

PEPC 191253

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National Park Service
Denver Service Center—Planning
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DSC-P

SUBJECT: Citizen's Comments to Olympic National Park Draft General Management Plan

I hereby request that all personal information relating to this submission be withheld from disclosure and only be used by those that have a true need to know; I am an individual and do not represent any group, organization, business, or collective idea. I claim a statutory exemption that disclosure of my personal information would constitute an unwarranted invasion of my personal privacy. The precedence being set by *Alliance for the Wild Rockies v. Dep't of the Interior*, 53 F. Supp. 2d 32, 37 (D.D.C. 1999) creates a dilemma the individual is responsible for proving the benefit to the public doesn't outweigh the individual's right to privacy, the dilemma being whether the individual is therefore able to participate in the development of this plan, to weigh in no assurances of privacy compared against serving only a "considerable" public interest; Clearly versus Considerable.

Laws Referenced:

PL75-778

PL94-578

Congressional Record House, September 29, 1976

Congressional Record Senate, October 1, 1976

PL99-635

US Senate Committee on Energy and Natural Resource Hearing 99-980

PL100-668

1. Boundary Expansion in the Ozette Basin
a. Sockeye Recovery

How will ONP improve sockeye recovery potential by taking over jurisdiction? How does expansion of the boudoirs directly demonstrate any increased potential for sockeye recovery? Explain how this expansion doesn't put us right back in the same position as the last boundary expansion in 1976? Mr Bonker explained to the House of Representatives the 1976 expansion would resolve once and for all the major conflicts for the Park; the sockeye were just as much a problem then as they are now, in fact the sockeye have recovered quite a bit since. So if the expansion of the boundaries solved the major conflicts at that time, either the sockeye aren't a major problem or the 1976 bill wasn't the correct solution and therefore I submit another like-expansion isn't the solution either.

Mr. Speaker, Olympic National Park is characterized by the National Park Service as "conceived in controversy, born of compromise, and developed amidst constant conflict."

Controversy, compromise, and conflict are all reflected in this bill. There was controversy after its inception. Significant compromise was achieved in response to the issues raised. And, most importantly for the future, this legislation embodies an opportunity to resolve, once and for all, major conflicts that have been associated with Olympic National Park during its 38-year history.

b. Current Management versus ONP

The plan doesn't specify how ONP as the manager of the expanded jurisdiction will manage the lands, based on all aspects and not just natural resources, any better than the current land manager? The lack of direct efforts/projects by ONP since 1976 in recovery of the sockeye within the reaches of the current boundaries does not demonstrate any reliability that extension of boundaries will result in sockeye recovery that equates to a higher level than the current land manager.

c. WDNR Trust Lands
i. School Trust

How will traded trust lands result in revenues on the "out of park" holding being at a level that is equal to the current holding? The concern is that potential for revenue to support the school trust will actually decrease because of harvest restrictions placed on the traded lands. Will this be factored in to the equation on how much land is required to meet the true value of the traded land?

ii. Transfer Trust

Clallam County as the benefactor to revenues from the Alternative D WDNR Transfer Trust lands, what compensation will there be for any restrictions to harvest, for the Forks Community Hospital, other than increased tax levies? **These lands can only be exchanged and not bought outright.** If you take away the full potential for revenue it has a direct affect on the ability to fund essential services such as the community hospital. The burden then, won't be on the public as a whole but to the minority local community that will be forced to address the shortfall out of their own wallet.

iii. Protective Reserve

The plan does not address if certain parcels that have protective reserve characteristics but are not directly connected/linked to current the Park boundaries, how will they be managed in the event the connecting parcels are not acquired through a willing seller. Also, the value of these mature stands needs to consider if timber harvest methods include selective logging that could extend over a long term allowing for an alternative forest practice with the belief it benefits the forest and provides an intended revenue (a multi-aspect concept the plan does not consider). Will the traded lands have this mature quality allowing for the same concept of selective logging (Will the traded lands have mature stands of timber?). There is value in extending the boundaries to capture at least two parcels that have well demonstrated mature stands; not only does it provide the opportunity to retain these forest in their mature status but it also allows the DNR to capture full harvest capabilities it would have lost if it was limited to protective reserve status. However, the value in selective harvest needs to be evaluated to determine if the quality of the forest will be lost by not utilizing a different harvest methodology, if selective harvest is not conducted in mature stands either on those stands that are currently held but may become restricted by boundary expansion or the lack of mature stands in a trade.

