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Then and now: Blackfeet subsistence and Glacier National Park

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Then and Now: Blackfeet Subsistence and Glacier National Park

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The exportation of the national park idea around the world has produced, and continues to produce, detrimental consequences for indigenous peoples residing on or near lands desirable for aesthetic reserves. In the late-nineteenth and early-twentieth centuries in America, changing cultural images of native peoples, the economic realities involved with creating and perpetuating the park idea, and scientific notions about humankind’s rightful place in nature created the atmosphere in which the federal government established the first national parks under the premise that native inhabitation and subsistence usage of the park units should be prohibited or strictly regulated.

One of the most long-standing and contentious examples of the interplay between the National Park Service and native communities developed around Glacier National Park and its adjoining reservation inhabited by the Blackfeet Nation. The Blackfeet sold the western portion of their reservation to the federal government, which later included the ceded land in Glacier National Park and subsequently denied the tribe their explicitly-reserved usufruct rights upon the land in question. With the support of federal legal representatives, officials at Glacier set a lasting precedent of native exclusion from the tribe’s former resource base within the park. In the 1970s, the Blackfeet channeled activist impulses into pressuring the Park Service for recognition of rights in Glacier and achieved some policy changes. Nevertheless, the park continued to prohibit subsistence activities that posed a challenge to the underlying goals of the national park ideal.

In addition to clamoring for recognition of expressly-reserved usufruct rights, many Blackfeet in the modern era have interpreted the binding agreement with the federal government to mean that the tribe retained a number of implied rights upon the ceded lands that transcend the specific language contained in the agreement. In recent decades, controversies over the grazing of livestock near the park border and employment and business licensing practices have created further tension between the National Park Service and the Blackfeet. Some policy changes have resulted, but I conclude here that those activities that compromise the objectives of the national park idea still meet with interdiction and regulation, and very likely will in the future.
# Table of Contents

Introduction

Chapter 1-------------Roots of Policy: Culture, Economics, Science

Chapter 2-------------Language and the Law: The Blackfeet, Glacier, and Reserved Subsistence Rights 52

Chapter 3-------------The Modern Era: Livestock and Contested Terrain 94

Chapter 4-------------The Modern Era: Wages and the Service Economy 130

Conclusion 162

Bibliography 168
List of Illustrations

Figure II: Glacier National Park and the Blackfeet Reservation 61

Figure III: Livestock Trespass Areas 123
Introduction

Many Americans consider national parks part of their cultural heritage and include an imagined wilderness in their national identity. As preservationists succeeded in the latter part of the nineteenth century in persuading the government to set aside large tracts of land as national parks, it became apparent that some of the designated areas contained resident populations of indigenous peoples who threatened the desired "pristine" character of the park system. Notions of primordial wilderness did not include human inhabitants and federal officials refused to deal with the contradictions generated by native habitation. Thus, authorities employed whatever means necessary to remove native peoples in order to create ideal, uninhabited landscapes, thereby denying native access to ancestral lands deemed necessary for physical and cultural survival.

Native Americans throughout the United States have had a long and complex history of interacting with the National Park Service. Except in a few instances, the government had removed most tribes onto reservations before creating national parks, so land-ownership disputes have not loomed very large in the dialogue between native tribes and park officials. Nevertheless, tribes have historically argued for the right to continue using parklands for subsistence activities, with varying degrees of success. Some parks, Glacier for example, have been adamant in their refusal to allow native use of park units, arguing that such usage may jeopardize the NPS mandate to "preserve the natural and cultural resources for future generations."

The debate between park officials at Glacier National Park and the Blackfeet Nation represents, perhaps, the most bitter and protracted struggle by a native group for
recognition of subsistence rights on park lands. In a land cession agreement in 1896, the tribe reserved specific subsistence rights that were honored in writing. The dedication of the ceded land as part of a national park fifteen years later set in motion a heated drama that continues largely unabated to this day as park officials have consistently denied the tribe access to their traditional subsistence resources in the Glacier region. Historically, the exercise of certain native subsistence activities in Glacier National Park has posed a serious challenge to the founding principles of the National Park System. In this work, I will focus primarily on the controversy surrounding the exercise of Blackfeet material subsistence activities, whether explicitly listed in the Agreement of 1896 or implied, from the 1970s until the present, which for simplicity's sake I dub "the modern era."

The first full treatment of the historical relationship between the Blackfeet and Glacier National Park appeared not as a major work published by an academic press, but rather as an unpublished M.S. thesis crafted at the University of Montana. In "The Blackfeet Agreement of 1895 and Glacier National Park: A Case History," completed in 1985, Christopher S. Ashby traced the history with special emphasis on the major legal events and their impacts. Not until the mid-to-late 1990s did one find major works on America's park system that discussed Indian issues and interests, and a handful emerged within a few years' span. In The Hunter's Game: Poachers and Conservationists in Twentieth Century America (1997), Louis Warren showed how social conflicts erupted as local commons gave way to state and federal commons. He did not confine his study to national parks, and his chapter on the Blackfeet and Glacier National Park provided just one example of how state and federal hunting laws in different parts of the nation transformed subsistence and market hunting into "poaching," which frequently generated
resistance to game laws. His chapter on the Blackfeet and Glacier focused on wildlife management and hunting, one of four usufruct rights reserved in the Agreement of 1896, in the first half of the twentieth century.

In *American Indians and National Parks* (1998), Robert H. Keller and Michael F. Turek provided a sweeping review of the historical tensions between national park units and neighboring tribal communities. Although the scope and variety of relationships makes generalization difficult, many similarities exist in the conflicts between native communities and the Park Service and the authors showed how earlier disputes set the stage for modern tensions. Their chapter on the Blackfeet and Glacier briefly detailed the major developments regarding the controversy over explicitly-reserved usufruct rights through the 1970s, and also listed a few modern points of contention. In *Dispossessing the Wilderness: Indian Removal and the Making of the National Parks* (1999), Mark David Spence brilliantly exposed the "dark side" of the conservation movement and showed how the federal government removed Indian peoples from three flagship parks—Yellowstone, Glacier, and Yosemite—and later erased the history of their occupancy in order to create uninhabited wilderness. With penetrating insight, Spence profiled the methods by which early park managers eliminated most Indian occupancy and use in three of the "crown jewels" of the national park system. His chapter on the Blackfeet and Glacier described traditional tribal use of the area and closely analyzed Blackfeet resistance to exclusionary policies and how park responses generated an atmosphere of hostility in the region. Spence focused on the events around the turn of the century up through the mid-1930s, and only briefly explored the subsequent history of the relationship.
In *Indian Country, God's Country: Native Americans and the National Parks* (2000), Philip Burnham further highlighted land use conflicts in Glacier, Badlands, Mesa Verde, Grand Canyon, and Death Valley National Parks. Burnham shed great light on the topic by introducing native voices into the debate. By conducting extensive interviews with Indians living near park units, the author breathed life into the subject and provided a counter-point to the document bias inherent in so many studies of Indian peoples. Of all the aforementioned works, *Indian Country, God's Country* most adequately addressed recent issues of contention in the Glacier region, conveyed the feelings held by some Blackfeet towards the park and its policies, and opened up avenues for further exploration, several of which I have tread to formulate the second half of this study.

Through personal interviews with tribal members and several unpublished works penned by scholars in recent years, I learned that recent issues of contention, although not centered around the explicit usufruct rights reserved in the Agreement of 1896, are inextricably linked to the agreement and that disparate interpretations of that pact underscore much of the dialogue between the 21st-century Blackfeet and the National Park Service. In "The Ceded Strip: Blackfeet Treaty Rights in the 1980s" (1987), "Glacier National Park on Blackfoot Territory: The Assertion of Rights on Traditional Lands" (2001), and "Blackfeet Oral Tradition of the 1895 Agreement" (2002), authors Kenneth P. Pitt, Tarissa Spoonhunter, and Jim Kipp, respectively, highlighted the importance of the oral tradition in Blackfeet culture and argued that the oral history of the agreement negotiations, still very much alive in Blackfeet country, does not agree with many of the provisions laid out in the written Agreement of 1896. In order to determine
the true intentions of the tribal signatories, these scholars analyzed the transcripts of the negotiations and concluded that the tribe retained rights not listed in the written agreement, such as the right to graze cattle, water rights, access to sacred sites, and so on. In this work, I analyze just a select few of the many issues that face the Blackfeet and the Park Service in the modern era.

The nuances of the written document and the minutes of the council meetings have generated much bickering over the years, but analysis and judgment of the competing arguments is not the purpose of this study. However complex the intricacies of the negotiation process and the resultant document may appear to legal-minded academic observers, for many tribal members the true intent of the tribal representatives is quite simple to discern. According to Tiny-Man Heavy Runner, a traditionalist well-versed in tribal language and culture, Blackfeet cultural law mandates that tribal representatives always act with the future of the Blackfeet people in mind.¹ For many Blackfeet, implicit in the controversial agreement is the intention to reserve for future generations of Blackfeet the ability to lead the good life upon the lands in question—to subsist indefinitely.² For many tribal members in the modern era, survival has little to do with the hunting, fishing, and wood-gathering rights listed in the Agreement of 1896. Subsistence needs and the means employed to obtain those needs have evolved and diversified over time as the Blackfeet, like all humans, have lived through and adapted to changing times. Thus, many believe that the implications of the Agreement of 1896 confer to the Blackfeet general subsistence rights that transcend the specific language contained therein.

Before addressing controversies over the exercise of implied subsistence rights on the ceded strip in the modern era, I analyze the formative influences on early park management policies regarding native peoples and show how they applied to the exercise of Blackfeet reserved rights throughout the twentieth century. Chapter 1 takes a holistic approach in examining the roots of exclusionary park policy and suggests ways in which cultural, economic, and scientific factors shaped early park management of Indian affairs. Chapter 2 traces the history of the relationship between the Blackfeet and Glacier National Park with a focus on conflicts over reserved agreement rights, with special attention to the years following 1970. The second half of the work addresses controversy over implied subsistence rights in the modern era. Chapter 3 provides an analysis of the history of livestock trespass from the Blackfeet Reservation into the park and highlights the role that different interpretations of the Agreement of 1896 has played in shaping the debate. Chapter 4 traces the history of Blackfeet attempts to procure an economic stake in lands formerly belonging to the tribe and illustrates how community solidarity and activism yielded positive results.

