

AN ASSESSMENT OF RESEARCH NEEDS
TO DEVELOP LEGAL BASES FOR CHALLENGING
EXTERNAL THREATS TO GLACIER NATIONAL PARK

Robert B. Keiter
College of Law
University of Wyoming
Laramie

and

Wayne A. Hubert
Department of Zoology and Physiology
University of Wyoming
Laramie

Objectives

The research objectives are threefold. First, the research will identify specific external threats faced by Glacier National Park (GNP) and prioritize the threats in terms of the potential impact they pose to the GNP environment. Second, the study will identify and explain federal and state environmental laws which apply or might apply to regulate identified high priority external threats and ameliorate the impact of such threats on the park. Third, the study will identify and assess available scientific information and research data which is relevant to the legal standards established by the statutes. This should enable GNP officials to assess their legal position regarding identified external threats, and it should assist them in planning additional research to document existing potential violations and to determine whether other violations have occurred as a result of activity external to the park.

Methods

The first objective has been addressed by on site interaction between the principal investigators and the GNP staff. As a result the principal investigators have prepared a list of high, medium and low priority external threats to GNP and reviewed the list with park officials. The principal investigators have further reduced the list of high priority threats to focus on specific environmental harms (e.g. threats to air, water and land resources) for the purpose of explaining and applying the relevant laws to the identified threats.

The second objective is being addressed by a survey of the federal and state statutes and regulations which establish environmental standards and regulate the decisionmaking of governmental agencies and others responsible for land-use decisions external to GNP. This segment of the study will specifically identify and explain the relevant laws and illustrate their application to identified external threats.

The final objective is being addressed in several different manners. A research assistant spent one month at GNP compiling available scientific data and research from GNP files and non-GNP sources related to the high priority external threats to the park. This information has been organized and annotated on the basis of its relationship to the identified external threats. This information will be related to the applicable legal standards as set forth in the relevant statutes, and existing or potential violations will be identified. Furthermore, the study will identify areas where the existing scientific research is insufficient to determine whether violations exist and suggest areas for additional scientific investigation.

Results

The study has identified several high priority external threats to GNP. These include: 1) threats to GNP air quality through acid deposition and airborne toxicants from global sources and point sources near GNP; 2) threats to GNP water quality and fish habitat associated with mineral extraction activity in Canada and logging in the U.S. and Canada; 3) loss of wildlife population and habitat associated with development and management activities on surrounding lands, including increased human recreational use; 4) similar threats arising from oil and gas development on Forest Service, Reservation and Canadian lands bordering the park.

The study has determined that federal statutes and regulations establish relevant standards governing the management of the national forest land surrounding the park (i.e. Wilderness Act, Wild and Scenic Rivers Act, Endangered Species Act). The National Environmental Policy Act and the environmental impact statement process established under it provide GNP officials with an opportunity to participate in federal land management decisions that will have a significant environmental impact on the surrounding environment and, thus, potentially on GNP. The relevance of the Clean Air Act, the Water Pollution and Control Act, international treaties and state law have not yet been assessed.

The study also has assembled and organized the relevant scientific research. There appears to be considerable research completed regarding air quality related to fluoride emissions from the Anaconda plant in Columbia Falls; much less research has been completed regarding acid deposition problems. Research on water quality within the Flathead Basin is substantial; however, there is much less research specifically directed toward GNP water quality. There is little research completed regarding the environmental effect of land use decisions on surrounding federal lands, but there is considerable research available on grizzly bear habitat.

Conclusions

Some legal tools seem to be available to enable GNP officials to participate in decisions affecting the land and environment external to the park, and some legislation establishes high standards for maintenance of the environment

adjacent to the park. It is too soon to determine whether this is adequate to assure the park protection against the identified external threats. Some relevant research has been completed and will enable GNP officials to assess their legal position relative to specific external threats, but a considerable amount of additional research will be necessary before the park can fully determine whether environmental standards have been violated or are threatened with violation.