



Citizens for Access to the Lakeshore (CAL)

P.O. Box 96

Beulah, MI 49617-0096

Web Site: www.citizensforaccesstothelakeshore.com

email: info@citizensforaccesstothelakeshore.com

March 7, 2006

Ms. Dusty Shultz, Superintendent
Sleeping Bear Dunes National Lakeshore
9922 Front Street
Empire MI 49630-9900

RE: CAL Comments on the NPS January 2006 Newsletter # 1 on new GMP/Wilderness Study

Dear Superintendent Shultz:

We are pleased with:

- The citizen-friendly approach, the format, the clarity and the tone of Newsletter # 1;
- The unequivocal acknowledgement up front and early that *"Benzie and Leelanau Counties control most of the road rights-of-way in the park and closure of those roads is beyond our authority."*
- The fulfillment, via this Newsletter, of your promise to begin a brand new Wilderness Study and a brand new General Management Plan (GMP) rather than a restart of the previous GMP withdrawn in 2002;
- The highlighting of "Access" as the first concern listed under *"Issues and Concerns"*;
- The extensive Public Involvement Strategy;
- The identification of the Planning Team;
- The provision of information about the anticipated Planning Activities Dates;
- The ability to provide comments by U.S. Mail and/or also through the Web Site;
- The user-friendly pages developed for this GMP on the NPS Web Site.

We are disappointed with the:

- *"Draft Purpose Statement"*;
- *"Draft Significance Statements"*;
- Lack of a statement of commitment to support, within NPS scope of authority, Congressional approval of the results of the new Wilderness Study, if a consensus of stakeholders approve the results.

The *"Draft Purpose and Significance Statements"* are crucial, of course, as they set the stage and provide justification for all management alternatives to be proposed. We explain our concerns below, along with comments/suggestions on other specific portions of the newsletter.

CAL COMMENTS ON NPS "DRAFT PURPOSE STATEMENT"

We heartily concur that it is appropriate to state the Purpose of the Lakeshore in this planning document. However, we just as heartily object to any rewording, rephrasing, different ordering, new interpretation, or introduction of new words or phrases allegedly restating the Park's purpose. CAL objects to any deviation, no matter how slight or seemingly innocuous, from the Purpose established in law. The 1970 enabling legislation established for all time the *"purpose"* of this Lakeshore, and there has been no legislation since that modified that purpose statement. We do not believe that any federal agency, even with good intentions, has any authority to reword or rephrase the *"purpose"* of any entity created by U.S. law. Newsletter 1's implication seems to be that time and other statutes may have changed the original intent and purpose. But there has been no other statute changing the purpose of this Lakeshore. If time, usage, or events have created a need to change the purpose statement for this Lakeshore, or, if there is a need to restate or update Congressional *"intent"*, then such can only be done by Congress through legislation. As for Newsletter 1's reference to the *"many laws, regulations and policies that govern the national park system"*, CAL does not believe there is any law that gives the National Park System authority to change or to publish any modification of the *"purpose"* established in legislation of any Park or area under its jurisdiction, whether through its own NPS regulations, policies, planning processes, or in its planning documents. The Lakeshore's 1970 Enabling Legislation gives a clear and unequivocal statement of the *"Purpose"* for which the area was put under federal jurisdiction as a National Lakeshore:

(page 1 of 5 pages)

“Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress finds that certain outstanding natural features, including forests, beaches, dune formations, and ancient glacial phenomena, exist along the mainland shore of Lake Michigan and on certain nearby islands in Benzie and Leelanau Counties, Michigan, and that such features ought to be preserved in their natural setting and protected from developments and uses which would destroy the scenic beauty and natural character of the area. In order to accomplish this purpose for the benefit, inspiration, education, recreation, and enjoyment of the public, the Secretary of the Interior (hereinafter referred to as the ‘Secretary’) is authorized to take appropriate action, as herein provided, to establish in the State of Michigan the Sleeping Bear Dunes National Lakeshore. In carrying out the provisions of this Act, the Secretary shall administer and protect the Sleeping Bear Dunes National Lakeshore in a manner which provides for recreational opportunities consistent with the maximum protection of the natural environment within the area.