My ultimate goal is to demonstrate that Blackfeet agency and assertiveness in recent decades has yielded some positive results, but that many of the long-standing exclusionary policies remain intact. Thus, although Blackfeet pressures upon the park have engendered some policy changes in recent decades, the founding ideals of the national park system have continued to trump native rights and the exercise of subsistence activities that compromise the objectives of the national park idea still meet with strict interdiction.
A NOTE ON SOURCES

Much of the primary material that went into the making of this work was derived from park archival sources and government documents, i.e. Superintendent reports, briefing statements, legal rulings, task directives, correspondence letters, etc. When possible, I have tried to be specific when notating sources by providing box and folder numbers. Due to a backlog at the park’s archives, most park documents from the last two decades have not been screened for privacy concerns and are not open for public viewing. Therefore, I had to request many documents through the Freedom of Information Act, and those that I received did not include specific box and folder numbers. These documents are listed as “GNPA,” meaning from Glacier National Park Archives. I extend my gratitude to Deirdre Shaw, park archivist, and others who processed my requests in timely fashion.

I was also able to gather several documents from the tribe. The Tribal Documents Department is understaffed and has more pressing concerns than assisting academic projects; therefore, tribal documents are few and underrepresented in this study. I heartily thank Anna Lee Pemberton and the other staff at the Tribal Documents Department for taking time out of their busy schedules to honor my requests. I have completed the necessary procedures required by the Institutional Review Board in order to conduct research on human subjects. Thank you to Edward DesRosier, Ted Hall, Tiny-Man Heavy Runner, Leon Rattler, and Keith Tatsey for sacrificing your personal time to meet with me. I hope that my interviews of tribal members will provide some
measure of balance to a study based primarily on documents. Last, but not least, I thank
the A.B. Hammond Fund for supporting my research trips and making this possible.

None of the interviewees have claimed to speak for the tribe as a whole. In this
study, I focus largely on the interplay between the park and the tribe, but there are
obvious and inherent problems with treating each party as a collective entity. As Leon
Rattler told me, “we (the Blackfeet) are a nation within a nation.” Using the term “tribe”
implies homogeneity and obscures the diversity of opinion that exists within the tribal
community. Park documents that use the term “tribe” refer only to the representative
body in contact with park officials and do not necessarily include the opinions of all tribal
members. Due to time considerations, I was unable to gain input from all segments of the
tribal population and many voices remain unheard. For simplicity and brevity’s sake, I
reluctantly, and frequently, employ vague terms such as “the park” and “the tribe.” I
encourage other scholars of this subject to seek input from different factions of the
population and challenge and revise my assertions and interpretations.
The withdrawal of vast tracts of public domain from private sale and the creation of federally-owned national parks in the latter nineteenth-century established the United States as the world leader in the conservation movement. Over time, other nations copied the American model and created federal reserves of their own; however, the exportation of the ideals of the American national park system frequently had, and continue to have, detrimental effects on indigenous populations. As noted before, most tribes in the United States had been removed to reservations before the establishment of national parks. This was not the case in many of the places that imported the national park idea, i.e. Africa and Australia. The establishment of national parks openly dispossessed native groups of their ancestral homelands, and park administrators subsequently denied them access to their resource bases, as was the case in Glacier National Park. The Blackfeet, like other tribes, have sought to regain cultural self-determination and procure subsistence rights on their former lands, but park administrators, adhering to established ideals, have denied them these objectives. Before delving into a focused case-study of the relationship between the Blackfeet and Glacier National Park, I will try to illustrate some of the causes of the situation. More specifically, in this chapter I will suggest some reasons why American policy-makers established and managed the first national parks under the premise that native inhabitation and use of park lands should be strictly prohibited.

No single factor exists that can neatly answer the larger question posed here. Historians continue to debate what factors influence and explain historical processes; some stress cultural and intellectual forces, while others emphasize economic and
material elements. In order to understand why the American national park idea precludes
native inhabitation and certain subsistence usages, I will adopt a multifaceted approach
and posit that a combination of cultural, economic, and intellectual factors led to early
park management policies that have continued, with slight alterations, to guide the
objectives of the national park system.

First, from a cultural perspective I will trace the historical evolution of the
perception of Native Americans' relation to nature up through the early years of the
National Park Service. From Biblical times until recently, most associated the wilderness
with the domain of the "wild man," and one's moral evaluation of the one, whether
positive or negative, conditioned his estimation of the other.1 Demographic pressures and
nationalistic impulses in mid-nineteenth century America, however, severed this
symbiotic relationship, and as a Romantic version of wilderness grew and matured, the
version of "the Indian" as Nature's Child fell out of favor with the public. Thus, the
wilderness and the Indian diverged on different paths into what historian Mark David
Spence called "separate islands of the mind."2

Although changing images influenced early park policy regarding native
subsistence usage, they alone cannot explain the situation. Equally if not more important
were the economic realities involved with creating and managing novel entities such as
the national parks. In an era of rampant laissez faire capitalism and political divisiveness,
the early parks lived precarious lives, and in order to ensure their survival, park officials
needed to equip the parks for tourist groups who would justify the park system's

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1 Hayden White, "The Forms of Wildness: Archaeology of an Idea," in Edward Dudley and Maximilian E.
Novak, eds., The Wild Man Within: An Image in Western Thought from the Renaissance to Romanticism,
2 Mark David Spence, Dispossessing the Wilderness: Indian Removal and the Making of the National
existence. Hot on the heels of the Indian Wars, tourists most likely would not tolerate the presence of "wild" natives threatening tourists or preying on the parks' wildlife, one of the main attractions of the park system, and park officials responded in kind. Native uses of the park that did not challenge the serene expectations of the tourist industry, however, would face less severe restrictions than activities like hunting.

In addition to cultural and economic factors, the tenets of late-nineteenth and early-twentieth century science further precluded the use of park resources by native peoples. Early modern ecologists openly criticized the commercialized development and natural resource management enacted by early park officials and offered a competing vision of park management advocating the preservation of natural conditions based on scientific knowledge. Like Western religion and philosophy, ecology enforced the dichotomy between Man and Nature and claimed that man only disrupted the balance of nature. Early ecologists did differentiate between primitive and modern man, but surmised that native use of park-lands was so insignificant that it played no role in natural processes, thus they, like all other humans, should be left out of the picture.

**Culture**

Hebraic mythology has proved highly influential to the development of the concepts of the wilderness and the "wild man" in the Western world. Like all ancient cultures, the Hebrews held a conception of an earthly paradise, and their core myth, the Garden of Eden, is, as historian William Cronon puts it, "so deeply embedded in Western thought that it crops up almost anytime people speak of nature."3 Eden, as a "garden," boasted a benign and beautiful landscape, in stark contrast to the dark and foreboding

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character of wilderness. As shepherds who believed that wilderness harbored evil, early
Hebrews ascribed cursedness and wildness to the wandering life of the hunter and to the
desert, thereby projecting God’s curse upon the wild men who inhabited the wilderness.4
The equation of wilderness and its inhabitants with sin and immorality formed a central
theme in the Judeo-Christian tradition and influenced Christian Americans well into the
twentieth century.

The Judeo-Christian view holding nature and its denizens as inherently corrupt
persisted, for the most part, throughout the entire medieval period.5 During the
Renaissance, some thinkers began to consider society as fallen from natural perfection,
and a more benign view of nature, albeit a cultivated and pastoral one, began to emerge
alongside the traditional Judeo-Christian view of nature as an evil environment accursed
by God. In turn, these two contradictory and competing visions of nature endowed upon
the Wild Man two distinct personalities.6 Thus, the perceptions of wilderness and the
wild man became inextricably linked as one’s opinion of nature influenced one’s opinion
of its resident “savage.” As Europeans developed new navigation technologies and
launched far-reaching expeditions in the fifteenth century, the largely conceptual debate
over the abstract idea of the wild man assumed a more practical air as Europeans
“discovered” real-life, physical manifestations of the Wild Man existing in a true state of
nature.

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4 For more on the role of wilderness and the “wild man” within the Judeo-Christian tradition, see Roderick
5 For more on medieval conceptions of the “wild man,” see White, 20-21; for a more detailed discussion of
the works of the medieval scholar Saint Augustine and his influential opinions regarding nature and
wilderness-dwelling “pagans,” see Nash, 4-5.
6 For a more thorough analysis of the two visions of society and nature and their influence on the
perception of the Wild Man, see White, 28-30.
Fortunately for historians, the first meeting between Europeans and the inhabitants of the West Indies is remarkably well-documented. Early reports of the native population shone with optimism. Observations from subsequent voyages provided the first negative images of the natives of the New World. The ambivalence expressed by Columbus towards the natives of the New World would persist for centuries and would become one of the primary attitudes and themes concerning the perception of “the Indian” in America. Drawing upon moral evaluations of tribal peoples, Europeans and later Americans projected two conceptions onto the image of the Indian: that of the “good” Indian and that of the “bad” Indian. Euro-Americans would manipulate this dualistic image to justify their own intentions. Those that wished to exploit Indians advanced the “good” image, at times, as a means to convince others of the easy fulfillment of white desires, and at other times advanced the “bad” image as rationale for the perceived necessity of land-grabbing and assimilation schemes. Numerous historians of images of Indians have established the link between attitudes and intentions, positing that in order to understand the image of the Indian and its evolution over time, one must look at white social and cultural developments, for the image is more of a reflection of white attitudes and desires than of those held by natives themselves.

In addition to his observations of the native populations, Columbus commented on the natural features of the New World. He extolled the fertility of the islands, made frequent references to the lush vegetation, and boasted of a tropical land rich in natural

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8 Ibid., 32.
resources. Other early explorers of the Caribbean echoed Columbus's writings and helped portray America as an earthly paradise, and promoters of discovery and colonization embellished rumors from across the Atlantic and described America as the "land of milk and honey." Authors, most of whom had never set foot in the Western Hemisphere, glorified the New World and produced entire books on the western lands and its inhabitants. The glorified version of America as a second Garden of Eden prompted many Europeans to migrate across the Atlantic; however, for many the paradise myth quickly shattered against the harsh realities of North America and those living in close proximity to wild country developed a strong antipathy towards the American wilderness that would persist for many generations.

