

Mr. Bill Laitner
Superintendent
Olympic National Park
600 East Park Avenue
Port Angeles, WA 98362

February 12, 2004

Dear Superintendent Laitner:

Public Employees For Environmental Responsibility (PEER) opposes any National Park Service (NPS) effort to place two structures (trailside shelters) in the wilderness of Olympic National Park until the Environmental Assessment (EA) addresses the statutory requirements of the Wilderness Act. The EA fails to do so.

The Wilderness Act is the fundamental statute that governs how the NPS administers the designated wilderness of Olympic National Park. Section 4(c) of the Wilderness Act categorically prohibits "structures" in wilderness. The only exception is "...as necessary to meet the minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergencies involving the health and safety of persons within the area)."

PEER recognizes that the language of the law provides for the NPS to make the "minimum requirements" determination that would allow the NPS to install the structures. However, in the EA, the NPS fails to make a credible finding that the structures are the necessary minimum requirement. Rather, the EA focuses on whether helicopter deliveries of the structures (but not the equally prohibited structures themselves) are necessary to meet the "minimum requirements."

The NPS cannot rely on a theory that the National Historic Preservation Act (NHPA) of 1965 repeals or amends the prohibition of the Wilderness Act on structures. First, it is a cardinal rule of statutory interpretation that there exists no repeal by implication. Second, the NHPA requires only that the NPS determine the effect of its actions on historic properties. The NHPA does not mandate the preservation of any specific property. Third, and most compelling, the structures that the NPS has newly built and proposes to install in wilderness are not historic.

The two pre-fabricated structures are not on the National Register of Historic Properties nor are they eligible for listing on that Register. They are brand new. They cannot even be considered as replicas since they differ from the historic structures in significant ways. PEER recognizes that the NPS has an Organic Act obligation to conserve "historic objects" in the parks. But, the new shelters are not "historic objects." In fact, the structures are not even presently within the park.

From the description contained within the EA, it appears that the NPS built these structures off-site before even beginning the scoping for this EA. If this is accurate, then

the NPS is now engaged in the classic example of a foregone conclusion, and commitment of resources (a reported \$160,000) that the regulations implementing the National Environmental Policy Act forbid.

PEER is concerned that the pattern we have observed in other national parks in which the NPS is actively violating its statutory obligations to preserve the wild character of its designated wilderness lands is developing at Olympic. If you feel that we have mischaracterized the Olympic National Park's compliance with the Wilderness Act, please let me know.

Sincerely,

Jeff Ruch
Executive Director