

Superintendent Forsyth
National Park Service
Big Cypress National Preserve
33100 Tamiami Trail East
Ochopee, Florida 34141

Dear Superintendent Forsyth:

I want to thank you and your staff for all the work necessary to manage what is arguably one of the most ecologically important sites in the National Park System. I recognize the difficulty involved in your position and have always believed it is one of the most challenging superintendencies in the service. I have no desire to add to your existing burden and I have refrained from commenting on any Big Cypress National Preserve (BICY) planning efforts, since 2003, unless ordered to give a deposition by a court. At this juncture, however, I believe it is necessary to share my experience regarding natural resource & park visitor management for the greater good and the future of Big Cypress National Preserve. I wish you and all of your staff the best in your pursuit of allowing visitation in such a manner as will leave these resources unimpaired for future generations. I have both general and specific comments on the draft back-country access plan.

General comments:

Big Cypress National Preserve (BICY) is a very unique and special element of our national heritage. It is one of the natural and cultural sites that define us as an American people. No place ties us directly to the primordial earth more than BICY. In this location, the "First People," are still extant and inhabit the land and water with reverence and perseverance. The members of the two tribes resident in BICY, tenaciously hold fast to their ancestral lands despite great difficulties caused by the harsh realities of life there and the political insensitivity of the past centuries. It is only appropriate that every plan about the Big Cypress National Preserve includes the customary uses accorded to the two tribes living in this environment. Attempting to make significant changes to the uses of the lands and waters of BICY without consultation and inclusion of tribal member concerns is inappropriate and a violation of The National Environmental Policy Act (NEPA) process and procedures.

After reviewing the proposed backcountry access plan, it appears that it is based upon a complete misunderstanding and misstatement of what the 2000 ORV plan outlines and calls for as implementation. The existing plan already calls for implementation of a secondary trail system after the original up to 400 mile main trail system is completed. That work was well under way when it was derailed and defunded by the NPS under the influence of the extremely small but very vocal ORV users community in BICY. The characterization of the present ORV plan as leading to no action is disingenuous at best. While continuing to use the plan could be called the no-action alternative under National Environmental Policy Act (NEPA), it is completely inaccurate to state the 2000 ORV plan is calling for no action to take place as described in the proposed plan.

Under the existing plan the NPS is supposed to be outlining and constructing all of the up to 400 mile trail system before turning to the secondary system. The secondary trail system is only supposed to provide access to specific existing sites and not to sites that may be planned in the future. Based upon the precautionary principle and adaptive management, the plan already allows many of the potential improvements you are seeking. However, the caveat is that the adaptations and changes must be based firmly upon scientific evidence of the need for change and their lack of resource impairment. Simply because less than one percent of visitors desire a change it does not constitute a scientific nor reasonable premise to invest massive amounts of tax-payer dollars in such an economically fraught era. This mischaracterization of the existing or no-action alternative is a process error that should be addressed. The agency cannot simply refuse to take the actions called for in the 2000 plan and then say that the plan does not call for any actions. Simply not implementing what the plan calls for does not mean it calls for no action. Describing the actual events resulting from selection of the no-action alternative is a critical element of transparency called for in the spirit and the letter of NEPA.

The fact that the proposed backcountry management plan will replace and invalidate the 2000 ORV plan is a significant change that will impact all of the other aspects of park management and cannot be appropriately reviewed in isolation from the other elements being ignored by the process. Segmenting the rights and uses of the Tribes, and the Wilderness suitability recommendations from the attempts to enhance recreational uses for largely Off Road Vehicle (ORV)

users is a mistake in process and in substance. These important aspects of BICY cannot be separated and dealt with individually any more than you can separate the sheet flow of water across the preserve from the teeming life that exists there.

The superficial addition of certain changes to trail use for non-motorized trails does not stand scrutiny and those enhancements could easily be accommodated in a simple environmental assessment without being added to shield the true purpose of the plan.

I was formerly the NPS representative on the Florida Panther Interagency task force. Big Cypress National Preserve (BICY) is the habitat and nursery for the majority of the extant Florida Panthers, the most endangered animal in North America and numerous other species that are rare, endangered, or otherwise critical to the environment. It is not clear how you can reach a finding on the impact to the Florida Panther when the subject actions being examined are not clear or purposefully outlined. The vague future recommendations are not sufficient evidence to meet your obligations under the Endangered Species Act (ESA).

The essential role that the preserve plays in providing the sheet flow for the Everglades and other areas is never really fully appreciated. The changes and additional trails proposed without the necessary specificity to evaluate them properly is likely to resume the major impact to the flow of water across the preserve. I have included some photographs of the pre 2000 ORV plan impacts taken directly from that plan. It is extremely unfortunate that the National Park Service (NPS) has spent the last 20 years attempting to undermine the protections set by the 2000 Off Road Vehicle Plan forcing the courts to determine what should be agency policy.