Armed with the divine mandate to replenish and subdue the earth, early Americans set out on a recovery mission to reinvent the whole earth in the Garden image with the goal of creating a pastoral, cultivated natural landscape, and pioneers took pride in their conquest of wild lands and used the triumph over nature to bolster their national ego. In addition to posing a threat to the pioneer's physical survival, the wilderness represented a dark and sinister symbol. This component held special importance for the Puritans who tended to view the world through Manichean lenses and held providential

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10 Columbus, 6-7, 12.
11 Sir Thomas More's *Utopia* became a best-seller when it first appeared in Latin in 1516, portraying the New World as an uncorrupted environment with which to critique European institutions. Michel de Montaigne used Brazilian cannibals to criticize French institutions and depicted the "savages" as living in a benign *Nature far purer* than the artificial environments of Europe, see Michel de Montaigne, "Cannibals," in *Selected Essays*, ed. Donald M. Frame. (New York: Walter J. Black, Inc., 1943), 91, 86.
14 Nash, 24.
interpretations of history. The Puritans adhered to the Augustinian belief that wild country was a moral vacuum and its resident wild men heathens. Moreover, the Puritans associated wild country with Satan, and as Christ’s chosen army, they felt it their duty to vanquish the devil’s disciples: the American Indians. Victory in King Philip’s War, one of the bloodiest wars in American history, convinced the Puritans that they had enacted God’s will on earth.15

By the time of Thomas Jefferson’s presidency, an apocalyptic view of Indian history was becoming prevalent and Americans on the Atlantic seaboard already considered Indians an unthreatening, “spectral presence.” Historian Brian Dippie, writing in 1982, contends that the notion of the “vanishing American,” despite the ambivalence that has historically surrounded the term, has been the major theme pertaining to federal Indian policy. The idea of the “vanishing American,” Dippie asserts, underwent periods of fluctuating popularity and reevaluation, and attained the status of cultural myth as well as that of self-fulfilling prophecy.16 In search of a national identity in the early nineteenth century, Americans advanced the image of the Noble Savage to flaunt their imagined indigenous heritage. Furthermore, many Americans included an imagined wilderness in their national identity and employed natural landscapes to achieve national renewal. As later American expansion destroyed native cultures and the wilderness condition, many mourned the passing of each.

Many historians credit Romanticism as the source of America’s fascination with its wilderness condition. Beginning in Europe towards the end of the eighteenth century, the Romantic Movement rebelled against modernity and exalted nature in its wild form.

15 Berkhofer, 81-83.
The concept of the sublime suggested the association of wild nature with God; deism, born in the Enlightenment out of religious skepticism, used the relationship between God and the wild as the basis for religion. The new values associated with nature in turn led to transformations in the character of the Noble Savage. Primitivism, although not a new concept, flourished during the Romantic period as intellectuals intensified their critiques of civilized society.

The Romantic concepts of the sublime, deism, and primitivism left indelible imprints on the Western psyche and greatly influenced the unique American Romanticism that began to develop in the early decades of the nineteenth century. The ideas espoused by European Romantics drifted over the Atlantic and acquired special meaning for American intellectuals, who, unlike Europeans, had direct contact with “primitive” people and the wilderness condition. While Romanticism took firm root on American soil and had a profound impact on arts and letters in early nineteenth century America, many of its proponents consisted of Eastern, urban intellectuals who held different opinions than those living on the frontier; consensus has always been a rare phenomenon in American history. For most of the early nineteenth century, the Romantic attitude coexisted and competed with the pioneer aversion to wilderness.

Romanticism acquired a uniquely American flavor due to the nationalistic fervor that gripped the nation following the War of 1812. Cultural nationalists urged American themes to replace those inherited from abroad and assumed Jefferson’s burden of

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17 Nash, 46.
18 Jean-Jacques Rousseau’s *A Discourse on Inequality*, first published in 1755, is the prime example of Romantic primitivism, and although the “Noble Savage” boasted a long career by Rousseau’s time, to most modern observers Rousseau is, as historian Geoffrey Symcox put it, “the high priest of the cult of primitivism.”
19 See Nash, 45-48, 55.
defending the American environment and its aboriginal population against denigrating attacks from across the Atlantic.\textsuperscript{20} They took their duty a step further and transformed the mission from one of defensive posture into one of national pride, flaunting an indigenous wilderness heritage as a form of national identity. For several decades, American Romantics used both the Romantic wilderness and its Noble Savage as nationalist images; over time, however, the Noble Savage fell out of favor with the American public while wilderness appreciation grew, effectively divorcing Nature's Child from his "natural environment."

The use of Indian themes to boast cultural identity did not originate with the rise of Romanticism in America. Discontented colonists, seeking to construct an original identity apart from Britain, mimicked Indian customs and donned Indian garb years before the American Revolution, often staging protests disguised as Indians, such as the Boston Tea Party. Rebellious colonists transformed the symbol of the Indian into a form of national self-definition, thus articulating a revolutionary, patriotic identity that they transposed onto military flags, newspaper mastheads, and on numerous handbills. Furthermore, the rioters conflated Indians with the land itself, suggesting that the American environment bestowed freedom and liberty upon its aboriginal populations, as well as upon its early white settlers. The American Indian and the land became symbols of a unique North American past.\textsuperscript{21}

After independence, the federal government embarked on an ill-fated "right of conquest" campaign to procure lands from native tribes. The tribes resisted fiercely, and

\textsuperscript{20} For more on Jefferson and his refutation of European critiques, see Anthony F.C. Wallace, \textit{Jefferson and the Indians: The Tragic Fate of the First Americans}, (Cambridge: Harvard University Press, 1999), 76-78.

\textsuperscript{21} For more on Revolution era uses of Indian symbols, see Philip J. Deloria, \textit{Playing Indian}, (New Haven: Yale University Press, 1998), 12-26.
patriotic commentators recast the Indian in negative, racial terms. In spite of harsh criticism, secret fraternal societies based on Indian themes continued to operate. As in the past, anxieties brought on by social dislocation, in this case the rise of market competition, rapid capitalism, and wage labor, made primitive themes attractive and some men kept the secret societies alive despite their declining public image. The War of 1812, in which most tribes sided with the British, further tarnished the native patriotic reputation.22

The Romantic emphasis on indigenous traditions, folk customs, and the glorification of a national past inexorably led intellectual patriots to re-embrace the Indian as a literary and artistic symbol for America in the decades following the War of 1812. Looking to match European boasts of ruins and ancient monuments, some American literati declared the mysterious Indian mounds as evidence of a long-lost Golden Age.23 With Indian removal in the early 1830s, the notion of the vanishing Indian gained further acceptance, and members of the general public, seeking to repudiate any and all sorts of Anglicization, began to define themselves by a fleeting, illusory Indian past. The rising popularity of Indian plays in American theaters between 1828 and 1838 testifies to the ideological allure of the vanishing Indian.24 For example, Metamora; or, the Last of the Wampanoags, enjoyed immense popularity in American theater until

22 For more on the changing nature of early American images, see Deloria, 44-60.
23 Even Americans who found a link with natives demeaning settled on the Indian antiquities in their search for a usable past, simply denying that they were Indian and claiming they were the work of a vanished white race, or of a vanished, “civilized” native race, in the Mississippi Valley. For more on theories surrounding the ruins, see Robert E. Bieder, Science Encounters the Indian, 1820-1880: The Early Years of American Ethnology, (Norman: University of Oklahoma Press, 1986), 104-146.
24 Deloria, 64.
just before mid-century, casting King Philip as the first revolutionary hero, the honorable first patriot who fought against the tyranny of the king.25

Responding to European allegations that American soil contained no historical or cultural associations, intellectual patriots seized on America's wilderness condition and deemed an innocent land of awe-inspiring landscapes preferable to European soil, stained as it was with bloodshed and despotism. Romantic conceptions of wilderness did not, however, exclude native peoples. American artists and writers, reflecting the romanticism that characterized much of Western thought since the late eighteenth century, in turn considered the Native American part of the landscape. This view was not confined to intellectuals and elites, however, and the image of the wilderness as the domain of the Indian prevailed among the American public in the early nineteenth century.26

Prior to the establishment of efficient transcontinental railroad passage, most Americans living in the first half of the nineteenth century could only experience the American wilderness and its Indians vicariously through the images conveyed by literature and art. George Catlin's paintings comprise one of the first important pictorial records of the Plains Indians and their homelands west of the Mississippi River. Catlin joined the ranks of Americans who mourned the disappearing wilderness and the vanishing Indian, and he dedicated decades to preserving a record of the Indians "in the uncivilized regions of their uninvaded country." Catlin divided all Indians into two categories: the corrupted and the pure. Like many of his contemporaries who believed the only "true" Indians were those uncontaminated by Euroamerican culture, Catlin

26 Spence, 12.
sought to preserve the image of the “noble savage” before he inevitably perished before the onslaught of civilization. He appointed the same destiny to the American wilderness, writing that “[B]lack and blue cloth and civilization are destined, not only to veil, but to obliterate the grace and beauty of Nature.”

Many scholars, too numerous to list here, have identified George Catlin as the first to move beyond regret to the preservation concept and have called him the first proponent of the national park idea. His idea of a national park conformed to the contemporary paradigm that held the wilderness as the domain of the Indian, and he called for a large expanse of federally protected land containing both “man and beast...the Indian and the buffalo.” Catlin’s sentiments received approval from one of America’s most influential wilderness philosophers: Henry David Thoreau. In 1858, Thoreau voiced similar sentiments as George Catlin had two decades earlier in his plea for the preservation of land for wildlife and native use. He asked: “Why should not we...have our national preserves...in which the bear and the panther, and some even of the hunter race, may still exist, and not be ‘civilized off the face of the earth?’” This inquiry may represent the last gasp for a protected, Indian-inhabited landscape.

The Civil War serves as a major turning point in the histories of the conceptions of wilderness and native peoples. Until the mid-nineteenth century, Americans saw the wilderness as the domain of the Indian, for better or for worse. In the latter part of the century, however, the earlier appreciation for an Indian wilderness split into separate movements for the confinement of Indians to reservations and the preservation of scenic

28 Ibid., 260 (emphasis in original).
29 Thoreau, “Chesuncook,” in *Atlantic Monthly* 2 (1858), 317; quoted in Spence, 22.
areas. To what do we attribute this massive paradigm shift? In *Dispossessing the Wilderness*, historian Mark David Spence competently argues that westward expansion, jingoist nationalism, and the racism that accompanied such trends shattered the Romantic version of wilderness as one rightfully inhabited by native peoples.