(b) In preserving the lakeshore and stabilizing its development, substantial reliance shall be placed on cooperation between Federal, State, and local governments to apply sound principles of land use planning and zoning. In developing the lakeshore, full recognition shall be given to protecting the private properties for the enjoyment of the owners.” (Source: 1970 Public Law 91-479, Oct. 21, 1970)

In contrast, reprinted below is the different “Purpose” proposed by the NPS in Newsletter 1:

“Congress established the National Lakeshore to:

- *Preserve outstanding natural features, including forests, beaches, dune formations, and ancient glacial phenomena in their natural setting and protect them from developments and uses that would destroy the scenic beauty and natural character of the area.*

And then to:

- *Provide for recreational opportunities and protection of scenic, scientific and historic features consistent with the maximum protection of the natural environment of the area.”* (NPS Jan. 2006 Newsletter 1)

Comparison: As is clear, there are significant and substantive differences between the “*purpose statement*” of Congress and that of the Park Service Planning Team’s NPS Newsletter 1, including, but not limited to:

- In the Statute, there is no sublimation of “*public enjoyment*” to “*preservation*” as Newsletter 1 performed by inserting the words: “*And then to*”.... Instead, the Statute is clear that the purpose of the “*preservation*” itself is FOR the “*enjoyment of the public*”, and not just the enjoyment of generations in the future, but the public as it existed then, exists now, and will exist in the future. In the Statute, neither purpose (enjoyment or preservation) is dependant on the other being accomplished first and neither are seen as incongruent with each other. It is clear that Congress believed and stated unequivocally that it saw both purposes are congruent, that both purposes must be accomplished jointly, and that both purposes do not impede, contradict nor negate each other, but rather, that each purpose supports the other. Indeed, the statute makes clear that UNLESS the Lakeshore is enjoyed by the public, there is NO purpose in preserving it – almost the opposite stance than that expressed in Newsletter 1.
- In the NPS “*Draft Purpose Statement*”, there is no inclusion, by reference or quote, of the Statute’s emphatic wording conveying the following purpose: “*In order to accomplish this purpose for the benefit, inspiration, education, recreation, and enjoyment of the public,...*” (Source: 1970 Public Law 91-479, Oct. 21, 1970)

CAL respectfully submits that the NPS “*Draft Purpose Statement*” resurrects the underlying question since the 2002 withdrawal of the earlier GMP: that is, whether or not the Park Service will administer and manage Sleeping Bear Dunes National Lakeshore:

- Pursuant to the Lakeshore’s established purposes stated explicitly in statute;
- Pursuant to Congressional and Presidential authority to legislatively determine matters of purpose and significance without being rewritten, ignored or overturned by an agency of the bureaucracy;
- Pursuant to the mission of the National Park Service to administer areas under its jurisdiction in accordance with the Park’s enabling statute and within the limits of its statutorily established authority.

In Sum on “Purpose”: CAL supports the inclusion of a “*Purpose Statement*” in the GMP/Wilderness Study. However, until the Purpose Statement of the Lakeshore is stated in the GMP exactly as written in statute, the question above will simply not go away – it cannot. CAL hopes the Park Service Planning Team will make these questions go away in its next Newsletter by removing its “*Draft Purpose Statement*” and replacing it with the purpose enunciated in the Park’s enabling statute, whereby all questions about purpose were long ago settled legislatively. Ascribing different purposes to the Lakeshore than that provided in the enabling statute is beyond the scope of authority of the National Park Service. CAL cannot support any Purpose Statement that deviates in any manner from the Purpose Statement expressed in the enabling statute, but would fully support an accurate, unmodified transcription of the enabling Statute’s “*purpose*” statements.