The Wilderness proposal is listed as a foundational document for this proposal. The minimization of the wilderness proposal by the previous Director was a travesty and the original proposal was one of the best ever compiled by the NPS having answered every question and criticism launched by the Southeast Regional Office and the Washington Office of the NPS. This is important to your proposal because the unwarranted disposal of eligible Wilderness allows the NPS to carve up some of the most important wilderness in the system into

recreational areas for off road vehicle use in defiance of the Executive Order by President Nixon on management of ORVs on public lands. It is sad because the areas now being proposed for sacrifice by the agency actions include areas that are pristine exactly because they are so remote that they could not be impaired previously by either ORV or airboat usage. It appears now that the NPS intends to create access to those same areas. So, in effect, what God and Mother Nature would not allow to be impaired by recreational pursuits, the NPS will spend taxpayer dollars to inflict upon the most primordial wilderness areas in the United States.

Please include these examples of the impacts created by ORV use before the 2000 ORV Management Plan was put in place. Without further specific plans for new trails with exact and specific locations and analysis supported by scientific data collection, it is impossible to perform any valid analysis of the impacts that will occur from those proposed trails and enhancements.

Photographs below from the 200 ORV Management Plan/Environmental Impact Study.

January 2000



January 2000



January 2000



January 2000



ORV USE AREAS: Examples of Rutting Caused by ORV Traffic in Airplane Prairie



Specific Comments:

Alternative 1, the no action plan describes an alternative where no action would take place at all. That would not constitute no action. No action would be the continuance of the of the 2000 ORV plan that has been in place for (twenty 20) years. That ORV plan calls for the designation of up to 400 miles of primary trails and a substantial number of secondary trails. The process of creating those trails was under process in 2001, 2002 ,and 2003. The no action alternative should not stop all action but continue the plan to complete the 400 miles of primary trails and establish the rationale and location of specific sites that the secondary trails reach. That plan was always meant to be an adaptive management plan in accordance with the precautionary principle. As indicated and reaffirmed by the court in the Bear Island court case, any changes to the plan are required to be based upon new scientifically defensible information. As such Alternative 1 as described by the Proposed Backcountry Plan is not accurate. This is a serious process error. The existing condition including all of the actions that can and should take place under the existing condition can be a no action alternative as defined in the terms defined by the ruling Council on Environmental Quality (CEQ) rules cited. However, it needs to be described accurately.

Alternative 2 also appears to be in line with the parameters of the existing ORV plan that has guided management for twenty (20) years in the preserve properly known as BICY. However, the critical nexus between expansion of trails was always the specific designation of the new sites such as campgrounds. First the sites are selected for their compliance with the non-impairment standard required by National park Service (NPS) projects. Secondly, studies demonstrate why and how these new sites will be implemented and maintained. Third the NPS is required to demonstrate how they will pay for the maintenance of these newly constructed facilities for the next 20 to 50 years according to NPS present policies on construction. The changes to the FNST are a new item.

Alternative 3 does not really constitute a new alternative. With the exception of the FNST changes the alternative could easily be the true no action alternative.

Alternative 4 is a new alternative that adds additional burden to the environment and the operation of the preserve, Difficult to reach backcountry campsites are

extraordinarily expensive and require huge amounts of personnel time to reach them and provide maintenance. This alternative is a tragically terrible idea and will result in impairment of the resources.

Alternative 5 does not articulate what new scientific evidence was used to determine that the adaptive management element of the ORV Plan was being triggered to amend the plan in such a dramatic manner. It appears to be an attempt to return to the original pre-2000 lack of management of the off-road vehicle use in BICY. The photographs in the general comments section taken from the 200 ORV plan at BICY is a logical outcome of this blatant abandonment of the NPS management requirements.

In summary, the proposed plan and environmental impact study do not meet the most basic requirements of the NEPA regulations. In addition, the NEPA regulations have been altered and this plan is being reviewed under the former regulations. Since we are now a matter of days from the new administration taking office, and we are likely to see a substantial change in the presently existing regulations, it may be a fatal flaw to complete this process based upon what may be not only revoked regulations but twice revoked in the very near future.

Summary

The proposed backcountry access plan is the exact opposite of the prescription needed to accomplish your mission. Under the Organic Act of 1916 and under the enabling legislation for the preserve (BICY) and for the Addition Lands. Trust me that I understand the crucible of political pressure you function within. It will be up to you to lead from the front. You stand upon the shoulders of your predecessors, most of whom have sacrificed greatly to protect those unique resources now under your stewardship. I trust you will find a way to stay true to the Organic act and to your own enabling legislation that characterizes ORV use not as mandated, not even as allowed, but only as “not prohibited”.

It is tragic that for so many decades the National Park Service has spent most of its time and appropriations trying to accommodate the tiny number of visitors who enjoy being ORV users. It was only after the 2000 ORV plan that the agency finally recognized the need so the 99% of visitors who do not wish to use

motorized vehicles in the sensitive and important lands and waters of BICY. The NPS responsibilities under the ESA, NEPA, the Organic Act, and the enabling legislation for the preserve all indicate that this subject plan needs much greater analysis and review. I recommend the delay of any decision and the complete and thorough review of all of the actions planned herein. The NPS has spent decades not managing ORVs properly by any standard and only two decades attempting half-hearted management of this recreational use that the enabling legislation calls **“not prohibited”**. This is an excellent time to finally focus NPS management at BICY on protecting the resources and not destroying the very eligible wilderness that this plan will impair.

Thank you very much for the opportunity to comment on this plan.

Sincerely,

John J. Donahue