Indian Territory in the early nineteenth century provided the type of wilderness that confirmed the romantic expectations held by artists and writers such as George Catlin. This frontier, however, proved to be ephemeral. The withdrawal of British claims to the Oregon Territory in 1846 and American victory in the Mexican War in 1848 opened up vast areas of new lands for American settlement, eradicating any pretensions about a permanent Indian Frontier. With the end of the Civil War in 1865, westward expansion resumed in full force, and America justified any and all actions as fulfillment of its moral and biological duty to replace, through subjugation or extermination, the inferior “race’s” misuse of the western half of the continent. Manifest Destiny demanded it.

The nationalistic drive for westward expansion helped create changing perceptions of native peoples. Relations with western tribes appeared relatively peaceful during the first half of the nineteenth century. During the 1850s and 1860s, however, violence escalated as contact between natives and white land-seekers increased. Heavily publicized conflicts proliferated all around the West, and as a result of these Western wars, images of “real,” present-day savages occupying coveted lands replaced romantic images of disappearing aboriginals living harmoniously with nature. Widespread anti-Indian sentiment engulfed many settler communities in the West, despite growing

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30 Spence, 37.
31 Ibid., 28.
32 Lepore, 224; Spence, 30.
sentimentalism adhered to by many elites in the East. The guiding evolutionary theory of
the day asserted that in order to assimilate into the broader culture, tribal peoples must
abandon their ties to nature, settle onto reservations, and embrace “civilized,” sedentary
pursuits such as agriculture or the raising of livestock. Furthermore, the release of
Darwin’s *Origin of Species* in 1859 provided strong evidence for a common origin
among all humans and mitigated the controversy between polygenesis and
monogenesis. For some, Darwin’s work proved that the Indian could progress to a
“civilized” state if given the right conditions, i.e. those that promoted private property
conceptions. This thought found expression in federal policy with the Dawes Allotment
Act of 1887, which passed through the combined efforts of “friends of the Indians” and
hungry land-seekers in the West. Whether Indian hater or “friend of the Indian,” almost
everyone agreed that fulfillment of America’s Manifest Destiny required the physical
destruction, physical removal, or cultural transformation of tribal peoples. The
establishment of the reservation system just preceded the creation of the first national
parks; thus, Indian removal became a familiar and accepted strategy.

Spence’s argument adequately illustrates how wilderness preservation was
predicated on native dispossession. What he does not explore, however, was how the
conditions in late nineteenth-century America he described affected the motivations for
the American public actually to seek out and utilize such aesthetic reservations after the
turn of the century. What role, or lack thereof, did native peoples play in the allure of the
national parks for the potential tourist? By analyzing the impact that modernity had on
the American sense of identity in the late nineteenth century, we see that Americans

33 Bieder, 142.
34 Spence, 30.
35 Ibid., 39.
developed a new brand of primitivism that, instead of emulating the American Indian as in the past, embraced a perceived wilderness condition inherited from white ancestors. Thus, visitors to the national parks early in the twentieth century did not completely divorce the image of "the Indian" from that of the wilderness, but rather relegated him/her to the status of "obstacle overcome," an "emblem of history."

As Americans increasingly viewed reservations as the appropriate dwelling-places for native peoples, new nationalistic impulses would further contribute to the demise of an Indian wilderness in the American psyche. Many Americans in the early nineteenth century had harkened back to an Indian past when articulating a national identity. By mid-century, however, the use of the Indian, and of the Noble Savage specifically, as a source of cultural identity had fallen out of favor among white Americans as the nation matured and developed a history of its own. As the century progressed, more and more writers seized upon the wilderness condition as a source of national identity and, armed with growing public support for nature appreciation, convinced Congress to set aside national parks. Around the turn of the century we witness a surge in primitivism as many Americans came to view "over-civilization" as a threat to the virility and toughness of the American character, and publicists for the parks seized upon these industrial anxieties and promoted primitive, wilderness virtues as remedies to dreary city-life. As in the past, social dislocations led men/women to idealize and envy the freedom of the "wild man," and, in America as elsewhere, this had frequently taken the form of the Noble Savage. However, in the late nineteenth century historical developments and

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36 See Lepore, 224-225; Berkhofer, 95.
37 Historian Alfred Runte convincingly argued that the search for a distinct national identity provided the initial impetus behind scenic preservation. See Alfred Runte, National Parks: The American Experience, 2nd ed. (Lincoln: University of Nebraska Press, 1987), xx.
nationalistic impulses would offer a new and more powerful “primitive” source of inspiration: the frontier pioneer.

In the antebellum years, industrialization, the rise of big business, urbanization, immigration, and other factors associated with “progress” led to widespread social and cultural dislocation, and many Americans came to view an effeminate urbanism as a threat to the development of the youth. Some, as in the past, sought to emulate the ways of the Noble Savage as remedies for urban life, but, more commonly, others looked back to a uniquely white past and advanced the frontier pioneer as a source of inspiration for a patriotic, wilderness symbol.38 After a series of alarming reports decrying the end of the frontier appeared towards the end of the century, writers seeking to promote national parks employed the frontier pioneer as evidence of an inherited wilderness condition.

In 1890, the U.S. Census Bureau Report officially announced the passing of the frontier. Moreover, Frederick Jackson Turner’s frontier essays after 1893 called the wilderness condition the essential formative influence on the national character and his works exerted great influence over writers who saw the passing of the frontier as depriving America of a unique past.39 In 1897, Teddy Roosevelt, co-founder of the Boone and Crockett Club, prolific writer, and advocate of the American wilderness, wrote *The American Wilderness: Wilderness Hunters and Wilderness Game*, in which the future president echoed Turner by arguing that the frontier life endowed the pioneers with fortitude, integrity, and strength of character, citing such legendary folk heroes as Davy

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38 In *Playing Indian*, pp. 96-122, Philip Deloria analyzes these competing visions by comparing the lives of Ernest Thompson Seton, founder of the Woodcraft Indians and the Boy Scouts of America, and Charles Beard, Seton’s successor as head of the Boy Scouts. Whereas Seton advanced the image of the Noble Savage as Nature’s Child living in communion with nature, Beard, more characteristic of the time period, held Indians in low esteem and advanced the image of the pioneer who succeeded in taming the wilderness.

39 In “The Trouble with Wilderness; or, Getting Back to the Wrong Nature,” in *Uncommon Ground*, 72, William Cronon cites the “frontier myth,” in addition to the Romantic notion of the sublime, as one of the sources for a widespread positive reappraisal of nature in America.
Crockett, Daniel Boone, and Kit Carson. As did Turner, Roosevelt viewed the Indian as an obstacle to progress and civilization, making frequent references to the glorious triumphs of the pioneers, who, as "heralds of the oncoming civilization," overcame the savage, warrior tribes, the "red lords of the land."\textsuperscript{40} Teddy Roosevelt greatly contributed to the nascent form of primitivism that excluded the American Indian, but it was his contemporary, fellow primitivist John Muir, who developed this theme more specifically within the context of the National Park System.

Most historians acknowledge John Muir as one of the foremost writers in awakening public opinion to the benefits of preserving natural landscapes. In \textit{Our National Parks}, Muir echoed the primitivist sentiments of the age and wrote that many over-civilized Americans were "[A]wakening from the stupefying effects of the vice of over-industry and the deadly apathy of luxury," and "are beginning to find out that...wildness is a necessity."\textsuperscript{41} Like the Transcendentalists before him, Muir believed that nature held intrinsic value and mystic qualities, and he relayed his thoughts in many essays that became minor bestsellers around the turn of the century. Muir promoted the national park experience as the perfect remedy to rid oneself of the "dust and disease" of modernity. Although he inherited many of his core tenets from the Romantic Movement, Muir held a less romantic view of wilderness areas populated by native peoples.

Several environmental historians have argued that Muir ignored Native Americans when formulating his own wilderness philosophy and that his idea of


wilderness held no place for the American Indian. While I do not dispute these assertions, I find it helpful to relate Muir's opinions of native cultures to larger cultural conceptions in order to reinforce the declining role that the Indian played in America's growing wilderness identity. Although Muir made numerous derogatory remarks regarding the Indians he initially met in both California and in Alaska, using terms like "dirty," "lazy," "superstitious," "hideous," etc., elsewhere in his abundant commentary on Native American cultures he reflected more favorably on native cultures and their relationship with the environment. How, then, do we explain this ambivalence?

Muir's experience with native tribes in Alaska after 1879 piqued his interest in Indian views of nature, and as he had more contact with the Alaskan natives his appreciation for native ways grew as he realized the similarities between his own philosophy and those held by native cultures relatively uncorrupted by white civilization. Like Catlin and Thoreau before him, Muir believed that "civilized" Indians were no longer "true" Indians and he held little respect for the "degraded" Indian who had fallen from grace. Writing of an Indian he met in the California mountains, Muir regretted that "unfortunately he proved to be a tame Indian from the Tule Reservation...claimed to be civilized, and spoke contemptuously of 'Wild Indians,' and so of course his inherited instincts were blurred or lost." For Muir, early primal cultures lived harmoniously on the land before the coming of the whites, whereas Indians tainted by civilization had lost their environmental instincts.

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43 In *Henry Thoreau and John Muir Among the Indians*, Richard F. Fleck collects, presents, and analyzes many of Muir's writings, especially those concerning the Alaskan natives, that provide a counterpoint to the pejorative remarks highlighted by historians such as Spence and Cohen. See Richard F. Fleck, *Henry Thoreau and John Muir Among the Indians*, (Hamden: Archon Books, 1985), 28-70, 84-90.
44 See Fleck, 21-30, 69.
Muir was not alone in his view of late nineteenth-century American Indians. After the Civil War, popular artists using new mediums such as photography and sound recordings portrayed reservation Indians as drunk and lazy and impressed upon the public the transition of the American Indian from “wild, Noble Savage” to “degraded, inferior reservation Indian.”\footnote{For more on late nineteenth century negative Indian imagery, see Berkhofer, 101-102; Deloria, 104-105, 117-118.} For primitivists like Muir, the noble, ecological Indian was a vanishing race, doomed before the inexorable juggernaut of white civilization, and the “real” Indian had no rightful place in the American wilderness. He expressed his view succinctly in \textit{Our National Parks} when he wrote: “[As] to Indians, most of them are dead or civilized into useless innocence.”\footnote{John Muir, “Selections from \textit{Our National Parks},” in \textit{The Great New Wilderness Debate}, 57.}

\textbf{Economics}

In addition to analyzing changes in cultural perceptions of the wilderness and the Indian, it is important to inquire whether the preservation of nature in its perceived natural condition constituted the primary goal of early park management. The enabling acts for the early parks did include preservation as a mandate, but also provided allowances for use and development. The inherent juxtaposition in early park legislation generated much ambiguity and left park officials with considerable freedom to interpret the dual mandate as they saw fit. By analyzing early park programs and activities, we can safely conclude that the use element took precedence over preservation as economic realities necessitated that the parks take steps to meet the aesthetic expectations of a nascent tourist industry. Furthermore, early preservation efforts largely served to enhance the tourist experience and consisted of protective and selective measures to safeguard the scenic attractions of the parks. For native groups who had used the parks...
as resource bases, this meant that some of their customary subsistence activities, especially hunting, became prohibited as undesirable, consumptive use of park resources, while others, if they proved compatible to the national park ideal, came under restrictive regulations.