CAL COMMENTS ON NPS “DRAFT SIGNIFICANCE STATEMENTS”

In 1970, the citizenry of the United States, with great involvement by the people and government of Michigan, determined for all time, through their elected officials, the “*significance*” of the Lakeshore and its features in legislation that acknowledged its “*significance*” and thereby began to remove the lands from private and state ownership and entrusted those lands to the administration of the National Park Service, pursuant to the purpose and significance of the enabling statute. It is neither the prerogative nor duty of any federal agency to redetermine the significance of any area under its jurisdiction. If there is need to establish new significance, such determination is to be made by the citizens of the U.S. through their elected officials in the legislative process, and the process is to amend the statute. The National Park Service does, indeed, have the duty to survey lands entrusted to its administration, and to inventory the area’s features, and, in the case of this Lakeshore, the Park Service has performed this administrative duty with excellence. But the determination of “*significance*” is a political decision made through legislation. The Planning Team has confused the duty to inventory with the legislative role of ascribing whatever “*significance*” the U.S. citizens wish to ascribe to an area or its features. The Statute’s determination of “*significance*” reads:

“...Congress finds that certain outstanding natural features, including forests, beaches, dune formations, and ancient glacial phenomena, exist along the mainland shore of Lake Michigan and on certain nearby islands in Benzie and Leelanau Counties, Michigan, and that such features ought to be preserved in their natural setting and protected from developments and uses which would destroy the scenic beauty and natural character of the area. In order to accomplish this purpose for the benefit, inspiration, education, recreation, and enjoyment of the public, the Secretary of the Interior (hereinafter referred to as the ‘Secretary’) is authorized to take appropriate action, as herein provided, to establish in the State of Michigan the Sleeping Bear Dunes National Lakeshore. In carrying out the provisions of this Act, the Secretary shall administer and protect the Sleeping Bear Dunes National Lakeshore in a manner which provides for recreational opportunities consistent with the maximum protection of the natural environment within the area.”

(Source: [1970 Public Law 91-479, Oct. 21, 1970](#))

In contrast, reprinted below is the different “Significance Statements” proposed by the NPS in Newsletter 1:

- *“The National Lakeshore contains compactly grouped features of continental glaciation, including post glacial shoreline adjustment, dune/swale complex, wind formed dunes, perched dunes, and examples of associated plant succession. These features are of global importance due to their relatively unimpacted state, the variety of features present, and their proximity to one another.*
- *The National Lakeshore preserves outstanding scenic and publicly accessible resources. Its massive glacial headlands, expansive Lake Michigan beaches, diverse habitats, superb water resources, and rich human history offer an unparalleled range of recreational, educational, and inspirational opportunities.*
- *The collection of historic maritime, agricultural, and recreational landscapes with the National Lakeshore is of a size and quality unique on the Great Lakes and rare elsewhere on the United States coastline.*
- *The National Lakeshore’s native plant and animal communities are of a scale and quality rare on the Great Lakes shoreline. These relatively intact communities afford an opportunity to allow the continuation of the ecological processes that have shaped them.”*

(Source: NPS January 2006 GMP Newsletter 1)

Comparison: Not content with the determination of “*significance*” arrived at in the Park’s enabling Statute, the NPS Planning Team ranges very far, ascribing:

- ...“*global importance*” in the Lakeshore’s “*relatively unimpacted state, the variety of features present, and their proximity to one another;*”
- ...“*an unparalleled range of recreational, educational and inspirational opportunities;*”
- ...“*of a size and quality unique on the Great Lakes and rare elsewhere on the United States coastline.*”

The NPS version introduces a theory not even contemplated in the Statute that:

- ...“*native plant and animal communities are of a scale and quality rare on the Great Lakes shoreline. These relatively intact communities afford an opportunity to allow the continuation of the ecological processes that have shaped them.*”