iv. Legacy Forest

The application of this type of forest on any traded parcels is not appropriate; the WDNR should be treated as a willing seller too, and to place restrictions on their "traded" land not only sets a bad precedence for State's rights but elevates the question of why the Park believes it is a better manager of these lands, in all aspects. **I can't support expansion if the plan doesn't address the whole picture, and I mean by that "all aspects".** The plan defaults to natural resource protection and doesn't address all uses of this landscape; this is not acceptable.

v. Shrinking Timber Holdings

The plan does not take into consideration the affect of reducing the total amount of lands capable of producing harvestable timber by trading for adjacent private timber lands. To take timber lands off the tax rolls for trade to the WDNR not only reduces the property tax base, there will also be increased pressure on the remaining private property to

produce a commensurate amount of timber to meet their goals. I know there's the belief with some folks that regardless of how much timber lands are available the resource will continue to be exploited to its maximum potential, *if they have more timber land they will just harvest that much more*. I counter this concept that timber resources are limited and to reduce the potential resource is in itself a direct cause to over-exploitation (if we concentrate the resource we will actually become a contributor to any exploitation); if we don't look outside the box for solutions in this basin and we continue to rely on "We can't do that because it is not our mission, our legislative mandate." then I claim the Park is just as big of a piece of that suggested over-exploitation as the perceived business practice concept of *If they have more timber lands they will just harvest more timber*; I believe in this basin the business practices are looking outside their box and I expect the Park to do the same in the development/implementation of this plan; to just expand boundaries isn't looking outside that box. Why aren't US Forest Service lands (Lake Pleasant area) being considered for trade with WDNR and private timber holdings?

d. Willing Seller, in accordance with National Park Policy

Willing Seller is just what it says: WILLING. To attach policy which can be easily changed provides little to no assurances to these landowners on what the status of their future is if the boundaries were expanded. At a minimum these landowners should be provided the same assurances/protections as were afforded the landowners around the lake in PL 94-578:

(g) Notwithstanding the provisions of the preceding subsection, any noncorporate owner or owners, as of January 1, 1976, of property adjacent to Lake Ozette may retain title to such property: *Provided*, That such owner or owners consent to acquisition by the Secretary or scenic easements or other interests that allow only those improvements that the Secretary finds to be reasonably necessary for continued use and occupancy. Any such owner or owners who elects to improve his property or a portion thereof shall submit to the Secretary a plan which shall set forth the manner in which the property is to be improved and the use to which it is proposed to be put. If, upon review of such plan, the Secretary determines that it is compatible with the limitations of this subsection, he in his discretion may issue a permit to such owner and a certificate to that effect. Upon issuance of any such certificate and so long as such property is maintained and used in conformity therewith, the authority of the Secretary to acquire such property or interest therein without the consent of the owner shall be suspended.

And the intent of the legislation as demonstrated by the sponsor of the House of Representatives' bill H.R. 14934 that created this public law, Mr. Bonker:

In recognition of the special conditions at Lake Ozette, the noncorporate owners of property within the shoreline strip that is to be added to the park may, as an alternative, retain title to the property and undertake such improvements as meet with the approval of the Secretary of the Interior if they sell scenic easements to the government. So long as an owner complies with the provisions of the scenic easement and with the terms of any permits for improvements issued by the Secretary, the authority to acquire such property without the consent of the owner is suspended.

Several of the parcels within the proposed Lake Ozette addition are now improved with a small, generally unobtrusive detached single family residence or cabin on each. It is the intent that the present or future owners of any of the other, unimproved parcels—according to the patterns and boundaries of ownership that existed on January 1, 1976—may undertake a similar improvement on each to the extent and in the manner found by the Secretary to be consistent with the scenic values of Lake Ozette and with the purposes of the park.

These important revisions were adopted in specific response to concerns expressed by the Lake Ozette property owners and represent a major effort to tailor the bill to fit their unusual situation.