In "The Wilderness Narrative and the Cultural Logic of Capitalism," British environmental philosopher Carl Talbot offers a Marxist critique of the national park idea and challenges the myth that national parks serve as sanctuaries of untransformed nature. He argues that human activity has made the parks artificial, social constructs in which Nature is made to conform to the economic and psychological needs of capitalism. After analyzing, in true Marxist fashion, the reification of nature and the role of wilderness as a leisure resource, Talbot concludes that capitalism’s management of nature in the parks results in "nature emerging as a 'stylized spectacle' packaged for easy consumption."47 Although this cynical interpretation may offend some who consider the national park system the unselfish side of the conservation movement, Marxist philosophers are not the only thinkers who have considered material elements in analyzing the park system. Several renowned environmental historians, such as Alfred Runte and Richard W. Sellars, too, have highlighted the powerful influence that economic factors and the tourist industry have exerted upon the creation and management of the national park system.

Both Sellars and Runte have argued that from the beginning, the national parks served corporate profit motives. The Northern Pacific Railroad Company, anticipating a monopoly on tourist travel through the Montana Territory, lobbied relentlessly for the

Yellowstone National Park proposal. Decades later, Louis Hill and the Great Northern Railway, also with a clear profit motive in mind, weighed in heavily on the movement to establish Glacier National Park and initiated a fierce advertising campaign, generating ad brochures and printing magazine spreads to promote the park and the scenery within.

Corporate park proponents sought to establish parks around monumental scenery and held little regard for the preservation of ecological integrity through large nature reserves, thus highlighting the role that economic motivations played in the birth of the national parks.

The collaboration between private business and the federal government, established during the creation of Yellowstone and continuing through the creation of the early parks, helped create a new kind of public land use in the West as the railroads, boasting magnificent landscapes on protected lands, contributed to the emergence of tourism as an economically realistic form of land use. In a period of voracious resource exploitation, park proponents assured politicians of the potential economic returns tourism could provide as soon as the parks were ready to accommodate them; thus, in order to maintain a politically viable rationale for the national parks, park administrators had to develop the parks to please future tourists, the parks’ primary constituents and bases of political support. For this reason, absolute preservation of natural areas was unrealistic; at the same time, too many unsightly intrusions into the landscape would

49 See Runte, 92-93.
50 The concept of “monumentalism” is one of the main underlying themes in Runte’s *National Parks,* and he applies it in his analysis of all the parks established before 1934, see pp. 1-138.
51 Sellars, 10.
detract from the parks’ aesthetic appeal. Some sort of balance between these contradictory goals had to be reached.

The dual objectives of the national park idea found first expression in the enabling legislation for the early parks. The Act of 1864 that spelled out the objective of Yosemite Valley dictated that the lands be preserved for “public use, resort and recreation,” thus providing for a reserve for nonutilitarian purposes.52 Similarly, Yellowstone’s enabling act expressed the anticipation of recreational tourism as the Park’s purpose by setting apart over two million acres “as a public park or pleasuring-ground for the benefit and enjoyment of the people” and by making allowances for leases “for building purposes...the erection of buildings for the accommodation of visitors” to provide for the comfort and convenience of tourists. Protection of the natural landscape coexisted with recreation as a stated purpose of the park, as Yellowstone’s enabling act also called for the “preservation, from injury or spoliation, of all timber, mineral deposits, natural curiosities, or wonders within said park, and their retention in their natural condition.”53

Although nearly two decades passed between the creation of Yellowstone and the next national parks, the national park idea moved into the twentieth century with few alterations from the standards set in 1864 and 1872.54 Other parks created before 1916, when Congress established the National Park Service in order to provide centralized management for the growing park system, also contained ill-defined concepts in their enabling acts with little indication of their true intent. For example, Glacier National Park’s enabling act of 1910 conferred exclusive control of the park to the Secretary of the

53 “An Act to set apart a certain Tract of Land lying near the Head-waters of the Yellowstone River as a public Park,” March 1, 1972, 17 Stat. 32.
54 Runte, 64.
Interior, who was responsible for “the care, protection, management, and improvement” of the park, and whose duty it was to “provide for the preservation of the park in a state of nature.” In clear deference to use interests, the Act also specifically allowed for the harvest of dead timber, railroad right of way, the leasing of hotels, mining, and water reclamation projects.55 Early administrators of the national parks interpreted the enabling acts in similar fashions, liberally manipulating the extant conditions of the parks through development for tourism and natural resource management in order to ensure public enjoyment.56

As Richard Sellars noted, scenery “provided the primary inspiration for national parks and, through tourism, their primary justification...Thus, a kind of ‘façade’ management became the accepted practice in parks: protecting and enhancing the scenic façade of nature for the public’s enjoyment.”57 Yellowstone National Park, established decades before the next national parks, served as a testing ground for the national park idea and policies and attitudes developed there set precedents for managers of later parks. In Yellowstone, as elsewhere, Mother Nature had created the monumental scenery, but it was left to human vigilance to ensure and guarantee the safety of the park’s scenery and clientele.

The Indian Wars on the northern plains worried early park officials at Yellowstone who feared that the presence of Indians could deter tourist traffic in the park. Hoping to quell tourist apprehension, the first park guidebook reassured visitors that

56 Sellars, 27, 4.
57 Ibid., 4-5.
"[D]angers from Indians there is none." This reassurance proved premature, and the spillover of conflicts into Yellowstone cast doubt on the government’s ability to maintain the park as a safe vacation destination. From 1877 to 1879, a series of Indian outbreaks near Yellowstone negatively impacted the park’s public relations image and influenced exclusionary park policy towards Indians in the decades that followed. For five days in August of 1877, Chief Joseph and his band of Nez Perce wound through Yellowstone National Park during their famous flight from federal troops. While there, the Nez Perce took tourists prisoner and left two dead. During the next two years, conflicts with other regional tribes, the Bannock and the Sheep-Eaters, contributed to the bad publicity as local rumors and newspaper reports portrayed the park as a haven for violent Indian marauders. Park officials responded by minimizing the past incidents and publicly condemning them as unprecedented anomalies. In order to deter future problems, park officials extended great effort toward eliciting promises from tribal leaders pledging to stay out of the park and advertised these agreements to reassure the public and comfort potential visitors. Furthermore, park officials initiated an effective campaign of characterizing the thermal features of the park as taboo to the Indians in the area. The erasure of natives from the history of the park served two primary purposes. First, the argument that natives did not regularly use the area lent support to the claim that the hostile incidents were highly unusual. Second, the portrayal of the park as unused by humans reinforced the image of the park as a “pristine” wilderness area. Thus, early park

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59 For more on the Indian outbreaks and the responses of park officials, see Nabokov and Loendorf, 225-238.
managers at Yellowstone considered banning Indians from the park, both physically and historically, necessary for the continued security and integrity of the park.\textsuperscript{60}

In \textit{Restoring a Presence: American Indians and Yellowstone National Park}, authors Peter Nabokov and Lawrence Loendorf argued that the "anxieties raised by native peoples moving freely in and around the park's western boundary presented opportunities for military authorities to argue for their own protective necessity to the park."\textsuperscript{61} The military did assume stewardship of the park in 1886; nevertheless, images of hostile Indians running loose through the park lingered in the public memory, and as late as 1900, Yellowstone's acting superintendent, a captain of the 1st Cavalry, reassured prospective visitors that the park was safe from renegade Indians.\textsuperscript{62} The highly publicized Indian outbreaks in Yellowstone in the late 1870s jeopardized the success of the national park idea, and subsequent efforts to dissociate the park from freely-roaming bands of Indians influenced managers in later parks who adopted similar exclusionary policies for similar reasons.

Even after concerns over tourist safety had abated, park officials at Yellowstone and elsewhere considered native groups, especially hunters, threats to the parks' preservation mandate and continued enforcing exclusionary policies. Although early park officials focused largely on development for tourism, they also engaged in natural resource management as part of the preservation mandate in the enabling legislation. Natural resource management, argued Sellars, largely served tourism purposes and functioned as an adjunct to tourism management.\textsuperscript{63} Monumental scenery may have

\textsuperscript{60} Ibid., xi.
\textsuperscript{61} Ibid., 224.
\textsuperscript{62} Ibid., 230.
\textsuperscript{63} Sellars, 70.
provided the initial impetus for the parks' creation and constituted the parks' principal
attraction early on, but wildlife quickly became another significant feature of the parks
and added to their tourist appeal. Early efforts to preserve monumental scenery and
wildlife assumed a protective, and selective, nature as park officials deemed only certain
types of wildlife desirable for the tourist experience. The desirable species consisted
primarily of game animals, and protective, anti-poaching measures did not differentiate
between game hunters and natives who had traditionally hunted on park lands for
subsistence purposes.

