

Shutting the Public Out of Decisions on Cell Towers in National Parks

What NPS Was Supposed To Do

Here's what Congress said in the Conference Report on FY97 Interior Department Appropriations (HR 3610):

"... [T]he National Park Service... should promulgate rules which ensure that the public has the opportunity to participate fully and comment on the issuing of permits, rights-of-way or easements for any telecommunications facility placed in any unit of the ... National Park System..."

The National Park Service complied with the wishes of Congress by drafting Director's Order 53A and a set of procedures to ensure public involvement, as follows:

July 23, 1997: NPS publishes in the Federal Register a policy statement concerning access to NPS property for the siting of mobile services antennas. It reprints the words of the House Commerce Committee about where they do not want towers to be placed (including Yellowstone), and also reprints the language from the Conference Report about the necessity of public involvement.

December 1, 1997: NPS Director's Order 53A becomes effective. It requires a Federal Register notice whenever an application for a wireless facility is received. (Repealed in April 2000.)

August 1998: NPS 53 becomes effective.

July 1999: RM53 replaces NPS 53. It requires a Federal Register notice (plus newspaper notification) whenever an EA is prepared about a proposed wireless facility. It remains in effect today.

If these NPS procedures had been followed, who knows how many towers might have been rejected.

What NPS Actually Did

A search through the Federal Register index for each of the last seven years (1997-2003) looking for notices pertaining to new cell tower proposals on NPS land yielded the following:

Since 1997, only 6 notices have alerted the public to the receipt of an initial application, and only 4 notices have alerted the public to the availability of documents (Environmental Assessments [EA], Findings Of No Significant Impact [FONSI], etc.) pertaining to new tower proposals. The breakdown is as follows:

Notice of initial application:

- * Grand Teton NP (1 notice);
- * George Washington Memorial Parkway (2 notices for 2 proposals);
- * Rock Creek Park (1 notice for 2 proposals);
- * Grand Canyon NP (2 notices, but one was for a facility operating on an existing tower); and

* Golden Gate National Recreation Area (2 applications, but one to modify an existing agreement for a wireless facility);

Lake Mead National Recreation Area notified the public of the receipt of two co-location proposals, stating that they believed such applications were "categorically excluded from the requirements of NEPA."

Notice that an EA or FONSI was available for public review:

* George Washington Memorial Parkway (2 notices—one for an EA and one for a FONSI and Notice of Decision—for the same proposal);

* Rock Creek Park; and

* Redwood NP;

In addition, the Cape Hatteras National Seashore published a Federal Register notice pertaining to a right-of-way permit for an "antenna array incorporated into an existing elevated water tank..."

Park Service officials at George Washington Memorial Parkway are the only ones who seem to have complied with the law at every stage for the Great Falls Park proposal, and even held two public meetings on that proposal.