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Ethnographic issues
Administrative History

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#735

Michael B Edwards
12/12/2004 12:21 PM
MST

To: Cameron Binkley/Atlanta/NPS@NPS
cc: Sandra Hamilton/DENVER/NPS@NPS
Subject: Re: CAHA legislation

Hi Cameron,

Sorry to hear that you haven't had a chance to work on the CAHA admin history, but I definitely understand the need to prioritize. Hopefully, you'll get a chance to work on it in the new year as you mentioned. Our research focused primarily on seeking to define what the words "primitive wilderness" in the enabling legislation mean. They do not mean wilderness as defined in the Wilderness Act since that act came later in time, and thus do not trigger specific legislation for the protection of wilderness. However, we are very much interested in trying to determine what "primitive wilderness" did mean to Congress in 1937. Would it have allowed for hundreds or thousands of ORV's on the beaches, for example? Our research thus far has consisted of reading closely CAHA's enabling legislation, and reading through all Congressional Reports (the reports from the committees) and the Congressional Record (the debates) related to CAHA's enabling legislation. Perhaps the only report of real significance for this purpose is H.R. 7022, which incorporated the Acting Secretary of the Interior's (Oscar L. Chapman) report. It specifically states that "Under the proposal, the area would be preserved as a primitive wilderness, except for certain portions which would be especially adaptable for swimming, boating, sailing, fishing, and other recreational activities of a similar nature." The report mentions four things for which CAHA is particularly suitable, 1) scenic characteristics, 2) haven for bird life, esp. migratory birds, 3) historical values, and 4) water sports, including sea bathing, fishing, sailboating, and offshore boating. The report does not mention hunting, but other reports made clear its allowance.

CAHA also made available to us "A Letter to the People of the Outer Banks," from Director Wirth in 1952, in which the Director seeks to assure the citizens of the Outer Banks that their rights to hunting and commercial and sport fishing will continue. He also describes a boundaries system, and mentions vehicle access to the beach. Perhaps most importantly, the report states that there will be access to the beach for everyone, but it does not describe what such access might entail. However, this report is not the persuasive authority of a Congressional House Report, and was written 15 years after Congress passed CAHA's enabling legislation.

I can fax these reports to you if that would be helpful. Also, we plan on conducting legislative history research on other seashores, hopefully as soon as this week. I will forward any information we discover there as well.

As far as a time frame, any information helping elucidate the meaning of "primitive wilderness" will likely play a significant role in defining management options at CAHA as relates to off-road vehicles. We are in the beginning process of defining those options, so we are anxious to obtain as much information as possible, as soon as possible.

Thanks in advance for your help.

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Cameron Binkley



Cameron Binkley
12/09/2004 12:00 PM
EST

To: Michael B Edwards/DENVER/NPS@NPS
cc:
Subject: Re: CAHA legislation

Greetings, Michael

I apologize for not being able to address the park's concern at this time. The division made a choice for me to concentrate my effort on an administrative history of SEAC, which at the time the decision was made was facing a major A-76 review, so work on CAHA was delayed. (We had also completed several studies for the cluster of parks on the OBX, so there was some balance to this decision.) I expect and hope to be able to apply myself to the question below in the beginning of the new year.

May I ask what your purpose is and what materials you have reviewed? And what is the time frame for answering your particular concern?

Regards,
Cameron

Cameron Binkley
Historian

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Michael B Edwards

Michael B Edwards
12/05/2004 12:27 PM
MST

To: Cameron Binkley/Atlanta/NPS@NPS
cc: Sandra Hamilton/DENVER/NPS@NPS
Subject: Re: CAHA legislation

Hi Cameron,

Steve cc'd me on the below message, and told me at our recent internal scoping meeting that you were working on the admin history for CAHA. Our office just finished a brief review of the CAHA legislative history, and finding little directly on point relating to an interpretation of "primitive wilderness" are moving on to the enabling legislation of other national seashores' enabling legislation, hoping to find something in the same time period with similar language but more helpful legislative history. When you get a moment, I'd love to hear what you've come across in your own research.

Thanks.

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Steve Harrison

Steve Harrison
11/22/2004 02:52 PM
EST

To: Cameron Binkley/Atlanta/NPS@NPS
cc: Michael B Edwards/DENVER/NPS@NPS
Subject: CAHA legislation

Cameron,

How goes the Administrative history for CAHA? It came up last week when we started ORV planning for the park.

Although this planning will take several years, there are questions that continue to come up that we will look to the administrative history for answers or at least guidance. We may have discussed these before but I wanted to send this message while they are again fresh on my mind.

1. The context of the enabling legislation is important. The use of the word "wilderness" is of interest as we discuss congressional intent. There is usually a differentiation between "wilderness" as used in 1937 at CAHA (actually they used "primitive wilderness") and Wilderness as congress used it in the Wilderness Act of 1964. This is critical to the current ORV planning because the Wilderness Act is specific about the use of motors within designated Wilderness.

2. When the legislation was amended in 1940, it added "recreation area" to the name (as far as we know, that has not been changed by subsequent legislation.) The only other things in the 1940 amended was to allow hunting. Again, what was the context, by Congress and within the NPS at that time???? I have assumed that in order to allow hunting (the real purpose of the amendment), Congress had to change the park's name by adding "recreation area." If that is the case, it may have been necessary based on management policies or practices at that time. Over 60 years later, some folks are now trying to use the "recreation area" umbrella to justify what they want to do today.

These are current, real management questions. As I have told you before, this administrative history will not sit on the shelf.

I can tell you from experience that the FORA administrative history was on the table with us several weeks ago as we worked on the FORA GMP.

Keep up the good work. Hope to see you again one of these days, but they seldom unshackle me from my computer and will not excuse my absence from frequent meetings.

Steve Harrison