CAL wagers there is not a single area in the vast federal lands under the Park Service’s jurisdiction that the Park Service does not find similarly “*globally important*”, and infused with “*rare native*” species and “*intact communities*” where “*ecological processes*” that have shaped them should continue under Park Service decisions about how to manage such, despite evolutionary evidence that all life is continually evolving and that attempting to stop the natural process to freeze things in time is impossible, not to mention that the attempt is as disruptive of natural ecology as the asphaltting of a dirt road. Newsletter 1’s “*Draft Significance Statements*” would terminally date this GMP to the ideological terminology of the times and make it appear rather silly a decade or two down the road. Such excess is not flattering to the Park Service; the draft statements are shrill and unnecessary. In the end, the earth is all one, and everything alive or dead is of some sort of “*global importance*”. Exaggerating the “*significance*” of this Lakeshore’s features demeans the real significance of the Park, which is no more and no less than what Congress already stated so well in the enabling legislation. It is not necessary, nor appropriate, for a federal agency to attempt to create for itself in this manner a mantle of moral authority for management decisions it would base on claims of “*significance*” that were not mentioned in the enabling statute. It goes without saying that endangered species need protection, wherever found. It also goes without saying that the rights of hunters and fishermen within the Lakeshore, as prescribed by the State of Michigan and recognized by the federal government, also need protection. But neither the Endangered Species Act nor the laws governing fishing and hunting nor the myriad of other laws, regulations and ordinances governing the Lakeshore have anything to do with the Lakeshore’s “*purpose*” or “*significance*” and should not be portrayed as such. Park Service documents should bear no appearance of advocacy on political issues that have been properly decided in the legislative arena. The Park Service must remove itself from the ideological battleground where stakeholders are engaged. It is beneath the dignity of the great institution of the National Park Service to make statements bearing any ideological tint or zealotry. Its role and mission is great; it demeans itself when it assumes a role of stakeholder or spokesperson. It should have no bias; it should be the objective administrator of the enabling Statute, no more, no less. Its GMPs should reflect its intent to carry out its administrative responsibilities, at which the Park Service excels. After a failed first attempt, the Park Service Planning Team has been given a second chance to create a new General Management Plan for the Park. It is crucial that the Team rid its next Newsletter of all statements that bear even the appearance of ideological bias and contempt for statutory determination of “*purpose*” and “*significance*”. The Park Service has opportunity in its next Newsletter to establish evidence it can be an unbiased, objective, just administrator: for “*purpose*” and “*significance*”, nothing more nor less than a direct quote of the lines above from the enabling Statute is required.

In sum on “Significance”, CAL supports the NPS desire to insert “*Significance Statements*” into the GMP, but objects to any wording that does not conform exactly to the “*significance*” statements already determined in the enabling Statute by the citizens of the United States through their elected representatives in the legislative process. CAL believes that impugning greater or lesser significance to the Lakeshore than that provided in the enabling Statute is beyond the scope of authority of the Park Service. CAL cannot support any “*Significance Statements*” that deviate in any manner from those in the enabling statute, but would fully support an accurate, unmodified transcription of the enabling Statute’s “*significance*” statements.

CAL Comments on “What Is a Wilderness Study” and “Wilderness at the National Lakeshore”

CAL appreciates what we believe to be a concise depiction of the issues and procedures regarding the relationship of the 1964 Wilderness Act to this Lakeshore. However, CAL believes that, for the Park Service’s efforts on a new Wilderness Study to be considered sincere, the Park Service must include a statement in its next GMP Newsletter and in the final GMP that the Park Service will fully and actively support, within the scope of its authority, the introduction and passage of the federal legislation that will be necessary for a new Wilderness Recommendation to be implemented at the Lakeshore. Without an up front statement of support by the Park Service, provided a consensus of stakeholder support has been reached, the Park Service’s commitment to the results of new Wilderness Study will remain in doubt.

