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# NATIONAL PARKS AND THE RECREATION RESOURCE

JAN G. LAITOS\*

National Parks are a favorite destination of American tourists and international visitors. The popularity of the National Parks of America is an outgrowth of the rising popularity of recreation in general, and outdoor recreation in particular. Recreation is a significant industry in the United States,<sup>1</sup> and the National Parks have reflected America's interest in outdoor recreation by recording a steady increase in recreational visits over the past few decades.<sup>2</sup> National Parks are also a category of land within the public lands owned by the United States, which themselves have become areas where recreation is the most popular, and dominant, federal land use.<sup>3</sup>

This recreational pressure on National Parks has important implications for the long-term management of park resources. If the recreation resource is dominant within National Parks, then the competing use for these lands—preservation—is jeopardized.<sup>4</sup> If human recreation is overwhelming the Parks' infrastructure, then the case for biocentric ecosystem management within the National Parks is weakened.<sup>5</sup> If the United States Congress provides neither a fee structure nor an annual appropriation amount that keeps up with recreational demands for National Parks, then the very viability of these parklands is threatened. This essay examines how recreation has grown as a use of leisure time, how the public lands (and National Parks) have increasingly become the prime destination of those wishing to enjoy an outdoor experience, and how the resulting dominant recreation resource will shape fundamental management policies for national parklands.

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1. See generally ZBIGNIEW MIECZKOWSKI, 3 WORLD TRENDS IN TOURISM AND RECREATION 78-80 (Am. Univ. Studies Series XXV Geography, 1990); DOUGLAS M. KNUDSON, OUTDOOR RECREATION 72 (1980) (discussing the increase internationally in expenditures for recreation).

2. CHARLES I. ZINSER, OUTDOOR RECREATION: UNITED STATES NATIONAL PARKS, FORESTS, AND PUBLIC LANDS 89-90 (1995).

3. 3 GEORGE CAMERON COGGINS & ROBERT L. GLICKSMAN, PUBLIC NATURAL RESOURCES LAW §17.01 (1996).

4. 16 U.S.C. § 1 (1994).

5. See generally WAYNE A. MORRISSEY ET AL., LIBRARY OF CONGRESS, CRS REPORT FOR CONGRESS: ECOSYSTEM MANAGEMENT: FEDERAL AGENCY ACTIVITIES (1994) (discussing the philosophy of the Park Service toward ecosystem management) [hereinafter MORRISSEY].

## I. THE RECREATION RESOURCE

By the end of the twentieth century, public willingness to use leisure time for outdoor recreation had reached an all-time high. The North American tourism industry was among the fastest growing in the world. Americans were spending more of their disposable income on leisure pursuits and recreation activities.<sup>6</sup> Recreation was increasingly seen not as a luxury, but as a necessity of modern life.<sup>7</sup> Such widespread interest in recreation will obviously have an effect on our National Parks.

### A. *The Preconditions to Recreation*

Before recreation can become popular, certain preconditions must be present. If these do not exist, recreation will be a relatively unimportant feature of a society's activities. At the turn of the twentieth century, all these preconditions were present in America, and recreation was thriving.

For recreation to establish a foothold in a society's consciousness, the people of that society must have the time to spend on recreational activities.<sup>8</sup> Economic, technological, and social progress have all increased the amount of leisure time that Americans enjoy.<sup>9</sup> The average American worker has as much as forty hours of free time every week.<sup>10</sup> This time is not spent on second jobs, but on leisure. One of the most popular leisure pursuits is recreation during vacationing.<sup>11</sup>

A second precondition is sufficient discretionary income to spend on recreation. By the latter half of the twentieth century, the United States enjoyed a large middle class.<sup>12</sup> This segment of the population was able to afford home ownership, food, clothing, and schooling, and still have disposable income available for recreation.<sup>13</sup> This income has been largely devoted to recreational spending.<sup>14</sup> Interest in recreation is not confined to America's middle class. Upper income families spend much of their disposable income on more expensive activities, such as skiing, while lower income groups spend money on less expensive recreational activities, such as hiking.<sup>15</sup> Better retirement plans and

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6. MIECZKOWSKI, *supra* note 1, at 78; KNUDSON, *supra* note 1, at 70-72. See Jim Spring, *Seven Days of Play*, AM. DEMOGRAPHICS, March 1993, at 50 (breaking down how Americans spend their duty free hours on a daily basis).