2. Restricting Motor boats on Lake Ozette

a. Conflicts with other users

Conflicts with other users as a rationale to justify restricting motor boats on Lake Ozette is ambiguous, the plan does not define what or who those other users are. I can only assume the intention is to address a personal desire by select canoeists and kayakers to not encounter or have the presence of motor boats on the lake while this user group is present; their rationale suggesting they want the wilderness experience and there is an implied purest-ideal to their form of utilizing the lake which conflicts with the concept of motorized boating. The flaw in this rationale is:

- The lake is not wilderness and though it has wilderness qualities somewhat, all user groups have to realize this is a resource to be shared by the public at large. If the focus was on sharing the resource above setting a biased or discriminatory zone or restriction, I contend there wouldn't be a conflict.

- The user group themselves are a conflict: they pose a safety hazard at night when they elect to transit the lake but they don't adhere to navigational lighting requirements, they invade the privacy of private property and landowners when they transit those areas not respecting the tranquility those same landowners are trying to seek (they are illusive, take out on private docks without permission thereby trespassing, they have a tendency to loiter in proximity and their conversations disturb the peacefulness the landowner seeks; snoopiness is the best descriptive and that's not just a random occurrence), and the current trend is while preparing to launch at the few places around the lake that are accessible for motorized boats they take up the entire launch by spreading their equipment out across the landscape while they pack their gear (this inhibits others, including motorized boats, from access to the launch until such time their nonchalant characteristic is satisfied). The flaw is they are just as much a conflict as their claim to motorized boating; to not consider this in the plan is itself discriminatory—though institutionalized; that is, if this the conflicting user group.
- The weather at the lake changes dramatically in a very short time, a time frame that doesn't account for the slower reactionary capabilities of non-motorized boating. Harms way is best prevented by the complementary relationship between motorized and non-motorized boating. Restricting or zoning is in direct conflict to motorized boating coming to the aid of non-motorized boating, a true reality at this lake on many occasions.

b. Resource Protection

The plan speculates there may be a need to zone or restrict the lake to motorized boating for the purpose of resource protection; however, it fails to identify what specific resources are in jeopardy; it attempts to restrict by assumptions and this is wrong. If the assumption is to restrict motorized boating to preclude intrusion into sockeye spawning areas, the assumption does not take into consideration:

- how much of an impact is realized to date and what is the true reality this would occur in the future (given the lake's remoteness and the likelihood that any increase in use isn't exponential to an assumed increase in intrusion into sockeye spawning areas.)
- the potential for impact by non-motorized boating is just as much a reality as what may be considered for motorized boating (though different in scope, there's just as much potential for intrusion that is just as disruptive)
- the reality there is any potential for substantive impact by either user groups is far outweighed by the known/unknown impacts that occur from research, recovery, and restoration activities at the lake (that includes motorized boating).

I don't support the plan targeting such restrictive possibilities when there is nothing suggestive the situation is even occurring, or has the potential to occur based on sound evidence. The plan does not consider the need to restrict other like potentials, as mentioned regarding research, recovery, and restoration. To take the position as currently demonstrated in the plan diminishes the service to the public by always placing it off limits as the answer to a perceived problem.

c. Ingress and Egress

Given the laws of Washington State were in affect prior to 1976 and the private property was in ownership at that time also, ingress and egress were insured by those laws and no compensation has been made since 1976 to diminish those same rights. And since the Federal laws of 1976 and 1986 did not address diminishing those rights I contend that ingress and egress rights of landowners prior to 1976 are still in place, through the following points/methods:

- Motor boats from the three standing launch sites accessing the Umbrella Creek/Bay, Jersted Point, Rocky Point, Preachers Point and Siwash/Elk Creek holdings; outlet to Ozette River, Rayonier Landing, Swan Bay Landing, for landowners and their guest.
- Hoko-Ozette Road, Swan Bay Road (both county ownership)
- Network of logging roads that would become more of an issue in the event the boundaries are expanded.

d. Section Five of Enabling Legislation

The 1938 did not mention elk in the text of the legislation, however the landowners taken in by the boundaries is discussed. Section 5 has been brought to the attention of the NPS on several occasions and the attention or appreciation has been minimal. I contend that since the specifics of *...full use and enjoyment of his land* is listed, the intent is just as strong as the attention the Park management places on the elk that is not listed. Therefore, I contend full use and enjoyment of the land includes the attached lake that has and still is fully complements the particular shorelands; this includes the entire lake to motorized boating.