There is no sense going forward until the Park Service publicly makes that commitment. Without Congressional approval, a new Wilderness Study will be nothing but a three-year exercise in futility and waste of time. As the Newsletter states, the 1981 Wilderness Study and Boundaries will not be replaced by the new Study until full Congressional action through successful legislation, despite all the work on the new Study. As the Newsletter states, the Park Service believes it is prohibited from replacing the 1981 Wilderness Study and Boundaries with the results of the new Study *“until Congress acts on a new wilderness recommendation”* because of verbiage inserted into 1982 legislation on other matters. We hope the Planning Team will put in writing what leadership has promised verbally, namely, a statement of commitment that it is the Park Service’s *“intent”* to fully encourage in all manner possible the Congressional approval and final disposition and implementation of the results of a new Wilderness Study, provided a consensus of stakeholder support has been achieved.

CAL Comments on The Planning Timetable: CAL appreciates the publication of a very explicit timetable.

CALComments on “We Want to Hear From You”: Pursuant to the Newsletter offer, CAL would appreciate being notified of future documents by email, but we would prefer text versions without photos unless the photos are substantive to the message. Please send to the email address you have for CAL. We would appreciate being kept on the hard copy mailing list as well.

CAL Additional Comments on “Preservation” and “Recreation”

CAL has heard Park Service personnel frequently expound on the two themes of “preservation” and “recreation” or as if they are mutually exclusive, believing that one gains political ascendancy at one time and the other at another, as if a dichotomy exists that poses a never-ending dilemma for the Park Service. However, CAL believes the alleged dichotomy is non-existent in the law and unnecessary in the field: the law repeatedly makes the assertion that the purpose of preservation is for the enjoyment of the public, current and future. In the field at the Lakeshore, both purposes are certainly achievable: visitation at the Lakeshore simply is not destructive of the resources. CAL believes that in the mind of the citizen, there is no difficulty understanding that preservation is for the purpose of the enjoyment of the public and that no dichotomy exists between protection and visitation. Neither are to be sacrificed for the other; they support each other; there simply is no dichotomy and no dilemma.

Concluding Remarks: CAL believes Newsletter 1 is an excellent, concise, descriptive depiction of how the Park Service intends to develop a new GMP/Wilderness Study. We are grateful for such candor and appreciate very much the effort being expended by the Park Service to show its desire to involve stakeholders. Newsletter 1 clearly demonstrates that citizen involvement to date has been influential. It will be the next Newsletter, however, that will demonstrate whether citizen input in this new GMP process counts. Newsletter 1’s *“Draft Purpose and Significance Statements”* raise the same questions that have plagued the Park Service since 2002. CAL is disappointed to be forced to re-articulate the same substantive concerns that so many citizens and organizations expressed in 2002 with the Planning Team’s attempt at an unauthorized revision of the statutorily determined *“purpose”* and *“significance”* of Sleeping Bear Dunes National Lakeshore. CAL also expresses concern with the lack of a public statement of Park Service commitment to encourage and support Congressional action on the results of a new Wilderness Study, provided a consensus of stakeholder support is achieved. We thank the Park Service for encouraging citizens to make comments and we look forward to the next Newsletter.

Sincerely,

Jeannette Feeheley, President, Board of Directors

cc: The Honorable Pete Hoekstra, U.S. Congressman
The Honorable Dave Camp, U.S. Congressman
The Honorable Carl Levin, U.S. Senator
The Honorable Debbie Stabenow, U.S. Senator
Mr. Paul Hoffman, Deputy Assistant Secretary for Fish & Wildlife & Parks, U.S. Dept. of Interior
Ms. Fran Maniella, Director, U.S. Park Service
Mr. Ernie Quintana, Director, Midwest Region, National Park Service
Ms. Sandra Washington, Chief, Planning & Compliance, Midwest Regional Office, NPS
Members and Friends, Citizens for Access to the Lakeshore

(page 5 of 5 pages)

(SB GMP Newsletter 1 Comments Web Site)

Board of Directors

Joanne Appelhof - Jerry Brace - Dan DeGood - John Harkins - Jack and Jeannette Feeheley –
- Alison and Bob Michalak - Mary Miron - Phyllis Crowell VanHammen.