7. MIECZKOWSKI, *supra* note 1, at 80.

8. MIECZKOWSKI, *supra* note 1, at 81-82.

9. *Id.* at 83.

10. Spring, *supra* note 6, at 50. See generally KNUDSON, *supra* note 1, at 72 (documenting a dramatic growth in the amount of leisure time in America, following the turn of the century).

11. ZINSER, *supra* note 2, at 3-4. See generally MIECZKOWSKI, *supra* note 1, at 97-98 (discussing trends in vacation time).

12. MIECZKOWSKI, *supra* note 1, at 77-78.

13. See MIECZKOWSKI, *supra* note 1, at 78; KNUDSON, *supra* note 1, at 70-71.

14. Elia Kacapyr, *Jumping for Joy*, AM. DEMOGRAPHICS, June 1996, at 10. See CHARLES J. CICHETTI, FORECASTING RECREATION IN THE UNITED STATES 80 (1973) (finding a correlation between family income and income-related variables, such as home ownership, and participation in certain recreational activities).

15. ZINSER, *supra* note 2, at 5. See generally CICHETTI, *supra* note 14, at 80, 86 (discussing the correlation between family income and income related variables).

pensions also allow the elderly to spend their money on recreation.<sup>16</sup>

Better education and access to medical care enhance the opportunities for a society to pursue recreation. Education opportunities are more available to American citizens, and educated workers are more likely to engage in outdoor recreational activities, particularly those considered strenuous.<sup>17</sup> Healthier lifestyles and better medical care allow individuals to enter the outdoors and participate in sports that require fitness, such as skiing, backpacking, hiking, swimming, and river rafting. Good health permits older persons to enjoy recreation for a longer time span.<sup>18</sup>

Another precondition to recreation is good, efficient, affordable, convenient transportation.<sup>19</sup> When such transportation exists, people will travel great distances to enjoy recreation.<sup>20</sup> The ubiquitous automobile and interstate highway system provide this transportation to the American public.<sup>21</sup> So too does the airline industry.<sup>22</sup> Every year millions of Americans drive their cars or fly in airplanes to their recreation destinations.<sup>23</sup>

Finally, for outdoor recreation to become a preferred use of leisure time, individuals must appreciate the aesthetic and environmental qualities of nature. By the latter half of the twentieth century, Americans had a strong environmental awareness and a love for unspoiled nature. For example, in one poll, most westerners stated that they enjoyed outdoor recreation because of "an appreciation of nature."<sup>24</sup> Concern for the natural environment extended to wildlife. For many communities, the economic impact of wildlife viewing may even surpass consumptive uses of wildlife, such as hunting and fishing.<sup>25</sup>

### B. *The Growing Popularity of Outdoor Recreation*

Since all the preconditions to recreation have been met, it is not surprising that Americans believe that recreation is a necessity of life, and that recreational opportunities should be provided to the general public.<sup>26</sup> Outdoor recreation is particularly popular, especially among persons living in the West.<sup>27</sup> Indeed, nearly three-fourths of all Americans consider outdoor recreation to be a priority in their lives,<sup>28</sup> and two-thirds of all Americans participate yearly in

16. MIECZKOWSKI, *supra* note 1, at 160.

17. *Id.* at 165; KNUDSON, *supra* note 1, at 77.

18. *See* MIECZKOWSKI, *supra* note 1, at 160.

19. *Id.* at 100.

20. *Id.* at 108.

21. ZINSER, *supra* note 2, at 5.

22. MIECZKOWSKI, *supra* note 1, at 108.

23. *Id.*

24. Paul McHugh, *Outdoor Recreation Participation is Up*, S.F. CHRON., May 4, 1995, at D7.

25. MIECZKOWSKI, *supra* note 1, at 239.

26. *See* David E. Gray & Seymour Greben, *Future Perspectives*, in LAND AND LEISURE: CONCEPTS AND METHODS IN OUTDOOR RECREATION (Carlton S. Van Doren et al. eds., 2d ed. 1979) [hereinafter Gray & Greben].

