

March 31, 2024

Superintendent
Attn: Wilderness Stewardship Plan
Everglades National Park
40001 State Road 9336
Homestead, FL 33034

Dear Superintendent,

The following comments on the Wilderness Stewardship Plan StoryMap for Everglades National Park come from Wilderness Watch, a national wilderness conservation organization focused on the protection and proper stewardship of all units of the National Wilderness Preservation System, including of course the Marjory Stoneman Douglas Wilderness.

The impression that the National Park Service (NPS) gives in its StoryMap and the 2022 Wilderness Character Baseline Assessment for the Marjory Stoneman Douglas Wilderness is that the agency is biased against Wilderness and feels it can ignore the 1964 Wilderness Act (16 U.S.C. 1131-1136) when it so chooses. Rather than fight against the requirements of the Wilderness Act, we wish that the NPS would instead embrace the Wilderness Act and fully follow its provisions and its protections.

The NPS bias against Wilderness goes back even before passage of the 1964 Wilderness Act. In 1957, during the first Congressional hearing on the Wilderness Bill, NPS Director Conrad Wirth testified against the Wilderness Bill. "It is our considered opinion, therefore, that this proposed wilderness legislation would add little, if anything, to the protection, as wilderness areas, that the national park system now enjoys." (Hearings on S. 1176, June 19-20, 1957, pp. 109-110.) Though the NPS reluctantly supported passage of the Wilderness Act in the Kennedy and Johnson Administrations (under leadership of Secretary of Interior Stewart Udall), the NPS has often exhibited this same arrogance and hubris toward the Wilderness Act since then.

Part of the NPS bias against Wilderness is evidenced by the agency's support and use of the framework called *Keeping It Wild 2* (KIW2). This framework is fatally flawed. It has never gone through rule-making and public comment, and is not official NPS policy. Though intended for good use by its authors, KIW2 has devolved into a framework by which the wilderness-administering agencies seek to avoid the protections afforded by the 1964 Wilderness Act. It reduces wilderness character to four characteristics, and then sets those characteristics in conflict with each other. The agency can then choose which of those characteristics it wants to damage, and which ones it wants improve. It also adds a fifth catch-all characteristic to include any wilderness-incompatible thing the agency wants to protect, and makes it OK. This allows agencies to damage wilderness character if they can fabricate a justification for those actions if one characteristic might benefit. A specific example from the Everglades is included later in this letter.

A panel of wilderness experts has pointed out the fatal flaws in KIW2, and analyzed how it threatens wilderness in Wilderness. See that paper at:

<https://wildernesswatch.org/images/pdf/2016-Wilderness-Character-KIW2.pdf>.

Our specific comments follow:

1. Remove motorized boats from wilderness waters. Make the Wilderness Waterway and other wilderness waters truly wild by eliminating motorized travel. Motorboats and airboats have no place in Wilderness. Motorboat traffic seems to have significantly increased through the years, and significantly damages the wilderness character of the Marjory Stoneman Douglas Wilderness. If the NPS won't manage the Wilderness Waterway as a nonmotorized waterway, you need to re-name it so as to not continue to deceive the public.

In searching through the Everglades enabling legislation, and the Wilderness designation legislation, we can find no special provisions requiring that the NPS keep wilderness waters open to motorized boat traffic. It therefore seems that the NPS chooses to keep wilderness waters open to motor traffic, even though the submerged land beneath the water column is owned by the federal government. This makes no sense.

In Minnesota's 1.1 million-acre Boundary Waters Canoe Area Wilderness (BWCAW), the State of Minnesota owns the beds of the lakes and rivers, approximately 173,000 of the total 1.1 million acres. After the 1978 BWCAW Act (P.L. 95-495) passed Congress, the State challenged the law on the basis that the federal government was imposing motor prohibitions on wilderness lakes whose beds were owned by the State. The federal courts resolved this part of the litigation by ruling that the federal government has joint jurisdiction along with the State, and Congress can impose motorboat prohibitions even if the State doesn't agree. (See *State of Minnesota v. United States*, 660 F. 2d 1240 (8th Cir., 1981.) In the Marjory Stoneman Douglas Wilderness, the jurisdiction situation seems much clearer, with the federal government owning the submerged lands. Yet the NPS still insists that motorboat traffic continue. This must end, the NPS must treat wilderness waters as Wilderness and end the motorboat use of wilderness waters!

Motorboat use in Wilderness always degrades wilderness character, and motorboat use affects nonmotorized paddlers asymmetrically. Two research papers from the BWCAW document this phenomenon. In the first, the "asymmetric antipathy still exists between motorcraft users and paddling canoeists in the BWCA" with 71% of the paddlers disliking meeting or seeing motorcraft users in the BWCA, while only 8% of the motorcraft users disliked meeting or seeing paddlers. (Adelman, Bonnie J., Thomas A. Heberlein, and Thomas M. Bonnicksen. 1982. Social psychological explanations for the persistence of a conflict between paddling canoeists and motorcraft users in the Boundary Waters Canoe Area. *Leisure Sciences* 5(1): 45-62.)