*** SEC. 5. Nothing herein contained shall affect any valid existing claim, location, or entry made under the land laws of the United States, whether for homestead, mineral, right-of-way, or any other purpose whatsoever, or shall affect the right of any such claimant, locator, or entryman to the full use and enjoyment of his land, nor the rights reserved by treaty to the Indians of any tribes.**

e. Lake Access and established Landings

Rayonier and Swan Bay Landings should remain open to the public for full use and enjoyment; and they should be maintained/upgraded to accommodate those needs. Floating docks should be constructed to accommodate the handicap and elderly needs at these two landings. The three access points and the two associated landings have a long-standing significance to the people of Ozette (the landowners, the residents of the Hoko-Ozette Road community, those of the Clallam Bay/Seki communities and visitors). The continued upkeep and use of the landings, Swan Bay and Rayonier, was pretty well

spelled out by the intent of the 1976 legislation. Senator Jackson says it pretty clearly in the Congressional Record of what is a necessity in order to justify the establishment of the National Park boundaries in the Ozette:

I think it should also be pointed out, Mr. President, that it is expected that the present access sites available around the lake will be maintained by the National Park Service in a way that will allow use by private land owners as well as visitors to the park who may wish to boat in this outstanding scenic area.

At the open house meetings it was suggested by staff that Rayonier Landing was not a public access point prior to 1976, and therefore should not be considered for the application of Senator Jackson's requirements. Rayonier has archived their records from that era that would clearly identify their intended use of this landing prior to 1976, and the NPS can further investigate this issue if they should so choose. I have included two attachments, statements from Rayonier employees of that time period that contend that Rayonier Landing (referred at that time as "The Park") was for the full use and enjoyment of the public. (Attachments 1 and 2). This issue aside, the current use clearly identifies the public's desire to have and use this area, and that of Swan Bay. And both of these landings are critical to the ingress and egress by landowners, both because of changing weather conditions on the lake and lake levels.

3. Wilderness Assessment Studies of the Lake

a. Question raised as to purpose

Will this satisfy this implied need once and for all, or will we continue to be plagued by this type of assessment in the years to come (leaving the possibility of legislation requiring it, but not be just a policy)?

b. Other areas not considered

Why are Ozette Lake and the Ozette area the only wilderness studies being considered? Have all other non-wilderness areas of ONP received this assessment?

c. How is an area eligible when permanent structures are in place

How can an area be considered wilderness compatible when there are permanent structures and residents in place? This alone should be a disqualifier, and if not, how will the needs of the landowners be addressed. Remember, the 1976 legislation makes the landowners a resource that ONP is responsible for, and I have yet to see any legislation that prioritizes wilderness values over any other resource protection needs.

d. Application of 1988 Act's administrative section

Will the intent of the administrative section of the 1988 legislation be applied to any intended wilderness designations?

(3) Congress does not intend that wilderness areas designated under this Act lead to the creation of protective perimeters or buffer zones around such wilderness areas. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

How will the Park manage and take care of landowner's needs if the wilderness designation comes up to the doorstep of the landowner?

6. Intertidal Reserves

I completely disagree with the establishments of the intertidal No-Take zones/reserves. It has never been the intent of the National Park Service legislation to implement something like this along the Olympic Coastline. The National Marine Sanctuary has implemented a similar concept elsewhere in the US; however, their boundaries are secondary to the National Park Service along the Olympic Coastline. The 1988 and 1986 legislation for this coastline was quite specific regarding fishing and shellfishing. It is my understanding the NPS believes the word "Conformity" means the NPS only has to consult with the State of Washington on what the NPS plans to do regarding fishing and shellfishing along the NPS section of the coast. I understand the NPS does not believe the State has say in the management of this intertidal area nor does the NPS believe the regulations/policies of the State applies in this same coast region.