27. McHugh, *supra* note 24.

28. Mary Klaus, *Group Says Campers on the Rise*, HARRISBURG PATRIOT & EVENING NEWS (Pa.), March 26, 1995, at F1.

outdoor recreational activities.<sup>29</sup> The Outdoor Recreation Coalition of America confirms that there has been an enormous increase in outdoor recreation in recent years,<sup>30</sup> caused in part by an influx of international visitors.<sup>31</sup>

Several outdoor recreational activities tend to be preferred by the public. General hiking is the fastest growing form of outdoor recreation.<sup>32</sup> Bicycling is quite popular, too, particularly mountain biking.<sup>33</sup> Nearly one-third of Americans consider camping a favorite recreational activity.<sup>34</sup> Even birdwatching is cited by one in five Americans as an enjoyable outdoor sport.<sup>35</sup>

## II. NATIONAL PARKS AS A RECREATION DESTINATION

### A. *Recreation on the Public Lands*

Recreation is a permissible use of all federally owned land. Applicable federal statutes permit recreation as the only human use in wilderness areas,<sup>36</sup> and recreation is deemed to be an important secondary use of national wildlife refuges.<sup>37</sup> Recreation is a coequal multiple use of national forests,<sup>38</sup> and a principal multiple use of Bureau of Land Management (BLM) lands.<sup>39</sup> Within National Parks, recreation and preservation are the two dominant park system purposes.<sup>40</sup> On public lands, recreation is by statute a preferred value. It has also become, by actual use, a resource equivalent to the more conventional commodity resources (timber, minerals, water, rangeland) found there.<sup>41</sup>

Since outdoor recreation is experiencing unprecedented growth, one could ask where all this activity is taking place. Those who are responsible for this growth wish to travel to locations where their recreational time will be spent on lands with a relatively pristine natural environment.<sup>42</sup> Public lands, especially National Parks, wilderness areas, National Forests, and BLM lands, provide such an environment. Americans interested in outdoor recreation are in-

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29. *Daybreak-Recreation & Fitness*, SALT LAKE TRIB., May 21, 1995, at G3.

30. Michael Levy, *Environment, Public Land Laws Under Attack*, BUFFALO NEWS, May 9, 1996, at F5.

31. 2 WORLD TRAVEL AND TOURISM REVIEW: INDICATORS, TRENDS AND ISSUES 74 (J.R. Brent Ritchie et. al. eds., 1992). In 1991, the United States received more international visitors than any country, with the exception of France. *Id.* The United States tourist/travel industry is a \$417 billion business. COGGINS & GLICKSMAN, *supra* note 3, at 17-2 n.4.

32. See John Harmon, *Building the Outback*, ATLANTA CONST., Sept. 10, 1995, at H5.

33. Catherine Salfino, *Outdoor Sports Having a Field Day*, DAILY NEWS REC., Aug. 16, 1993, at 25.

34. Klaus, *supra* note 28.

35. Lyn Dobrin, *Friends on the Wing*, NEWSDAY, Nov. 10, 1995, at B5.

36. 16 U.S.C. § 1133(d)(5) (1994).

37. 16 U.S.C. § 668dd (1994).

38. 16 U.S.C. § 528 (1994).

39. 43 U.S.C. § 1702(c) (1994).

40. 16 U.S.C. § 1 (1994). *Cappaert v. U.S.*, 426 U.S. 128 (1976) (stating that preservation is a primary purpose of the national parks).

41. See COGGINS & GLICKSMAN, *supra* note 3.

42. RONALD A. FORESTA, *AMERICA'S NATURAL PARKS AND THEIR KEEPERS* 97 (Ruth B. Hass ed. 1984).

creasingly turning to these federal lands as their recreation destination.<sup>43</sup> These lands are located primarily in the Intermountain West.<sup>44</sup> It is in the West that recreational opportunities are in large part responsible for the economic and population growth experienced there over the past few decades.<sup>45</sup>