General attitudes regarding desirable and undesirable wildlife greatly affected the
aesthetic expectations of the tourist industry, and in turn directly influenced early national
park wildlife policy. Early park managers, in efforts to preserve selective elements of the
park experience, enacted programs to protect game species, prized by hunters and highly
popular for public viewing, by eliminating undesirable predators and by developing anti-
poaching regulations.64 Decades before ecological principles gained a foothold in
national park wildlife management, the common belief assumed natural predators would
not check game populations, but would outright destroy entire herds.65 Predator
reduction programs, an established management practice well before the birth of the
National Park Service, constituted the major preservation policy in Glacier National Park
as attention toward wildlife dominated most preservation activity during the first decade
of the park's existence. There, as elsewhere, rangers used strychnine to reduce the coyote

64 Managers focused on protecting populations of ungulates (hoofed grazing animals such as elk, moose,
bison, deer, and bighorn sheep) and bears. Bears, although predatory, were popular among tourists, and
eyear park officials allowed roadside bear feeding and bear shows at garbage dumps. Bears attracted much
attention in Glacier National Park, and pictures of roadside bear feeding appear frequently in summer
editions of the Hungry Horse News until the practice was discontinued in the late 1960s. Hungry Horse
News back issues available at the Glacier National Park Archives, West Glacier, MT.
population and hunted mountain lions with hounds.66 First instituted in 1914, predator reduction programs continued for nearly two decades and brought wolves and mountain lions to near extinction in most parks.67

Another game protection strategy that outlived and proved far more consequential to tribes like the Blackfeet focused on the elimination of human predation in the national parks. A concern for GNP’s first Superintendent, the threat of poaching represented a major obstacle for the early administrators of Yellowstone, the first national park.68 Yellowstone, which boasted, and still boasts, the most impressive variety of large mammals, dominated the formulation of wildlife policy in the parks and the steps taken by its early civilian and military caretakers established precedents that influenced nature management throughout the entire park system for decades.69

The enabling legislation for Yellowstone National Park made wildlife protection the legal responsibility of its caretakers; however, the legislation failed to provide specific laws for governing the region or legal machinery by which officials could enforce regulations or punish transgressors. The ambiguities and omissions of the enabling legislation created major difficulties for the early civilian administration of the park that struggled, and largely failed, to protect the park’s attractions from vandals and poachers.70 Nathaniel P. Langford, upon his appointment as the first Superintendent of

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67 Sellars, 24.
68 William R. Logan, first Superintendent of GNP, heeded Secretary of the Interior Walter L. Fisher’s instructions regarding protection of the park from poachers and other depredations and, like other park Superintendents, sought to preserve the park by protecting it from outside influences. See Buckholtz, 15.
69 Sellars, 24.
the park, urged prohibiting all hunting, fishing, and trapping within the park under severe penalties. However, legal machinery to enforce rules and punish transgressors remained decades away and reports of skin-hunting parties ruthlessly slaughtering the park’s game animals and depleting its herds continued to plague Langford’s civilian successors. Early civilian administrators posted lists of prohibitions throughout the park, but, lacking any legal backing or public sentiment, such efforts failed to deter vandals and poachers who scoffed at the park’s weak enforcement efforts.\textsuperscript{71} After fourteen years of civilian administration, during which time a parsimonious and divided Congress failed to provide an administrative framework for a sometimes-scandalous and ill-reputed park government, the Secretary of the Interior authorized the Secretary of War to detail troops to the park, ushering in a new era of national park administration.

In \textit{How the U.S. Cavalry Saved Our National Parks}, Duane Hampton argued that during the thirty-two years of military protection of Yellowstone, the officers in charge revised and enforced the rules and regulations governing the park, overcame various threats to the park’s existence, determined policy, and set a precedent for a national park system. Like their civilian predecessors, the military officers initially lacked a clearly-defined protection policy and judicial framework; unlike their predecessors, the military developed extralegal measures and created an atmosphere of general respect for park rules. Through its activities, the military administration gradually developed policy that later park officials would adopt and transform into National Park policy.\textsuperscript{72}

\textsuperscript{71} For reports about game losses, see Hampton, 35, 39-41, 48, 50, 52, 55, 61; for early civilian attempts to establish and enforce regulations, see pp. 36, 38, 44, 50, 61, 70-71.

\textsuperscript{72} Ibid., 81, 90-111.
In the years following the park’s establishment in 1872, park employees had occasionally expressed concern over poaching by Indian hunters. As signs of wildlife depletion became more visible in the late 1870s, conservationist groups pressured park officials to ban Indian interlopers in the park, decrying the slaughter of the buffalo by the “red ones” and condemning the “deviltry” of the hunting by fire-drive method.\textsuperscript{73} The first military superintendent of Yellowstone, Captain Moses Harris, took very seriously his task of preventing Indians from entering the park. Harris viewed bands of Shoshone and Bannock Indians along the western border as serious threats to the park’s game. Like many sport hunters and settlers of the time, Harris believed natives recklessly slaughtered game in a more destructive manner than did white sport-hunters. Scout details easily tracked native hunting bands who tended to travel in large groups, shadowing the natives and warning them off when encountered. Such strategies did not completely prevent natives from entering the park, but did serve to regulate their movements. Smaller bands continued to enter the park through the late 1880s, and by the early 1890s reservation agents proved more successful in restricting native movements off of their respective reservations. By this time, however, the threat of local white hunters had eclipsed concerns over native use of the region.\textsuperscript{74}

The efficacy of military policing and patrolling in protecting the park’s natural resources attracted widespread attention and approval, and the Secretary of War, at the bequest of the Secretary of the Interior, deployed the military to perform similar duties in Yosemite, General Grant, and Sequoia National Parks in California beginning in 1891.\textsuperscript{75}

\textsuperscript{73} Nabokov and Loendorf, 238.
\textsuperscript{74} For information on early military efforts to deter native hunting, see Spence, 62-64.
\textsuperscript{75} Historian Richard Sellars acknowledged that by the time of the creation of the National Park Service in 1916, illegal hunting had diminished due to the aggressive protectionist policies of the military. See
After decades of impassioned pleas requesting legal machinery to reinforce park regulations failed to have any effect, a high-profile poaching case involving bison and the national press finally coerced Congress into taking action. The Act of May 7, 1894, in addition to establishing a formal government for Yellowstone National Park, prohibited all hunting, killing, wounding, or capturing of any bird or wild animal, laying the foundation for all subsequent park wildlife legislation.76

As Congress created new national parks around the turn of the century, park managers remained committed to the protection of game from human predators, native or otherwise. Many officials at the new parks, however, chose to break from the Yellowstone tradition of dissociating the national park idea from the image of “the Indian.” As Americans settled the West and the dangers of the frontier passed, a Western antiquity began to command attention and received approval by the tourist industry.77 At many national parks, the corporate interests so crucial in the establishment of the parks isolated Indians in model settlements as curiosities in order to draw tourist dollars. Drawing upon larger cultural conceptions of the Indians as a vanishing race, park concessionaires used native peoples to represent relics of a lost age, as part of a “museumized” presentation based on romantic, frontier themes, as part of the scenery. In 1928, NPS Director Horace Albright wrote that the “best place for the Dude to see the Indian in his natural state is in some of the national parks,” echoing George Catlin's

Sellars, 71. John Muir lauded the army’s presence in California’s parks in Our National Parks, 1901. See Muir, in The Great New Wilderness Debate, pp. 50.

76 For more on the successful battle to achieve legal structure and the events leading up to the Act of May 7, 1894, see Hampton, 113-127.

sentiment uttered almost a century earlier that national parks should be closely associated
with Native Americans.78

During the early years in Yellowstone, concerns about tourism as well as game
species motivated efforts to exclude Indians from the park as their presence threatened
both the recreation and preservation objectives of the national park ideal. As time passed
and conditions changed, the park system incorporated the image of the “traditional
Indian” into its aesthetically-oriented policy of façade management. Formerly a liability
to the park system’s recreation element, Indians became a profitable marketing tool.
What park officials did not condone, however, was the spectacle of “real” Indians
running loose and threatening the safety of tourists, as they had done in Yellowstone’s
infant years, or consuming the park’s prized natural resources. Hunting, the primary
point of contention between Glacier National Park and the Blackfeet in the first half of
the twentieth-century, held no place within the American national park ideal.

Science

In 1916 Congress created the National Park Service to provide a unified
administrative framework for the growing system of national parks. Overall, the National
Park Service continued the management practices of its military and civilian predecessors
discussed in the preceding section.79 The park service’s bent towards development for
recreational tourism did not, however, remain unchallenged as a growing number of
ecologists condemned the utilitarian nature of park management. Although the influence
and impact of ecology on the national parks was minimal and short-lived in the early
twentieth century, spanning roughly a decade in the 1930s, its ideas experienced a

78 Robert H. Keller and Michael F. Turek, American Indians & National Parks, (Tucson: University of
79 Sellars, 48.
resurgence in the late 1960s and had direct influence on the formulation of environmental law. Early ecologists criticized the predator control programs, excessive commercial development, and the general nonscientific approach taken by the National Park Service towards park management; nevertheless, they considered the national parks the ideal places for the preservation of nature in its original state and fought bitterly to set aside protected wilderness areas in the parks. Largely unsuccessful, their ideas about mankind's, and the Indian's, role in natural processes would inform later park legislation, culminating in the Wilderness Act of 1964. Although early ecologists differentiated between primal and modern man, in the end all humans, including Native Americans, were no longer recognized as agents of natural change and thus held no rightful place in the national park system.

In a 1920 article for *Ecology*, Barrington Moore wrote that ecology represented the third stage in the development of the biological sciences. First, Darwin and others developed evolutionary biology that told humankind of its origins and connections to other forms of life. Later in the nineteenth century, academics specialized in different branches of biological science, constituting Moore's second stage. Within this milieu of academic, specialized studies at major universities emerged the third, or synthetic, stage: ecology.80 The "very essence of ecology," according to Victor E. Shelford and Frederick C. Clements, two of the leading pioneers in the field, "is the synthesis derived from the exhaustive analysis of the community and its habitat."81 Ecology went beyond focused studies of individual species and analyzed the relations of organisms to their environment and the interactions between them. Given its focus on habitats and community

populations, the pursuit of ecological knowledge required vast ecosystems in somewhat-natural states; thus, the strict preservation of natural areas became a primary goal for early ecologists. As Shelford wrote, a “branch of biological science which obtains its inspiration in the natural order of original habitats must depend upon the preservation of natural areas for the solution of many problems.”

