

# 5 Guiding Policy and Climate Change Adaptation

The overarching policy framework under which Gateway operates provides critical guidance in understanding both the need and options for a climate change adaptation strategy for the Park. Four main documents direct Gateway NRA's management and each offers insight on how the park can or should approach the challenges posed by climate change:

- The Organic Act of 1916
- Public Law 92-592 of 1972 (the Enabling Legislation)
- National Park Service Management Policies 2006
- Secretary of the Interior Amendment 1 to Secretarial Order 3326, January 16, 2009

## 1. The Organic Act of 1916

The National Park Service Organic Act established the National Park Service (NPS) in 1916. This law outlines the mission of the organization, describing the principal purpose of the service:

*...to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.*

While the NPS' purpose is to protect the United States' vast natural and historical resources, the organization also serves US citizens, ensuring people are able to enjoy these resources, unimpaired for future generations.

While this goal may seem straightforward, the Organic Act does not include specific directions on how to carry out the legislation's intent, giving the NPS

and individual units some discretion in achieving these goals (Doremus, 1999). Moreover, since the legislation dates to 1916, it offers no direct guidance on how to respond to climate change. While the principles outlined in the Organic Act must be a core influence in Gateway's adaptation strategy, it is unclear how the NPS should interpret and apply these principles to climate change.

What is evident is that changing climate conditions may complicate the NPS' core mission established in the Organic Act. For example, conserving dynamic resources, such as ecosystems, in an unimpaired state is increasingly difficult as the environment around these resources changes. The NPS needs to consider how climate change will affect its mission

## 2. Public Law 92-592 of 1972; Gateway's Enabling Legislation

Congress established Gateway NRA through Public Law 92-592, the Enabling Legislation (1972). Congress sought to "preserve and protect for the use and enjoyment of present and future generations an area possessing outstanding natural and recreational features."

The Enabling Legislation establishes the park territory, including the three main operational units at Jamaica Bay, Sandy Hook and Staten Island. Since Gateway is a coastal park, the legislation also includes Hoffman and Swinburne islands and "all submerged lands, islands, and waters within one-fourth of a mile of the mean low water line of any waterfront area" within the park's boundaries (Public Law 92-592, 1972). This provision is relevant when considering climate change since sea level rise may change park boundaries.

While the Enabling Legislation does not address climate change directly, its mandates require the park to protect resources that are directly threatened by climate change impacts. For instance, Section 3a notes:

*The Secretary shall administer and protect the islands and waters within the Jamaica Bay Unit with the primary aim of conserving the natural resources, fish and wildlife located therein and shall permit no development or use of this area which is incompatible with this purpose (Public Law 92-592, 1972).*

The express language to protect the islands presents a significant challenge under sea level rise and subsidence in Jamaica Bay. Climate change may also endanger cultural and historic resources. Section 3g requires the Secretary to:

*...inventory and evaluate" sites having "historical, cultural, or architectural significance" and ... provide for appropriate programs for the preservation, restoration, interpretation, and utilization of them (Public Law 92-592, 1972).*

The NPS is clearly required to preserve or restore such buildings or sites, a task made more difficult by increased storm events or sea level rise. Climate change impacts present new challenges to achieving these goals; challenges without precedence in the NPS' long history.

### **3. National Park Service Management Policies 2006**

The National Park Service's Management Policies 2006 governs NPS operations and provides the broad direction for developing and adopting new procedures. Management Policies 2006 does not provide direction for addressing and adapting to climate change; however, it does provide support for initiatives related to climate change measurement, adaptation planning, and adaptation.

Section 2.1.2, "Scientific, Technical and Scholarly Analysis," requires management plans be based upon "the best available scientific and technical information and scholarly analysis to identify appropriate management actions for protection and use of park resources" (Management Policies, 2006, p 22). New findings in climate change science have implications for the park's ecosystems. In order to fulfill this provision, climate change science must be considered in park operations.