### B. Recreation in National Parks

There are over forty million acres of National Park lands available for recreational opportunities.<sup>46</sup> Americans and foreign visitors, who are certainly aware of the availability of these opportunities in National Parks, have collectively decided to spend much of their outdoor leisure time there.<sup>47</sup> As a result, there is much demand for recreation on national park lands.<sup>48</sup> Recreational visits to the National Parks have increased steadily and dramatically. In 1904, the first year accurate records were kept, 121,00 people visited National Parks.<sup>49</sup> In 1950, the number of visitors had reached 33 million,<sup>50</sup> and by 1995 the National Parks were experiencing nearly 270 million recreational visits per year.<sup>51</sup>

People participate in virtually every outdoor recreational activity imaginable on federal park lands.<sup>52</sup> Perhaps because National Parks provide a pristine environment relatively unaffected by civilization, recreationalists go to them to enjoy largely natural conditions. They visit the deserts, rainforests, grasslands, canyons, and mountains of National Parks in order to more fully appreciate a truly natural environment.<sup>53</sup> Since the Park Service is also responsible for the preservation of historic and cultural values, some recreationalists at National Parks are amateur archaeologists or historians.<sup>54</sup> For many persons, recreation in federal parks is a way to regenerate "spiritual and emotional well-being."<sup>55</sup>

Whether the recreation is based on a back-to-nature desire, or scientific

43. *American Survey*, ECONOMIST, Dec. 23, 1995 - Jan. 5, 1996, at 31, 33; Harmon, *supra* note 30; *Federal Lands Concessions Reform: Hearings on H.R. 1527 & 2028 Before the Subcomm. on Nat'l Parks, Forests, and Lands of the House Comm. on Resources*, 104th Cong. 32 (1995) (testimony of David G. Unger, Associate Chief, Forest Service).

44. See ZINSER, *supra* note 2, at 85-89.

45. See generally Raymond Rasker, *A New Look at Old Vistas: The Economic Role of Environmental Quality in Western Public Lands*, 65 U. COLO. L. REV. 369 (1994) (examining the economic role that public lands play in the Western United States).

46. DYAN ZASLOWSKY & THE WILDERNESS SOCIETY, *THESE AMERICAN LANDS* 10 (1986) [hereinafter ZASLOWSKY].

47. See Edward O. Wilson, *The Environmental Ethic*, 3 HASTINGS W-N.W.J. ENVTL. L. & POLICY 327, 331 (1996).

48. See FORESTA, *supra* note 42, at 29.

49. ZINSER, *supra* note 2, at 89.

50. *Id.*

51. Nat'l Park Serv., U.S. Dep't Interior, National Park Service Recreation Visits (1995) (internal document from the Nat'l Park Serv. Socio-Econ. Studies Div.) [hereinafter Recreation Visits].

52. LILLIAN B. MORAVA & MICKEY LITTLE, *CAMPER'S GUIDE TO U.S. NATIONAL PARKS: VOLUME 1: WEST OF THE ROCKIES* 1 (1993).

53. FORESTA, *supra* note 42, at 97.

54. See KNUDSON, *supra* note 1, at 239, 270.

55. ZASLOWSKY, *supra* note 46, at 35.

curiosity, or a semireligious need to better understand oneself amidst beautiful surroundings, people are coming to National Parks in greater numbers. The effects of this surge in recreational demand are not insignificant.

### III. RECREATION IN NATIONAL PARKS: IMPLICATIONS AND NEGATIVE CONSEQUENCES

All this recreational pressure on the nation's park system has yielded severe consequences for park lands, which in turn may require a rethinking for how National Parks should be funded and managed. Increasing numbers of tourists and recreationalists in National Parks have produced three important issues that must soon be addressed by policy-makers: (1) Is there sufficient funding to permit the National Parks to cope with the rising tide of recreational interest? (2) Has recreation overwhelmed preservation as the dominant use in National Parks? (3) What implications does a dominant recreation use have for ecosystem management within National Parks?

#### A. *National Parks: Overused but Underfunded*

Without sufficient funding, heavily used federal park lands will likely deteriorate irreparably. Yet, despite this reality, current federal policy not only encourages excessive use, it has also failed to pay for the costs incurred by the Park Service as a result of this increased pressure put on National Parks.<sup>56</sup> Indeed, access to park system lands is intentionally made easy by federal law. Access to such lands is even subsidized.<sup>57</sup> But, as will be seen below, the logical consequence of this effort by the federal government to lure people (and recreationalists) to National Parks—overuse—is not being taken into account when the federal government makes funding decisions.