In the second study, 93% of paddle canoeists had their experiences diminished by encounters with any motorboat parties, where only 10% of the same paddle groups had the same reaction to meeting other paddle parties. "The total amount of motor use is small,

[but] it has a disproportionate impact on the experiences of others.” (Lime, David W. 1975. Sources of congestion and visitor dissatisfaction in the Boundary Waters Canoe Area. In *Proceedings, The Quetico-Superior Foundation 1975 Institute on the Boundary Waters Canoe Area*: 68-82.)

The NPS must really treat the Marjory Stoneman Douglas Wilderness as a Wilderness and ban motorboats from the wilderness waters.

2. Remove structures and installations from the Wilderness. Structures and installations are prohibited in designated Wilderness, and should be removed, including canal plugs, pumping stations, and other structures and installations within the Wilderness. Only retain structures and installations if the NPS can demonstrate they are the absolute minimum necessary for the administration of Wilderness.

The June 2022 Wilderness Character Baseline Assessment, page 19, includes an aerial photo of one such canal plug. Such installations and structures violate the 1964 Wilderness Act. The NPS cannot justify them by saying that such structures may be useful for “scientific inquiries or park communications.” Follow the law and not NPS preferences! Get rid of these structures and installations in designated Wilderness!

3. Remove emphases on “desired conditions.” A wild, untrammelled Wilderness will produce its own natural, wilderness conditions. “Desired conditions” represents the human manipulation of Wilderness, which is prohibited by the Wilderness Act.

The NPS StoryMap for the draft Wilderness Stewardship Plan has a section entitled “Draft Desired Conditions.” This entire section further exposes the NPS bias against designated Wilderness. An untrammelled, wild Wilderness will produce its own natural wilderness conditions, without humans imposing their desired conditions upon the Wilderness.. To impose the will of the NPS upon designated Wilderness violates both the spirit and letter of the Wilderness Act.

The StoryMap then devolves into the fatally-flawed aspects of wilderness character that came out of the fatally-flawed Keeping It Wild 2 (KIW2) framework. One of the many flaws in KIW2 is that it sets different qualities in opposition to each other, and then allows the NPS to choose harmful actions to Wilderness because it tries to justify a benefit to another of the wilderness characteristics. A case in point: on p. 19 of the 2022 Wilderness Character Baseline Assessment, the NPS states that “installations and use of motorized equipment (including airboats and landing of aircraft such as helicopters)” -- even though “[t]he use of these measures [is]generally prohibited by section 4c of the Wilderness Act”-- damage the Undeveloped Quality, but the NPS allows them because they “support scientific inquiries or park communications” and “also provide information that is essential in protecting and enhancing the Natural Quality.”

Throw out the flawed KIW2 framework, follow the 1964 Wilderness Act, and allow the Wilderness to produce its own natural wilderness conditions.

4. Ecological Restoration. Increase efforts to minimize non-native invasive species like the Burmese python in the Marjory Stoneman Douglas Wilderness, and continue to work on restoring natural water flows to and through the Everglades.

Non-native invasive plant and animal species continue to cause problems in the designated Wilderness at the Everglades. Of particular concern is the Burmese Python, which can grow to over 20 feet in length and devour native wildlife. We support efforts to control and minimize these invasive species in the Marjory Stoneman Douglas Wilderness, provided that those efforts are conducted in wilderness-compatible ways.

Natural water flows to and through the Wilderness have been disrupted through the decades. We understand that restoration efforts have been undertaken for many years outside and inside of the Wilderness to return those water flows to their natural conditions. Again, we support those efforts, provided that they can be done in wilderness-compatible ways inside the Marjory Stoneman Douglas Wilderness.

With regard to the use of fire, and given that the StoryMap shows a photo of a man using a drip torch, the NPS should NOT use manager-ignited or “prescribed” fires in the Marjory Stoneman Douglas, since that is a form of manipulation and trammeling that is prohibited by the Wilderness Act. Rather, the NPS should allow natural, lightning-ignited fire to play its ecological role in the Wilderness, without the imposition of manager desires and manipulations.

5. Recreational facilities. It’s not clear from the StoryMap exactly how the NPS plans to manage recreational facilities inside Wilderness. There appears to be a significant numbers of facilities here, without any indication as to whether they are the minimum necessary for the administration of the area as Wilderness, as required by the Wilderness Act. There appears to be a significant amount of signage, for example, as well as picnic tables. Rather than simply grandfather in all such facilities, the NPS must evaluate whether these facilities are indeed the minimum necessary.

We even suggest that the NPS evaluate all of the facilities at the chickees. For example, are roofs really necessary at the chickees for visitors who bring tents on which to pitch on the platforms?