In 1917, a committee of about twenty-five members from the Ecological Society of America set out to create a list of all preserved areas in North America in which natural conditions existed. The result of the project, *The Naturalist's Guide to the Americas*, was published in 1925, and in addition to listing a number of such areas, the work contained essays by ecologists eliciting the uses and values of preserving natural areas. Contributors to the volume suggested many reasons besides scientific research and education, the central objectives for ecologists, for the importance of natural areas. Some highlighted cultural elements, noting the value of natural areas to literature, art, and landscape architecture. Others underscored the practical and economical importance natural areas held for silviculture, geography, biology, and agriculture, arguing that the study of such areas could contribute to knowledge of pest control, possible medicines, and the raising of livestock. In addition to scientific and utilitarian reasons, some contributors noted the rising appreciation of protected landscapes for scenic and

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recreational purposes and provided commentary on the potential opportunities and
problems associated with the national parks.85

Ever since its inception in 1915, the Ecological Society of America expressed a
keen interest in the national parks and in 1920 gained representation on the National
Parks Committee, which later changed its name to the Council on National Parks, Forests
and Wild Life.86 In a 1920 brief in the society’s journal Ecology, editor Victor E.
Shelford wrote that the national parks “are as yet practically untouched and are, in fact,
nature museums.”87 Years later, Shelford wrote in the same journal that the “Society has
always realized that these Parks are the country’s largest natural areas, and, if kept
undisturbed, afford vast possibilities for science and education.”88 The National Park
Service’s devotion to the development of recreational tourism did not, however, go
unnoticed by early ecologists who viewed commercial encroachments, such as excessive
road construction and the development of extraneous amusement features, as
endangerments to the scientific and educational purposes of the parks, as well as possible
encroachments on the “scenic and recreational aspects in which the general public is so
deeply concerned.”89

In addition to critiquing the pro-development policies of the National Park
Service, early ecologists voiced objections to wildlife management in the parks, most
notably the predator reduction programs, and stressed that scientific research should play

85 See C.F. Korstian, “The Preservation of Natural Conditions in the National Forests,” in Naturalist’s
89 Direct quote from V.E. Shelford, “The National Parks,” 311. For more on early ecologists’ critiques of
park development, see Korstian, “The Preservation of Natural Conditions in the National Forests;” E. Lucy
a larger role in park management. In the summer of 1929, biologist George Wright answered their prayers by privately funding the first major scientific survey of park wildlife, initiating a decade-long stint of scientific involvement in natural resource management in the national park system.

In 1933, George M. Wright, Joseph S. Dixon, and Ben H. Thompson formally published the results of a field survey begun in May of 1930 entitled *Fauna of the National Parks of the United States: A Preliminary Survey of Faunal Relations in National Parks*. The report, the National Park Service's first comprehensive statement of natural resource management policies, recommended scientifically-based management of the parks' natural resources. Moreover, the authors of the report proposed a radical departure from earlier practices. Not only did they suggest perpetuating the extant natural conditions of the park, but, where necessary, they recommended restoring certain areas to their original, "pristine" states. This was not the first such expression voiced by ecologists; years earlier Charles Adams had suggested that the National Parks should remain a "virgin" wilderness, for, if "parks are to be managed so as to pass them on to future generations unharmed, they must in the main remain wild." What, then, did ecologists envision when advocating the restoration and maintenance of "primitive," "pristine" wilderness areas? And furthermore, for the purposes of this study, what preconceptions did they hold about mankind's agency in natural processes?

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91 Sellars, 91.
In 1916, Frederick C. Clements published his ideas on the concept that dominated ecology for the next half-century—holism and the climax theory of plant succession.\(^94\) For Clements and the ecologists who subscribed to his paradigm, natural processes followed a simple and harmonious pattern. Plant biologist Michael G. Barbour wrote that the “Clementsian landscape is a balance of nature, a steady-state condition maintained so long as every species remains in place. Everything is cooperatively and interdependently linked; if one element is disturbed, the whole will be changed.”\(^95\) Adams, Wright, and other ecologists sought to restore sections of the national parks to their “pristine” states by allowing natural communities to undergo natural succession and reach their climax, or final, stages. In order to do so, the biotic communities required protection from outside, “unnatural” forces that would disrupt nature’s inexorable journey towards a steady state. For the ecologists, the hand of man posed the greatest threat.\(^96\)

More than half a century before Clements published his groundbreaking work on plant succession, George Perkins Marsh published the visionary *Man and Nature*, which not only influenced conservation philosophy but also affected policy makers and business leaders. The work called for the preservation of large natural areas and anticipated many of the tenets of modern ecology. Marsh’s view of humanity’s role in the natural world reflected the contemporary accepted dichotomy between Man and Nature, and his thoughts on mankind’s relation to nature influenced the ideas of early modern ecologists like Clements and Shelford. Marsh did not consider humankind an element of the natural

\(^95\) Barbour, 235.
world, but perceived us as a separate entity. He wrote “man is, in both kind and degree, a power of a higher order than any other forms of animated life,” and although he lives “in physical nature, he is not of her.” Man, then, is not part of nature; henceforth, the “earth was not, in its natural condition, completely adapted to the use of man.”

Like most naturalists of his time, Marsh believed that the natural world exhibited stability and permanence when left undisturbed by humans. For Marsh, “man is everywhere a disturbing agent. Wherever he plants his foot, the harmonies of nature are turned to discords.” Marsh supported his assertion by detailing the irreparable damages that humankind had enacted upon the natural world and by describing the despicable profligacy humans had exhibited in utilizing the earth’s resources. Thus, successful preservation of large natural areas required the exclusion of human activity from those areas, for “the action of man upon the organic world tends to derange its original balances.”

Versed in Darwinian evolutionary biology linking humans and the natural world, early modern ecologists did not consider, as Marsh did, humans apart from the natural order. Stephen A. Forbes, a pioneer in the field, wrote in 1922 that man “is a part, and in a multitude of cases an all-important part, of the environment of other forms of life.” The ecologists did, however, place mankind on a higher level than other life forms, arguing that because of his intellect man has adapted himself to any terrestrial environment, modifying and evading local climates by erecting shelters and devising

97 George Perkins Marsh, *The Earth as Modified by Human Action*, (New York: Charles Scribner’s Sons, 1885), vii, 34, 35.
98 Ibid., 26, 33, vii.
technology for heating and cooling. Of all the motive forces affecting the succession of biotic communities, Clements and Shelford asserted, “those of man are paramount.” The threat of man’s actions upon climax stages loom ominously, as his disturbances, such as fire, lumbering, clearing, hunting, and trapping, “have destroyed or modified the climax in practically all forest regions.” Thus, for the early modern ecologists, as well as for Marsh, the preservation and restoration of “natural” conditions could only succeed where “ecological conditions will remain unchanged except through natural agencies,” where “the hand of man will not be found.”

Where, then, did native peoples fit into ecology’s ideas about man and the natural world? Both Marsh and the early modern ecologists addressed primitive cultures and held similar views regarding their impact on the natural world. Marsh wrote that “[P]urely untutored humanity, it is true, interferes comparatively little with the arrangements of nature,” doubting that the “purely savage tribes” had caused any sensible geographical change in the two millennia prior to “discovery” and colonization. For Marsh, nomadic tribes did little damage to the environment; however, as man adopted a stationary life, he “at once commences an almost indiscriminate warfare upon all the forms of animal and vegetable existence around him.” As human societies advance in civilization, the “destructive agency of man becomes more and more energetic and unsparing.” Marsh, like many contemporaries, considered the Indian a vanishing race and wrote of primitive cultures in the past tense. Fate destined man to succumb to civilization, and in doing so, sentenced him to derange the harmonies of nature.

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100 See J.W. Redway, “Human Ecology,” Ecology, v.2 no.3 (July 1921): 229; Clements and Shelford, Bio-Ecology, 94.
101 Ibid., 249.
102 Munns, 221.
103 Marsh, 38-40, 42.
The early modern ecologists held similar views of primal cultures, but they wrote with less certainty when pressing their claims. Clements and Shelford subscribed to the unilinear model of cultural evolution, with successive stages progressing from hunting to pastoral to agricultural.\textsuperscript{104} They argued that at the most primitive, hunter-gatherer levels, human societies were merely integral parts of the biome; in pastoral areas, "man perhaps is still to be reckoned as a constituent of the biome rather than the superdominant in it."\textsuperscript{105} Only with the advent of agriculture and the mastery over steel did man acquire dominance within the biome. Like Marsh, the early modern ecologists recognized differences in the intensity of reactions exerted by man at various culture levels, and, like Marsh, they doubted native tribes had enacted any considerable change on the land before the arrival of Columbus. Shelford wrote in 1933 that primitive man, "who could not remove the forest or exterminate the animals, is probably properly called a part of nature. At the time of the discovery of America, a scattered population of Indians had locally modified the vegetation, but had not destroyed any of the vegetation types."\textsuperscript{106}

Nine years earlier, Clark Wissler, one of the first ethnographers of native peoples, contributed an article to *Ecology* advancing the opposite position. In the article, Wissler attacked the general conception that grouped all native tribes into a collective, homogenous stereotype. Before the arrival of Columbus, argued Wissler, "the American Indian did not stand still, some tribes advancing to an agricultural level and others to an age of bronze. Thus, the Indian tribes not only furnish us examples of primitive hunters,

\textsuperscript{104} Clements and Shelford, 156.
\textsuperscript{105} Ibid., 24 (italics added).
but of agriculturalists, and of higher forms of society." He proceeded to argue that
tribal societies, be they hunting or farming, actively manipulated the flora and the fauna
in their environments. Unlike Marsh and the early modern ecologists, Wissler claimed
"there is reason to believe that in prehistoric times whole areas were devastated by man."
He concluded: "It is thus clear that man is by inheritance a disturber of nature."108

Despite his recognized expertise and impressive credentials regarding native
cultures, Wissler’s opinion of native land use represented and remained the minority
opinion until the latter twentieth-century, when scholars challenged the dominant
paradigm and began to re-examine core assumptions and present research suggesting
natives had manipulated and modified the land more than previously thought. The
authors of Fauna of the National Parks advanced the belief that native peoples only
lightly modified their environment and, in their quest to determine “original” conditions
in the park units, used as a reference point “the period between the arrival of the first
whites and the entrenchment of civilization in that vicinity.” Like other early modern
ecologists, the authors wrote hypothetically when addressing pre-contact conditions,
noting that “[W]e can know little of the other pictures that preceded this period,” but
certain that “violent changes occurred immediately afterward.” Eager and confident in
their speculation, they asserted that the “rate of alteration in the faunal structure has been
so rapid since, and relatively so slow before, the introduction of European culture that the
situation which obtained on the arrival of the settlers may well be considered as
representing the original or primitive condition that it is desired to maintain.”109

107 Clark Wissler, “The Relation of Nature to Man as Illustrated by the North American Indian,” Ecology,
v5 no.4 (October 1924): 313.
108 Ibid., 317 (italics added).
109 Fauna of the National Parks, n.p.
How, then, does one apply early ecological notions of native land-use to ideas regarding native access to park lands? If, as the early modern ecologists maintained, natives hardly altered natural conditions, why deny them access to the “pristine” areas of the national parks? One reason may have to do with temporal considerations. Clements and Shelford wrote in 1939 that bio-ecology concerned itself primarily with modern man, and, like other early modern ecologists, wrote of “primitive” cultures in the past tense.110 Having evinced adherence to unilinear models of cultural evolution, perhaps the early ecologists considered early twentieth-century Indians, at the end of the assimilation era, closer to “civilized” modes of life and therefore possessed of far greater destructive capacities than their primal ancestors.

