifications, federal lawmakers have tried as best as they can to simply avoid using it. As a result, subsistence is to Alaskans as pornography was to Supreme Court Justice Potter Stewart when he said, "I shall not attempt to further define [it], but I know it when I see it" (*Jacobellis v. Ohio*, 184, 198).

In the fall of 1980, the National Park Service (NPS) became a major player in the world of subsistence management. That November, Congress passed the Alaska National Interest Lands Conservation Act (ANILCA), and a few weeks later, a swipe of President Jimmy Carter's pen made NPS the custodian of more than 43 million acres of new parks, monuments, and preserves—about 12% of the state. More than 90% of those new parklands was open to subsistence uses: hunting, fishing, gathering, plant collecting, and so forth (Williss 1985, 238-239). Those who were eligible for subsistence uses were both native and non-native; the state of Alaska had fought long and hard to avoid racial criteria in setting a subsistence preference, and NPS officials were perfectly willing to go along with the state because of difficulties the agency had had outside of Alaska setting racial criteria for subsistence activities (*Congressional Record* 1980, 10545-10546). The key qualification in Alaska was that subsistence users be local rural residents. Once ANILCA became law, NPS officials had to think long and hard before formulating rules pertaining to subsistence, because the agency had simply never previously faced the challenge of managing hunting and fishing activities on millions of acres of designated parkland (Williss 1985, 284). While NPS had never attempted to manage subsistence on such a huge magnitude before, it did have a long-established track record of dealing with subsistence issues, and a chronology of agency decision-making shows some consistent, predictable patterns.

Subsistence issues, in fact, have been debated in the parks since long before NPS was ever established; and indeed, Congress wrestled with subsistence in its debate over the bill that established Yellowstone, the nation's first national park. In 1870, two years before the park became a reality, the Washburn exploring party encountered various abandoned Shoshone camps and used a number of well-established Indian trails. But perhaps because of the party's zeal in promoting the idea of a park, it reported to Congress that the Yellowstone country was a primeval wilderness that was "never trodden by human footsteps" (Spence 1999, 42-43). Keeping in mind that the Washburn expedition came more than ten years before the Northern Pacific built its railroad through the area, and also keeping in mind that the Montana-Wyoming border country was arguably a fairly dangerous place—the Battle of Little Big Horn would not take place for another six years—advocates for protection of the Yellowstone country may well have felt skittish about Native Americans. So Congress responded to that skittishness by including language in the park's enabling act stating that the secretary of the interior "shall provide against wanton destruction

of fish and game found within said park [and] shall also cause all persons trespassing upon the same after the passage of this act to be removed therefrom..." (Dilsaver 1994, 28-29). A few years later, the Shoshones were relocated to a nearby reservation, and in concert with that action, Yellowstone superintendent Philetus Norris ordered them to stay away. He gave three reasons for his action. First, he said that "Yellowstone is not Indian country, and no natives lived in the park"; second, "Indian fear of geysers kept them out of the park"; and finally, "Yellowstone is for the use and enjoyment of all Americans." That attitude, moreover, held sway for many years; in 1894, Congress passed a law prohibiting hunting "of any bird or wild animal" in the park, and it also allowed fishing only by means of hook and line (Spence 1999, 55-58; Keller and Turek 1998, 23-24; Dilsaver 1994, 36).

At the other early national parks, attitudes toward Indians and subsistence were only slightly more conciliatory. At Yosemite, for example, the establishment of a national park in 1890 was immediately followed by the arrival of the U.S. Army, which did its best to limit Indian hunting activities. Park administrators, however, were more tolerant. For years afterward, Indians lived and hunted in Yosemite Valley, and a small "Indian village" was located there (Spence 1999, 106-115; Keller and Turek 1998, 20-22). At Mount Rainier, a band of Cayuse Indians hunted in the Sunrise area until 1916, when park rangers fined them for their actions. But natives, paradoxically, were encouraged to continue with their spear fishing and berry picking (Catton 1996, 14-20; Keller and Turek 1998, 25-26). The attitude seemed to be that Native Americans were tolerated in the parks, but only so long as they remained a minor part of the landscape, and only so long as they did not pose a real or perceived threat to either the park visitor or park resources.