6. Potential Wilderness. It is unclear from the StoryMap exactly what the nonconforming uses are in the Potential Wilderness. In the northwestern park of the park, the StoryMap implies that it is the presence of nonfederal mineral rights that prevents the NPS from converting Potential Wilderness to designated Wilderness. The StoryMap is even less helpful for the Hole-in-the-Donut area. The NPS should specifically identify what the nonconforming uses are in the Potential Wilderness, and what actions the NPS is doing to eliminate those nonconforming uses.

In November 1978 Congress designated the Everglades Wilderness and renamed it the Marjory Stoneman Douglas Wilderness in 1997. The act designated 81,900 acres of the park as “potential wilderness.” Much of the designated potential wilderness lies in the Gulf

Coast District. The law designating wilderness at Everglades provides the Secretary with the legal means to convert potential wilderness to full wilderness.

The House Report 95-1165 (May 15, 1978) for the National Parks and Recreation Act of 1978 that designated the Everglades as wilderness expects such a conversion. The Federal lands in the Gulf Coast District are roadless and untrammled. The surface of the lands in question are owned by the United States but there appears to be a question over ownership of the subsurface or mineral estate. The NPS appears to have made no effort in the past to erase any outstanding putative nonfederal property rights in these tracts. It is time that the NPS did so and then convert these lands to full wilderness by Federal Register notice.

7. Research Projects in Wilderness. The NPS is notorious across the nation for allowing researchers to violate the Wilderness Act and degrade wilderness character in pursuit of their projects. At the Glacier Bay Wilderness in Alaska, for example, the NPS even admits it will allow researchers to violate the Wilderness Act, and that the NPS will give them a “Get Out of Jail” pass for doing so.

Rather than following this reprehensible behavior at the Marjory Stoneman Douglas Wilderness, the NPS should instead allow only research projects in the Wilderness that do NOT violate the Wilderness Act, and reject all research proposals that do so.

8. Tribal Relationships. The Plan’s discussion of “Tribal Relationships” is confusing, misleading, unclear, and may violate current NPS regulations. The Plan speaks of undefined “Indigenous peoples.” Does the Plan mean members of the Seminole or Miccosukee Tribes? Or does the Plan intend to incorporate a broader universe of such peoples? Please define this term.

The NPS, and Everglades is not the first to do so, has crafted a newly-minted and extra-legal doctrine that Indigenous human activities are now part of “wilderness character.” The use and occupancy of the Everglades wilderness by “Indigenous peoples” is NOT part of wilderness character. The Wilderness Act defines wilderness as a place “...where man... is a visitor who does not remain.” There is no statutory exception for any peoples, Indigenous or otherwise. Neither the Wilderness Act, nor its extensive legislative history, makes no provision that pre-European contact peoples who endure to this day, or their activities, are part of “wilderness character.” NPS Management Policies (2006) on Wilderness, Chapter 6, also make no such finding.

This is especially troubling when we leave unspoken whether Indigenous peoples’ means of travel or use, now attuned to twenty-first century America, are also part of “wilderness character.” Airboats? Chainsaws in tree islands? The Plan needs to answer if such uses are proscribed or are now to be protected as part of “wilderness character” when employed by “Indigenous peoples.”

On page 11 of Tribal Relationships, the Plan refers to continued “subsistence gathering.” First, we assume that this subsistence is in relationship to plants and not animals. (The term “gathering” is usually [but not always] associated with vegetation.) But we are not

certain because the Plan does not say so. Any “gathering” of park wildlife is strictly forbidden by NPS regulations at 36 CFR 2.1(a). Neither the laws establishing Everglades National Park, nor its wilderness, provide for take of animals by hunting, trapping, or gathering by any persons or “peoples.” Nor, for that matter, of plants. One need not look far to find a park where Congress in law authorizes “subsistence.” The 1974 law establishing Big Cypress National Preserve just north of Everglades authorized members of the Seminole and Miccosukee Tribes to engage in subsistence in the Preserve. That authorization is ONLY for the two specified Tribes, no other Tribes. Not for “Indigenous peoples.” Nor does that Big Cypress Preserve subsistence authorization extend into Everglades National Park.

The NPS, at Everglades, may propose and adopt regulations that allow members of Tribes to gather plants in the park and its Wilderness, under NPS rules at 36 CFR 2.6. To the best of our knowledge, the NPS has not done so. We suspect from the Plan that the NPS is now allowing subsistence gathering of plants by unspecified “Indigenous peoples” within the park and its wilderness WITHOUT having followed the NPS’ own prescribed procedures at 36 CFR 2.6. This would constitute an open violation of 36 CFR 2.1(a) and 2.6. The mere assertion in a Wilderness Plan that “subsistence” could continue is no substitute for the NPS following duly promulgated regulations that now provide for limited gathering of plant materials. If so, this constitutes arbitrary and capricious conduct by park management, and is otherwise in violation of NPS regulations and laws. The NPS adopts rules for park managers to follow not to dispense with at their whim.

Please keep Wilderness Watch informed of future steps in the development of the Wilderness Stewardship Plan.

Sincerely,

Kevin Proescholdt
Conservation Director