I disagree, the State still does have a say in the management of this region in question, the deed to these intertidal areas did not relinquish a management right of the State. Also, the definition of the word "Conformity" does not mean to just consult with. It means the regulations and policies will parallel that which the State sets in adjacent waters (and not that which the State set in Puget Sound). I have reviewed the testimony and Congressional Records for both these laws and it is clear the intent of Congress was to insure the full use and enjoyment of this particular Park resource. The testimony given at the 1986 hearings identified this particular boundary protection issue, it wasn't a part of the original text. There was expression by a select group that testified at the Senate Hearing the State was incapable of protecting the value of the area. Congress clearly responded by establishing the need for the Park to have a *roll* in coastal intertidal zones; however they made it clear that enjoyment and use of this area would not be hindered by such Park management policies as No-Take zones. They put the term "Conformity" in the text for a reason and I know they did not mean for the definition to read "Consult with the State Only". The NPS has in its legislative authority, the power to protect through closures; however, the NPS has to show direct cause and not incidental possibilities that a

threat may be encountered at some future point in time. An impact to the resource has to be quantified. No-Take zones are a misuse of the intended resource protection legislation.

Indian Reservations: *Provided*, That such lands as are identified in this paragraph shall continue to be open to fishing and to the taking of shellfish in conformity with the laws and regulations of the State of Washington; and

5. Lake Ozette Landowners Issues

In general, the plan does not address the private landowners within the Park boundaries and their needs, as a resource (at least in the case of the Ozette region). The following is a capture of the significant issues and needs; however, this is constantly changing (added to).

a. Flooding and affects of policies

Legislation is required to address the flooding problems of private property within the park. Policies and Wilderness Act minimum tool issues preclude the Park from addressing the loss of property and use by almost all landowners around the lake. Flood control could be as simple as removing the center sections of the logs that restrict the flow of water in the Ozette River. This would allow for the logjam qualities of the fishery while still allowing for the river to properly flow and prevent the flooding conditions for usually six months out of the year. The logs are so large in size they prevent the river from flowing and the river is forced to flow out and around the ends of the logs. This cutting into the bank cause other trees to erode and fall compounding the restrictive flow problem. It also causes sedimentation issues, which could very well be a contributing part of the change in the delta at the mouth of the river.

b. Ingress and Egress

Access on the lake is becoming a significant issue because of high lake levels that close the Ozette River landing during the winter, all but closes Rayonier Landing, and the debris and lack of maintenance at Swan Bay makes for difficult launch in the winter and summer (to shallow for launching).

c. Single Family Residence Home Construction

There is not a plan in place on how the lake landowner achieves the necessary certificates and approval for construction of a single-family residence as assured by the 1976 legislation. To not have a plan or process in place cause a significant delay and a very subjective result as to whether the intent of the legislation could every be met. This is considered to be a Take and in direct conflict with the term of Willing Seller. The

processes the NPS has in place for solutions to its own building construction need to be afforded as an option to the resident.

d. Heritage and History Protection

Consultation with the community does not exist regarding the history and heritage of the lake. Projects are instituted without any involvement other than a weak public comment process. Discrimination exists because Tribal issues are consulted on, but not for Non-Tribal. Of all the homesteads around the Ozette, Roose is the only one ever treated in a dignified manner; the rest were left to rot and for the wilderness to encroach upon. A travesty.

The remaining heritage sites at present are not addressed in the Plan, in particular the lilies at Garden Island.

e. Communication

i. Personal/outside world

The Plan needs to address establishing telephonic communication for the residents of the lake. Cellular phone service is unreliable and very expensive. The current situation will get worse in the near term when the FCC does not require cellular companies to provide analog service. The NPS has in its means the methods to establish cellular sites and needs to actively solicit cellular carriers on behalf of the residents as their representative government. If cellular service is not the answer, other telephonic methods need to be pursued actively by the NPS on behalf of the residents. Such technologies as Internet service need to be provided/pursued also.

ii. Community/NPS interaction

Emergency communication needs to be established in the plan. The NPS does not maintain patrols of the lake during the harshest of winter months. Without an emergency communication capability the residents are forced to "survive" on their own. Cellular service is the only somewhat option available to the resident and this is soon to change with the FCC rules going into affect.