The establishment in 1916 of NPS gave officials an excellent opportunity to provide some consistency in managing the thirty-six parks and monuments that composed the National Park System at that time. Stephen Mather and Horace Albright, the agency's founding fathers, had a genuine interest in archeology and native artifacts; they also had a genuine concern for Indians and recognized that tribes had a historic, inherent relationship with parks. But they also thought, rightly or wrongly, that park visitors preferred romantic stereotypes and "picturesque" misconceptions of Indians rather than the realities of Indian life. This attitude is perhaps most starkly drawn in Horace Albright's book, *Oh Ranger!*, where he states that the western national parks were attractive because they gave the visitor the opportunity to find "real, live Indians! ... the kind that wear feathers, don war paint, [and] make their clothes and moccasins of skins.... The best place for the Dude to see the Indian in his natural state is in some of the national parks" (Keller and Turek 1998, 28, 232). As to the legitimacy of subsistence activities, the government's attitude was clearly stated in Interior Secretary Franklin Lane's well-known 1918 letter to Director Mather. In that letter, Lane wrote that "hunting will not be permitted in any national park," and he further defined fishing as a "favorite sport," not as a consumptive activity. The die was cast: the parks would be off-limits to subsistence hunting and fishing (Dilsaver 1994, 62-65).

Despite the rigidity of that rule, subsistence harvesting took place in many of our nation's parks during the years that followed the 1916 act. In some cases, the sheer lack of staff forced NPS officials to recognize that the creation of a park could not stop centuries-old hunting patterns, and in other cases, park officials approved of small-scale harvesting so long as more significant park values were not jeopardized. At Mount McKinley, for instance, subsistence was legal for more than ten years because the mining town of Kantishna was on the park's northern border, and Alaska delegate James Wickersham refused to support the park unless Kantishna miners were allowed a hunting privilege (Brown 1991, 93). At other parks, arrangements were more informal. At Glacier, for example, the eastern park boundary encroached upon traditional Blackfoot hunting territory, and for more than thirty years relationships with NPS were strained as occasional arrests were made followed by sporadic NPS at-

tempts to purchase Blackfoot land (Spence 1999, 177-196; Keller and Turek 1998, 43-61). At the Grand Canyon, the establishment of the park in 1919 included Indian Gardens, where several Havasupais had long lived; they remained there until 1928, when park officials evicted them (Keller and Turek 1998, 131-139). At Mesa Verde, most of the park had long been part of the Ute Mountain Indian Reservation, and the Utes were angry at park officials because they had been dispossessed of thousands of acres of land in the congressional act that had established the park. NPS officials were well aware of that anger, and in hopes of defusing the tension they chose not to prosecute natives who hunted, grazed livestock, or cut timber on NPS lands (Keller and Turek 1998, 31-41). The Park Service, during this period, rarely practiced overt discrimination toward local Indian tribes; both at Mesa Verde and elsewhere, they simply treated Indians as an invisible part of the landscape and failed to pay attention to them. In this respect, NPS was no different from other federal land management agencies.

During the 1930s, the federal government's attitude toward Native Americans began to change. The Franklin Roosevelt administration declared an "Indian New Deal," and the ramifications of that declaration produced a more even playing field between natives and the various land management bureaus (Spence 1999, 134). In Washington state, for example, a long-running struggle over how best to protect Roosevelt elk populations was resolved when Olympic National Park was established in 1938. The Olympic Peninsula, then as now, was home to a variety of native groups, and perhaps at the insistence of Interior Secretary Harold Ickes, the park bill contained language explicitly protecting Indian treaty rights. Here, as elsewhere, most local Indians went unnoticed to Park Service authorities, and as a rule, park rangers did not over-react when they heard about occasional Indian elk or deer hunts on park land (Keller and Turek 1998, 91, 107-08, 122-23, 127-28).

Another major park battle that took place during the FDR years focused on the Everglades country in southern Florida. This "river of grass" had long been home to the Seminole Indians, but the huge land boom of the 1920s resulted in urban growth and dwindling wildlife populations. When NPS officials first broached the idea of an Everglades park in 1930, they discovered that the federal government had the legal right to remove Indians from the proposed park area. But neither they nor anyone else relished the idea of forcing Indians from their land, so a key sentence was added to the 1934 act authorizing the park; it said that "[nothing] in this Act shall be construed to lessen any existing rights of the Seminole Indians which are not in conflict with the purposes [of] Everglades National Park." During the decades that followed, various federal officials aired occasional proposals to either remove the Seminoles from the park or to restrict the extent of their harvesting activities. But those proposals were never implemented, and natives continue to hunt, fish, and trap within park boundaries (Keller and Turek 1998, 219-31).