#### 1. Easy Access

Two developments have facilitated easy access to Park System lands: private vehicle use and a liberal concessions policy. Although the Park Service has statutory power to limit and regulate motorized use anywhere in the park system,<sup>58</sup> it is loathe to do so. The Park Service simply does not want to inconvenience recreational visitors.<sup>59</sup> It is true that some national parks, such as Yosemite, have by necessity prohibited private vehicle access to the most popular regions of the park except by government shuttle bus.<sup>60</sup> Nonetheless,

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56. See James M. Ridenour, *Our National Parks: The Slide Towards Mediocrity 2*, Paper Presented at the Conference on Challenging Federal Ownership and Management: Public Lands and Public Benefits, Natural Resources Center, Univ. of Colo. School of Law, (Oct. 11-13, 1995) (transcript available in the University of Colorado Law School Library).

57. Dale A. Oesterle, *Public Land: How Much is Enough?*, 23 *ECOLOGY* L.Q. 521, 564-65 (1996).

58. 16 U.S.C. §§ 1-3 (1994).

59. COGGINS & GLICKSMAN, *supra* note 3, at 17-13.

60. See ALFRED RUNTE, *NATIONAL PARKS: THE AMERICAN EXPERIENCE* 158-79 (2d ed. 1987).

such draconian means of alleviating congestion remain the exception. For most units of the Park System, the rule is unrestricted private vehicle access to the park, unrestricted access to all the roads in the park, and intensive road development within the park.<sup>61</sup>

If recreationalists are attracted to National Parks in part because they can easily drive their private cars there, they can comfortably stay in a park because of the Park Service's concessions policy. While the National Park Service Concessions Policy Act of 1965 specifically subordinates concessions facility development to the Park Service's preservation mission, this statute also gives the National Parks (through the Secretary of Interior) the discretion to decide whether to permit visitor amenities and accommodations on park lands.<sup>62</sup> This discretion has generally been exercised to make the nation's parks more attractive to visitors. As a result, National Parks often are dominated by facilities that are antithetical to a preservationist or environmentally natural condition—restaurants, shops, lodges, campgrounds, ski areas, grocery stores, and commercial enterprises.<sup>63</sup>

When the Park Service has exercised its discretion to permit concessions that encourage recreational use at the expense of preservation, the courts have rarely halted the construction of the recreational facility.<sup>64</sup> For example, one court refused to require the Park Service to restrict a concessionaire's advertising campaigns, even though the advertising was causing overuse of the park.<sup>65</sup> Another court rejected an attempt by an environmental organization to close a campground, despite arguments that overuse of the campground was preventing grizzly bear recovery.<sup>66</sup>

## 2. Subsidized Access

Another reason for the popularity of National Parks is that it is so inexpensive to visit them. Moreover, those who take advantage of the recreational amenities offered by National Parks rarely pay for them. Rather, the entrance fee to gain admission to federal park lands represents a tiny percentage of the budget needed to maintain these lands. The American taxpayer makes up the difference, and park users are thereby subsidized.

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61. See generally ALSTON CHASE, *PLAYING GOD IN YELLOWSTONE* 204-10 (1986); JOSEPH SAX, *MOUNTAINS WITHOUT HANDRAILS* (1980) (discussing the politics of tourism).

62. 16 U.S.C. § 20 (1994).

63. COGGINS AND GLICKSMAN, *supra* note 3, at 17-24.

64. See *Conservation Law Found. v. Secretary of Interior*, 864 F.2d 954 (1st Cir. 1989); *Sierra Club v. Watt*, 566 F. Supp. 380 (D. Utah 1983). *But see* *Sierra Club v. Lujan*, 716 F. Supp. 1289 (D. Ariz. 1989) (holding that Congress authorized leasing of locatable minerals at Lake Mead National Recreation Area; and that the regulations established by the Bureau of Land Management and National Park Service, with respect to mineral leasing, do not violate the organic legislation establishing the National Park Service).

65. *Friends of Yosemite v. Frizzell*, 420 F. Supp. 390, 395 (N.D. Cal. 1976).