Section 4.7.2, "Weather and Climate" explicitly refers to climate change. This section acknowledges the climate's dynamic and changing nature:

*Although national parks are intended to be naturally evolving places that conserve our natural and cultural heritage for generations to come, accelerated climate change may significantly alter park ecosystems. Thus, parks containing significant natural resources will gather and maintain baseline climatological data for reference.*

This section acknowledges the evolving nature of parks and park ecosystems, providing for the possibility that some aspects of a National Park might not be strictly "preserved." This acknowledgement could have wide-reaching implications in interpreting the original NPS mandate.

The Management Policies 2006 also includes a provision that the NPS use its natural resources and facilities to educate visitors about global climate change. This is an important task, both in the global fight against climate change and in the context of Gateway. For Gateway to incorporate climate change adaptation into its new GMP, the public must understand and accept this choice. Education about climate change will assist Gateway in justifying and explaining investment and management decisions related to its new adaptation plan.

#### 4. Department of Interior Secretarial Order on Climate Change, 2009

On January 16, 2009, Secretary of the Interior Dirk Kempthorn signed Secretarial Order no. 3326A1, “Climate Change and the Department of the Interior.” Amendment 1 to the Secretarial Order provides the most important and relevant instruction on addressing climate change adaptation and mitigation for the entire NPS. This order provides guidance to each bureau and division within the Department of the Interior on “how to provide leadership by developing timely responses to emerging climate change issues” (Sec O #3326A1, 2009).

In cooperation with other federal agencies, local governments, private landowners, and Tribes, DOI agencies should “develop adaptation strategies for managing natural and cultural resources affected by such changes” (Sec O #3326A1, 2009). More specifically, Sections 2 and 4 provide

direction to bureaus and offices within DOI to undertake 14 measures related to ecosystems and climate change (see Box 11. Secretarial Order no. 3326A1).

The order is directive in nature; although produced by the outgoing Secretary of the Interior, it is authoritative for bureaus within the Department, and provides legal guidance for taking appropriate action to identify and plan adaptive responses to climate change. While deadlines are not provided, the language is clear that these efforts should commence immediately.

The new office within DOI overseeing climate change adaptation and mitigation issues may assist Gateway in with budgetary, legal issues, and coordination with other agencies already undertaking climate change work. Most importantly, the order clearly mandates that all National Park Service units begin to address climate change and adaptation in their management strategies. As Gateway forms its new General Management Plan, this order can provide direction.

### Box 11. Secretarial Order no. 3326A1 (Adapted) Climate Change and the Department of the Interior

1. Identify changes in (the Park’s) landscape which may result from climate change.
2. Develop adaptation strategies for managing natural and cultural resources affected by such changes.
3. Provide geologic and terrestrial carbon sequestration alternatives. Section 4 states that these measures should be undertaken by Gateway in “a manner consistent and compatible with (its) respective missions.”
4. Consider and analyze potential climate change impacts when undertaking long-range planning exercises.
5. Consider and analyze potential climate change impacts when setting priorities for scientific research.
6. Consider and analyze potential climate change impacts when making major decisions affecting DOI resources.
7. Review all existing programs, facilities, boundaries, policies, and authorities (in Gateway NRA) to identify potential impacts of climate change on its areas of responsibility and to recommend a set of response actions.
8. Identify to the Assistant Secretary - Policy, Management and Budget through the annual budget process all issue areas where action is needed to make budget adjustments necessary to carry out the actions identified in #7 above (Section 4C in the Order).
9. Identify for the Solicitor’s office all issue areas where legal analysis is needed to make the adjustments necessary to carry out the actions identified in #7 (Section 4C in the Order).
10. Ensure that any policy review or guidance with a major focus on climate change, is coordinated with the Climate Change Coordinator within the Office of Environmental Policy and Compliance (OEPC).
11. Partner, consistent with existing policies, authorities and programs, with state, local, and private bodies and individuals in support of projects and activities that contribute to the conservation of species, natural communities, and lands and waters placed at risk by changing climate conditions.
12. Provide incentives for activities to encourage GHG emissions sequestration, including carbon dioxide.
13. Work with USGS on DOI’s Climate Effects Network to integrate science, monitoring, and modeling information.
14. Work with USGS on the National Climate Change and Wildlife Science Center to develop effective resource management adaptation strategies related to climate change impacts on fish and wildlife.

