



## Board of Directors

Jon Dettmann  
President  
Minnesota

Louise Lasley  
Vice President  
Wyoming

Gary Macfarlane  
Secretary  
Idaho

Bill Wolf  
Treasurer  
Montana

Stewart Brandborg  
Montana

Joe Fontaine  
California

Jeff Kane  
Oregon

Susan Morgan  
Washington

Bob Oset  
Montana

Howie Wolke  
Montana

## Executive Director

George Nickas

## Advisory Council

Magalen Bryant  
Dr. Derek Craighead  
Dr. M. Rupert Cutler  
Michael Frome  
Dr. Roderick Nash

June 1, 1010

Chas Cartwright  
Superintendent  
Glacier National Park

Sent Via Email:

Dear Chas,

I noticed in the media and online at the Glacier National Park website that the Heavens Peak Lookout is being rebuilt this summer, though the trail to the site isn't. Materials for the reconstruction will be flown in by helicopter. I bring up this topic as a follow-up to our meeting of a few months ago with you, members of your staff, Keith Hammer (Swanview Coalition), Arlene Montgomery (Friends of the Wild Swan), George Nickas (Wilderness Watch) and myself, about wilderness in Glacier National, Park.

The concern is that Park Service Reference Manual 41 requires that recommended wilderness be managed as wilderness. Heavens Peak lookout is not a necessary structure for management of the Glacier National Park recommended wilderness as it is not currently used for that singular purpose. The Wilderness Act is clear that structures are not allowed unless they are "necessary to meet minimum requirements for the administration" of the wilderness as wilderness.

There is case law on this issue as well that deals with historic structures, the same situation with the Heavens Peak lookout. In the court case on the Olympic Park, old shelters were to be reconstructed in the Park. The court ruled:

*The National Historic Preservation Act's (NHPA) effect in the context of the Wilderness Act was addressed in Wilderness Watch and Public Employees for Environmental Responsibility v. Mainella, 375 F.3d 1085 (11th Cir. 2004):*  
*As an initial matter, we cannot agree with the Park Service that the preservation of historical structures furthers the goals of the Wilderness Act. The Park Service's responsibilities for the historic preservation of Plum Orchard and the settlement derive, not from the Wilderness Act, but rather from the National Historic Preservation Act. (NHPA), 16 U.S.C. § 461, et seq. The NHPA requires agencies to "assume responsibility for the preservation of historic properties" they control.*

\*\*\*

*The agency's obligations under the Wilderness Act are quite different. The*

*Wilderness Act defines wilderness as "undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation." 16 U.S.C. § 1131(c) A wilderness area should "generally appear[ ] to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable." Id. Another section of the Act explicitly states that, except as necessary for minimal administrative needs that require occasional vehicle use, "there shall be ... no structure or installation within any such [wilderness] area." 16 U.S.C. § 1133(c). As the Park Service notes, Section 1133(b) mentions "historical use" along with "recreational, scenic, scientific, educational, [and] conservation" uses. However, this list tracks the definition of wilderness areas in § 1131(c), which describes "a primitive and unconfined type of recreation" and "ecological, geological, or other features of scientific, educational, scenic, or historical value." 16 U.S.C. § 1131(c). **Given the consistent evocation of "untrammled" and "natural" areas, the previous pairing of "historical" with "ecological" and "geological" features, and the explicit prohibition on structures, the only reasonable reading of "historical use" in the Wilderness Act refers to natural, rather than man-made features.** 375 F.3d 1085, 1091-92, emphasis added. The Court's reasoning in *Wilderness Watch v. Mainella* is persuasive. While the former structures may have been found to have met the requirements for historic preservation, that conclusion is one that is applied to a man-made shelter in the context of the history of their original construction and use in the Olympic National Park. Once the Olympic Wilderness was designated, a different perspective on the land is required. Regarding the Olympic Wilderness, that perspective means "land retaining its primitive character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions." 16 U.S.C. § 1131(c).*

Heavens Peak lookout is similar to the case in Olympic National Park. Heavens Peak lookout has been damaged by years of winter weather.

The reconstruction (even if it is called maintenance) and the use of helicopters to carry in the materials to this remote site do not meet the Wilderness Act, Park Service Reference Manual 41, and case law dealing with historic structures in national park wilderness. Simply put, neither the reconstruction nor the helicopter use is for a wilderness purpose. If the Heavens Peak lookout were not in recommended wilderness, rather if it were simply managed as backcountry, this would not be an issue. However, the site is clearly within recommended wilderness, there is no current wilderness purpose served by the lookout, and motorized use to transport materials for this reconstruction serves no wilderness purpose.

Because the project is incompatible with NPS policy and directives, and would degrade the area's wilderness character, I'm urging you to forego plans to reconstruct the Heaven's Peak structure. Let nature takes its course.

I look forward to your response on this matter.

Sincerely,

Gary Macfarlane  
Board Member  
Wilderness Watch