66. *National Wildlife Fed'n v. National Park Serv.*, 669 F. Supp. 384 (D. Wyo. 1987).



The National Park System consists of 369 parks, monuments and historic sites.<sup>67</sup> Of them, only 186 collect an entrance fee.<sup>68</sup> These fees totaled \$80 million in 1995, which represents just five percent of the Park Service's \$1.4 billion annual budget.<sup>69</sup> The Park Service has been frighteningly slow to raise entrance fees. At Yellowstone National Park, the world's first national park, a five dollar car fee was authorized in 1915, and remained at that level for seventy-three years, until it was grudgingly raised to ten dollars in 1988. The 1996 Omnibus Parks and Public Lands Bill (HR 4236) contained provisions that would have permitted expanded entrance fees, but at President Clinton's insistence, these provisions were deleted before the bill became law.<sup>70</sup>

One can surmise that it is politically unpopular to make more expensive the opportunity to visit public lands "owned" by the taxpayers of the United States. Consequently, visitation fees are rarely raised, and there is no financial disincentive preventing overuse of park lands.<sup>71</sup>

### 3. Increased Use But Reduced Funding

Although the American taxpayer subsidizes the recreational visitor that uses a National Park, this subsidy has declined over the past two decades, while recreational use of these lands has increased. As a consequence, the units of the National Parks have suffered from decreased public funding at the same time that the public is overrunning the parks with sheer numbers. If the American public is encouraged to visit National Parks, if those who do go to the parks are not charged a fee which reflects the true cost of their visit to the parks, and if public spending on park lands is declining in real dollars, then park managers will not have the financial ability to maintain, repair, or protect our National Parks.

The table below presents data from the 1977-1995 period which demonstrates that recreational use of the National Parks has been increasing (Column 1),<sup>72</sup> while overall funding for the Park System has declined over the same period (Column 2).<sup>73</sup>

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67. Vic Ostrowidzki, *Fee Hikes Planned for U.S. Park System*, DENVER POST, Nov. 20, 1996, at B12.

68. *Id.*

69. *Id.*

70. *Congress Approves Omnibus Parks Bill, Drops 13 Sections*, FED. PARKS & RECREATION, Oct. 19, 1996, at 1.

71. The Omnibus Public Lands Act that was enacted into law on Oct. 3, 1996, Public Law 104-208, does contain a four year pilot program that permits entrance fees to rise in selected national parks and other public lands. *National Forests Sprouting Fees*, DENVER POST, Nov. 27, 1996, at A2.

72. Column 1 in the Table shows that recreational visits to National Parks rose from 210.6 million in 1977 to 269.6 million in 1995, amounting to a 28% increase.

73. All budget figures have been converted to real 1994 dollars using the Consumer Price Index.

Year	(1) NPS Recreation Visits (million) <sup>74</sup>	(2) All Accounts to National Park Service (\$ million)	(3) Operation of the National Park System (\$ million)	(4) Construction (\$ million)	(5) NPS Land Acquisition & State Assistance (\$ million)
1977	210.6	2,287	722	320	1,065
1978	222.2	2,945	776	367	1,549
1979	205.4	2,555	792	242	1,287
1980	198.0	2,171	703	202	849
1981	210.1	1,454	748	71	516
1982	213.7	1,184	801	147	205
1983	216.9	1,597	896	237	352
1984	218.1	1,299	879	94	290
1985	216.0	1,273	863	153	233
1986	237.1	1,117	826	152	127
1987	246.4	1,193	921	115	144
1988	250.5	1,126	916	117	76
1989	256.1	1,222	920	190	87
1990	263.2	1,225	871	224	99
1991	267.8	1,467	954	294	149
1992	274.7	1,518	1,031	317	111
1993	273.1	1,422	1,009	234	121
1994	268.6	1,452	1,062	215	97
1995	269.6	1,330	1,047	158	71
% Change 1977-95	28.0%	-41.9%	45.1%	-50.79%	-93.3%

### B. Recreation Dominant Over Preservation

The Organic Act of 1916 made preservation of wildlife and scenery the primary purpose of the National Parks.<sup>75</sup> That preservation was intended to be the goal of the nation's parks reflects the context during which the Organic Act was enacted. During the World War I period, Americans were concerned about the conservation of natural resources, and National Parks were a logical response to this fear.<sup>76</sup>