Prior to the 1950s, there were several places in the National Park System where subsistence was a legal, open activity (Sellars 1997, 259-60). Hunting and sheep grazing, for example, have always been condoned at both Navajo and Canyon de Chelly national monuments—primarily because both units are on Navajo tribal land (Keller and Turek 1998, 193-94, 206-207, 211). And at Glacier Bay National Monument (as it was then called), seal hunting was legalized because the Bureau of Indian Affairs, in support of natives in the nearby village of Hoonah, worked out a series of cooperative agreements on their behalf (Catton 1995, 103-132). Subsistence fishing, moreover, was allowed at several sites, most of which were located in territorial jurisdictions. At Hawaii National Park, the Kalapana extension of 1938 expressly allowed Native Hawaiians the right to fish above the high-tide line, and subsistence fishing was also allowed in Virgin Islands National Park (Somers 1998; Collier 1998). And at places such as Fort Pulaski National Monument in Georgia, NPS officials have long allowed so-called "protein fishing" by indigent local residents, even though the practice is officially illegal (Hatten 1998).

Many long-established park units, moreover, have long permitted the collection of plant materials for either food, craft, or ceremonial purposes. Legislative language pertaining to both Organ Pipe Cactus and Saguaro national monuments explicitly allowed the Tohono O'odham to gather cactus fruit, and in at least ten other NPS units, authorities informally allowed local residents to collect such items as berries, pinyon nuts, and prairie turnip (Williss 1998; Wellman 1998; Bunch 1998). So by the early 1960s, NPS was still fairly ironclad in its prohibition against hunting. But its rule against subsistence fishing was less rigidly applied in the territories, and the agency seemed agreeable to many forms of subsistence gathering.

Beginning in the early 1960s, NPS began to become increasingly sensitive toward Native American values. In 1963, Southwest Region Archeologist Leland Abel headed the new Indian Assistance Program, a cooperative effort out of the Santa Fe office that provided cultural resource management and other services to Indian tribes throughout the region. (Birkedal 1999). Two years later, Congress broke new ground when it established two parks—Nez Perce National Historical Park and Hubbell Trading Post National Historic Site—that emphasized Native American values (NPS 1997). In 1968, the Southwest Region established a special Navajo Lands Group, headed by Art White. And in 1970, Congress established Apostle Islands National Seashore, which expressly protected rights for the Ojibwa to continue hunting, trapping, fishing, and rice harvesting (Keller and Turek 1998, 6-14, 234). Throughout this period, clauses in bills that created new park units allowed the local native population to continue with their traditional activities; and in the case of Badlands National Park, legislation establishing its South Unit allowed the Oglala Sioux to hunt in addition to other subsistence activities (Spence 1999, 135; Mills 1999). A final major action pertaining to harvesting activities allowed by park neighbors was when Congress, in October 1974, passed bills creating the first two national preserves: Big Thicket, in Texas, and Big Cypress, in Florida. Both of these units were created with the express purpose of allowing local residents to hunt so long as that activity did not interfere with the park's core values (Williss 1985, 166-168). And, to a large extent, it was the agency's mind-set during the 1960s and 1970s that guided Park Service officials as they worked out the subsistence provisions of ANILCA.

Based on this brief chronology, a few generalizations stand out. First, many of the Park Service's actions toward Native Americans during the agency's early years seem terribly outdated if not outright racist to us today. These attitudes, however, were not considered unenlightened at the time, and in some cases NPS managers were fairly progressive in their relations with local native groups. Second, it appears that the parks have become gradually more tolerant of activities practiced by park neighbors, because they have learned to recognize—in both rural and urban settings—the value of having good neighbors in furthering park goals. This tolerance, however, is usually expressed when a park is either established or expanded; and the corollary to that rule is that long-established parks are less likely to allow new subsistence activities than new park units. Finally, an overview of NPS actions during the 1960s and 1970s suggests that by the time ANILCA was passed, the inclusion of a subsistence provision and the creation of a series of national preserves was a logical bureaucratic move and not a dramatic break from what the agency had been doing all along.

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