6. Cemeteries, lake campsites, and trails

a. Norwegian Memorial

Promote or maintain the Norwegian Memorial monument. Provide access to all spectrums of visitors (including the elderly).

b. Privies for Tivoli and Garden Islands

Privies are very much needed on Tivoli and Garden Islands, where established campsites are present.

c. Allens Bay Trail

Referred to as the Norwegian Memorial Trail, not maintained for 26 years, needs to be brought back into specification for use. This wilderness area trail has the ability to provide a wilderness setting for the hiker, access a significant heritage site, and has the potential to take the pressure off other areas of this coastline that are over-visited. I advocate that all necessary actions be listed in the Plan to provide for the Park or a volunteer function (standing by and waiting) to rehabilitate this trail back into a usable condition.

d. Erikson Bay/South SandPoint Trail

Provide a trail connection to the Erikson Bay Campground. The outer bar is filling in to where it is very difficult for boats to access this trailhead, and the area is causing a conflict due to limited moorage that is being driven by the shallow water. Access by the Ranger Patrol boat is difficult now too. To provide a connection trail to the campground would serve many of these issues. This is an additional need since the release of the Development Concept Plan that identified this need.

e. Ranger Station to Erikson Bay Trail

Thought of and planned for but never implemented. The reality of such a trail is also significant for the purpose of emergency escape if something should happen on the lake. The lower region of the lake is mostly hike-able along the shoreline "deer trails", however this is not the case once reaching the upper section. Currently, the only resolve is for the person to hike out to the coast on a trail, hike up the coast and then back in.

f. Development Concept Plan

Many good ideas were put to plan in the Development Concept Plan, however this plan does not reference the DCP and implements very few of the ideas. We spent good money to create the DCP and the recommendations of that plan are still current today; the need is still there.

g. Cemeteries

The cemeteries surrounding the lake need to be located and marked for future generations and family recognition. The plan needs to specify a process to implement such a project.

Thank you

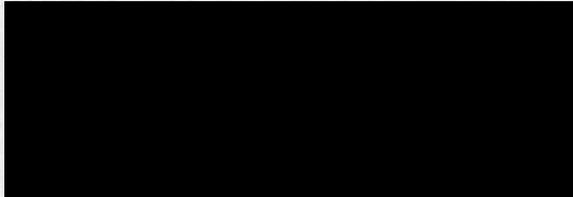
2 Attachments

To Whom It May Concern

September 16, 2006

I understand that Olympic National Park in completing a new General Management Plan is considering the closure of Rayonier Landing at Lake Ozette. It is also my understanding one of the reasons for justifying the closure is the Superintendent believes it was not afforded public access prior to the 1976 Federal law that expanded the ONP boundaries and gave the National Park Service jurisdiction over the area that includes the landing. I would like to take this opportunity to state for the record the general public was afforded the permission for access and use of Rayonier Landing for many years prior to the 1976 law. The service to the public at Rayonier Landing was very similar to a free Rayonier campground open today for the public's use: Tumbling Rapids, 11 miles northeast of Forks WA off Highway 101.

Rayonier did own and maintain the site for public use before 1976. Picnic tables and garbage cans were provided as well as the boat launch. One of my responsibilities as a Rayonier employee was site clean-up. This work detail included removing the garbage cans from the site and dumping the waste material in the county dump and returning the cans. Site clean-up was a weekly assignment. With many of the old-time Rayonier employees who worked the Lake Ozette area it was just called *the park*, and they will also verify that Rayonier allowed public use and access. I hope this clarifies that what goes by the name of Rayonier Landing, lying along the north shore of Lake Ozette and off the Hoko-Ozette Road, has a long history of being a public access point for the lake to launch boats and a place for the public to picnic and camp.



Port Angeles, WA

Attachment 1

To Whom It May Concern

September 15, 2006

It has come to my attention that Olympic National Park in the development of its General Management Plan is suggesting the closure of what is commonly referred to as Rayonier Landing on the north east shoreline of Lake Ozette. It is my understanding this landing is in question as to whether it was afforded public access prior to the 1976 Federal law that changed the jurisdictional responsibility from the State of Washington to the National Park Service. I would like to take this opportunity to state for the record that yes-in-fact, the general public was afforded the permission for access and use of Rayonier Landing for a very long time prior to the 1976 law. I can say this as a longstanding employee of the Rayonier Corporation that was the owner of this parcel of land prior to 1976 and a significant landowner in the Ozette basin. Thank you.



Map provided by Clallam County DCD

Rayonier Landing
Lake Ozette Washington
T31N R15W Section 32

Attachment 2