Since the Organic Act's adoption, the United States Congress has given recreation management priority with respect to several categories of park system lands.<sup>77</sup> This congressional direction, plus the growing demand for the

74. Recreation Visits, *supra* note 51; Nat'l Park Serv., U.S. Dep't of Interior, National Park Service Current Budget Authority Requested and Enacted Since FY 1977 (1996) (internal document from Budget Team-Operations Formulation Branch); U.S. BUREAU OF THE CENSUS, STATISTICAL ABSTRACT OF THE UNITED STATES: 1995, at 492 (115th ed. 1995); Bureau of Labor Statistics, U.S. Dep't of Labor, *Monthly Labor Review*, July 1996, at 88, 88.

75. 16 U.S.C. § 1 (1994); William Andrew Shutkin, *The National Park Service Act Revisited*, 10 VA. ENVTL. L.J. 345, 345 (1991); *see also* Cappaert v. United States, 426 U.S. 128 (1976).

76. FORESTA, *supra* note 42, at 12.

77. Scott M. Meis, *The Socio-Economic Function of the Canadian Parks Service as a Model for the U.S. National Parks Service and Other Agencies: An Organizational Framework for Managing Natural Recreation Research*, in SOCIAL SCIENCE AND NATURAL RESOURCE RECREATION MANAGEMENT 35 (Joanne Vining ed., 1990) (emphasizing the importance of management to accommodate a diverse collection of visitors); J. William Futtrell, *Parks to the People: New Direc-*

recreation resource within National Parks, has caused recreation to dominate as the principal use of national park lands.<sup>78</sup> Preservation has been largely shunted aside, recreational facilities and concessionaire have been supported, and protection of park resources from recreationalists has been jeopardized.<sup>79</sup>

The Park Service's shift in emphasis from preservation to recreation has been furthered by congressional and judicial acquiescence. Congress has delegated to the National Park Service the authority to resolve recreation versus preservation conflicts to Park Service managerial discretion.<sup>80</sup> When the Park Service exercises its discretion in favor of recreational interests and facilities, which it often does,<sup>81</sup> the courts generally defer to these decisions.<sup>82</sup> Courts tend to use the arbitrary and capricious standard when reviewing exercises of Park Service discretion.<sup>83</sup> When this standard is applied to a case where there is an allegation that the Park Service is erring too much in favor of recreation at the expense of preservation, the judicial attack on the Park Service typically fails.<sup>84</sup>

Of course, judicial deference cuts both ways. Reviewing courts have upheld the Park Service when it has decided that visitors might overwhelm the recreational carrying capacity of a given park system unit, and as a result has either refused to issue visitation permits,<sup>85</sup> or restricted access.<sup>86</sup> Courts have also sustained the Park Service when it refused to allow exploitative use of park wildlife.<sup>87</sup> However, despite the willingness of courts to uphold Park Service actions that are inconsistent with a dominant recreation use policy, preservation will never become a primary Park Service mission until park managers decide that rising recreational demand is threatening, or has already damaged, the scenic and ecological resources of the National Parks.<sup>88</sup>

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tions for the National Park System, 25 EMORY L.J. 255, 272 (1976); 16 U.S.C. § 460n-3(b) (1994); Idaho v. Hodel, 814 F.2d 1288, 1294-96 (9th Cir. 1987).

78. See ZASLOWSKY, *supra* note 46, at 35 (relating National Park policy not only to the reservation of resources, but also the recreational needs of society); WILLIAM C. EVERHART, THE NATIONAL PARK SERVICE (1983); COGGINS & GLICKSMAN, *supra* note 3, at § 14.01.

79. See FORESTA, *supra* note 42, at 28 (noting that development of recreation facilities and concessionaire to accommodate recreational use was a priority in the 1950s and 1960s). See generally Gray & Greben, *supra* note 26, at 3, 6 (proposing that recreation is a basic need that should be provided to the public).

80. 16 U.S.C. § 3 (1994).

81. FORESTA, *supra* note 42, at 54.

82. See Conservation Law Found., 864 F.2d at 957; National Wildlife Fed'n v. National Park Serv., 669 F. Supp. 384 (D. Wyo. 1987).

83. Wilkins v. Secretary of Interior, 995 F.2d 850, 852 (8th Cir. 1993).

84. See Sierra Club v. Andrus, 487 F. Supp. 443 (D.D.C. 1980), *aff'd on other grounds*, 659 F.2d 203 (D.C. Cir. 1981).

85. Clipper Cruise Line, Inc. v. United States, 855 F. Supp. 1 (D.D.C. 1994).

86. Christianson v. Hauptman, 991 F.2d 59 (2d Cir. 1993); Wilderness Pub. Rights Fund v. Kleppe, 608 F.2d 1250 (9th Cir. 1979).

87. NRA v. Potter, 628 F. Supp. 903 (D.D.C. 1986).

88. See FORESTA, *supra* note 42, at 28.

### C. Implications for Ecosystem Management

Many federal agencies are exploring whether (or how) to integrate the concept of ecosystem management into their management decisions.<sup>89</sup> Each major land and natural resource management agency, including the National Park Service, has drafted policy guidelines regarding ecosystem management approaches.<sup>90</sup> Although the Park Service is at this point more interested in ecosystem management as a general concept, rather than as a defined strategy,<sup>91</sup> the dominance of recreation over preservation in the National Parks will have important implications if the Park Service were eventually guided by an ecosystem management policy.<sup>92</sup>

While ecosystem management has come to mean different things to different people, the term generally encompasses the idea of an ecological and systemic approach to managing natural resources at a nonboundaried, regional scale.<sup>93</sup> For federal managers, an ecosystem management policy requires integration of decisionmaking with respect to both federal and nonfederal landholders. There are also two basic ecosystem management schools—one advocates a natural “biocentric”<sup>94</sup> approach, while the other is “anthropocentric,” which assumes that inevitable human activity must be a critical part of management decisions about natural resources.<sup>95</sup>

The tentative definition of ecosystem management adopted by the National Park Service takes the approach that a park management philosophy “respects all living things and seeks to sustain natural processes and the dignity of all species.”<sup>96</sup> If this definition assumes (as it should) that humans are “living things” and “species,” then the Park Service has correctly adopted the anthropocentric school of ecosystem management. With human recreation dominating park lands, park management must proceed on the basis that humans are ecosystem components, whose activities cannot be separated from nature. Human recreational uses of the National Parks are increasing and threaten to impact (if not overwhelm) ecological systems. These uses must be taken into account when developing management policies.

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89. Cf. MORRISSEY, *supra* note 5 (stating that eighteen federal agencies demonstrated ecosystem management activities).

90. Richard Haeuber, *Setting the Environmental Policy Agenda: The Case of Ecosystem Management*, 36 NAT. RESOURCES J. 1, 2 (1996).

91. COGGINS & GLICKSMAN, *supra* note 3, at 14-7.

92. See Robert B. Keiter, *An Introduction to the Ecosystem Management Debate*, in THE GREATER YELLOWSTONE ECOSYSTEM 3, 10-11 (Robert B. Keiter & Mark S. Boyce eds., 1991).

93. MARGARET A. MOOTE ET. AL., PRINCIPLES OF ECOSYSTEM MANAGEMENT 2 (1994).

94. The “biocentric” approach “considers human use of resources to be constrained by the primary goal of maintaining ecological integrity.” Thomas R. Stanley, Jr., *Ecosystem Management and the Arrogance of Humanism*, 9 CONSERVATION BIOLOGY 255, 256 (1995).

95. *Id.* at 255, 256.

96. Haeuber, *supra* note 90, at 25; MORRISSEY, *supra* note 5, at CRS-91.

## CONCLUSION

The recreation resource is fast becoming a dominant use on all public lands. On National Park lands, it has already outpaced preservation as the predominant use. There are important budgetary, ecological, and management consequences of a national park system that is catering primarily to tourists and recreationalists. The pressure of recreation on sensitive park lands and sometimes fragile park ecosystems is mounting, and is unlikely to decline in the near term. Federal policy-makers and National Park officials cannot ignore the effect this widespread interest in recreation is having throughout the National Park System. They must address and plan for this dominant use in their budget and park management decisions.