Another reason justifying native exclusion lay with presumptions regarding traditional native use of the areas the ecologists sought to set aside as nature reserves. Prior to the late twentieth-century, when serious studies of historical native use of the park areas first appeared, the common assumption was that native societies had not historically used the park areas to any considerable extent; thus, they held no agency in the natural processes contributing to the climax states of the park units. Shelford expressed this opinion succinctly in 1933 when he wrote that “most of the areas which are now available for reservation as nature sanctuaries or nature reserves were probably not much affected by these primitive men. This is the argument for leaving them out of the picture.”111

110 Clements and Shelford, 24.
Summary

In this chapter I have attempted to convey the atmosphere within which American policy-makers established the first national parks under the premise that native inhabitation and use of park lands should be strictly regulated. From a cultural perspective, conditions unique to a maturing nation essentially bifurcated the Romantic vision of an Indian wilderness, with the images of the Indian and the wilderness diverging on separate paths later in the nineteenth century. From an economic perspective, the corporate nature of the park system sought to create a serene environment to meet the aesthetic expectations of a nascent tourist industry; thus, the permission of native activities assumed a selective nature. From an intellectual perspective, the emerging science of ecology presented a competing vision of park management policies and goals that, although unsuccessful at first, greatly influenced later park notions of mankind’s, and the Indian’s, rightful exclusion from natural areas in the park system.

Thus far this study has taken a generalized approach to the history of the formative years of the national park system and the concepts introduced provide underlying themes for the rest of this work. As C.W. Buckholtz claimed, development and preservation policies in Glacier National Park’s early years were part of a national policy generally instituted in all national parks. The relationship between Glacier National Park and its neighboring tribe the Blackfeet, however, was not typical within the overarching national park system. The Blackfeet based their claim to subsistence rights on park lands on explicit language in a land-cession agreement predating Glacier National Park’s inception, thus their struggle evolved within a highly-disputed legal

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112 Buckholtz, 12.
framework. Controversy over subsistence rights explicitly listed in the agreement, most notably hunting, comprises the focus of the next chapter.
Chapter 2—Language and the Law: The Blackfeet, Glacier, and Reserved Subsistence Rights

The historical relationship between the Blackfeet and Glacier National Park may represent the most protracted and contentious example of the interplay between national parks and native groups. As was the case with many other tribes, the coming of Anglo-American civilization heralded the erosion of the Blackfeet traditional subsistence base. Left with land as its only commodity, the tribe proceeded to sell its lands and ultimately sank into a dependent and marginalized status on reservation land. In a land cession in 1895, the tribe reserved specific subsistence rights that were honored in writing. When Congress dedicated much of the ceded land as part of a national park fifteen years later, park managers initiated a century-long campaign repudiating those native subsistence rights deemed impermissible in the National Park System.

In this chapter, I will trace the history of the tribe’s attempts to force the National Park Service to recognize the explicit usufruct rights reserved in a binding agreement with the federal government, with special focus on the decades since 1970. More than any other tribe, the Blackfeet has fiercely resisted exclusionary park policies and has repeatedly forced the park to justify its actions. Adamant in its opposition to certain native activities within park boundaries, the park has found a powerful ally in the federal government whose legal representatives have repeatedly ruled against the tribe in the legal arena. The historical evolution of the themes introduced in the previous chapter, cultural perceptions of native peoples and the dialectic dialogue that shapes park management (use vs. preservation), provides a stage upon which the drama in
northwestern Montana has unfolded and continues to do so. By tracing historical developments pertaining to such overarching themes alongside the history of the contentious relationship between Glacier National Park and the Blackfeet, I hope to explain why the general policy of native exclusion and denial of resource extraction is not ironclad within the overarching National Park System, nor within Glacier National Park itself. Furthermore, I will show how Blackfeet pressures upon the park in the 1970s forced park officials to become more accommodating to native interests. Yet, native uses of park lands that compromised either of the dual objectives of the park system still commonly met, and continue to meet, with strict regulation or outright prohibition.

**Pre-Park Tribal History**

Until recent times, many historians agreed that the Blackfeet migrated from the Great Lakes region to the northern plains sometime during the seventeenth century. However, new archaeological and ethnographic research of genetic and linguistic evidence, oral history, and fur trade documents suggests that the tribe has resided in the region for thousands years.\(^1\) Furthermore, oral histories collected and preserved by a group of Anglo-American writers around the turn of the twentieth-century suggest that Blackfeet use of the Glacier area was extensive and regular prior to the reservation era. Beginning in the late 1880s and continuing throughout the Assimilation era (roughly from 1887 until 1934), a group of Anglo-American writers offered a competing vision to the dark and racist view of tribal cultures that gained many adherents in the late nineteenth century. Many of these writers, i.e. George Bird Grinnell, James Willard

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\(^1\) Brian Reeves and Sandy Peacock, *Our Mountains Are Our Pillows: An Ethnographic Overview of Glacier National Park*, (Glacier National Park, Montana, 2001), 77. This study focuses on the Southern Piikani tribe that lives on the Blackfeet Reservation in Montana, and in employing the term “Blackfeet,” I refer to this tribe.
Shultz, Walter McClintock, Clark Wissler, and Mary Roberts Rinehart, spent time with the Blackfeet and published literary works replete with Blackfeet legends, folklore, mythology, and common tales of daily life among the tribe. Prisoners to nineteenth century conventions, these writers lamented the inevitable demise of tribal cultures and sought to record and convey the value of Blackfeet culture while accepting the notion that it could not prevail in the industrial world. Oral history and recent archaeological research indicate that the Blackfeet gathered a wide array of food and medicinal plants in the foothills and mountains, and bighorn sheep, mountain goats, elk, deer, and smaller animals of the Glacier region provided important meat and hide resources. Although the Blackfeet regularly used the mountains for material and spiritual subsistence purposes, the tribe most commonly found its “staff of life” roaming the plains.

Even before the introduction of the horse, the buffalo provided the mainstay of Blackfeet subsistence. During the Blackfeet’s pre-horse “dog days,” nomadic hunting units enticed buffalo into rude corrals on foot, and the buffalo complex influenced tribal migration patterns and cultural developments. The Blackfeet saw no whites for nearly 250 years after Columbus’s “discovery.” Nevertheless, elements of European material culture appeared in the Northwest early in the eighteenth century. First exposed to the horse during a skirmish with Shoshoni warriors in 1730, the tribe spent the rest of the

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3 These writers generated too many works detailing Blackfeet uses of the Glacier area to name all here. For a start, see George Bird Grinnell, Blackfoot Lodge Tales: The Story of a Prairie People (1892); James Willard Shultz, Blackfeet Tales of Glacier National Park (1916); Walter McClintock, The Old North Trail or Life, Legends and Religion of the Blackfeet Indians (1910); Clark Wissler and D.C. Duvall, “Mythology of the Blackfeet Indians,” originally published in 1908 in the Anthropological Papers of the American Museum of Natural History, vol. 2, part 1; for a list of traditional plant materials found in Glacier National Park and a map of traditional hunting and plant-collecting locales in the region, see Reeves and Peacock, 231-233, 147; for a synthesis of these works and a concise summary of Blackfeet traditional use of the Glacier region, see Spence, 73-76.
eighteenth century perfecting the equestrian arts and securing steady access to firearms through French and British traders. Neighboring tribes feared the Blackfeet, who further strengthened their hegemony by restricting the western tribes' access to firearms. By the end of the century, the Blackfeet had become "masters of the northwestern plains."  

Although relations with the British and the French had been relatively amicable, the Blackfeet quickly developed hostile relations with American fur companies. Despite repeated defeats and withdrawals, American fur companies persevered and gradually established trading forts along the Missouri and Marias rivers, which prompted a southward shift among the Blackfeet tribes. In the 1830s, demand for beaver declined and trade in buffalo robes increased with the buffalo robe becoming the standard of value in the Blackfeet trade. By the 1850s, the tribe had been trading directly with whites for nearly 75 years and had grown accustomed to the traders' wares. Whites were few on the Northwestern Plains, however, and the Blackfeet remained ignorant of the true nature of the larger white man's civilization and its insatiable thirst for tribal lands.  

Desire for tribal lands quickly became an obsession for the United States government shortly after its inception in the 1780s. After encountering fierce tribal resistance in its initial attempts to procure native lands through force, the government abandoned its policy of the "right of conquest" based on pure military coercion and adopted the "right of purchase" policy, based on treaty negotiations with tribes as sovereign nations, in order to acquire western lands. Certainly, the government subsequently broke many of the treaties it initiated; moreover, the government frequently inserted vague clauses that, contingent upon assumed future developments, would

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5 Ibid., 45-72.
eventually render the treaties obsolete. This strategy often proved successful in securing exclusive ownership over lands formerly utilized by tribal peoples. Predictably, it also generated much controversy and conflict. The situation that developed around Glacier National Park provides a case in point.

The Blackfeet first entered into formal relations with the United States with the Lame Bull Treaty of 1855. Unlike most treaties of the mid-nineteenth century, the Lame Bull Treaty did not extinguish aboriginal land title through sales or cessions. Moreover, it did not transfer any land at all. Although the treaty did designate a parcel of land as belonging exclusively to the Blackfeet, it did not provide for Indian removal to reservations, nor did it stipulate the division of communal lands; thus, it shared little in common with the reservation policy being enacted throughout the West. The Blackfeet remained too powerful to force land cessions from and expressed no desire to confine themselves to a reservation.

The goal of the treaty was to pacify the nomadic warring tribes residing both east and west of the Rocky Mountains so as to facilitate the safe passage, via railroad, of whites through the region. In order to impose peace among the native bands, the treaty established that a portion of the Blackfoot territory, as designated in the Treaty of Fort Laramie of 1851, “shall be a common hunting-ground for ninety-nine years, where all the nations, tribes and bands of Indians, parties to this treaty, may enjoy equal and uninterrupted privileges.” The notion of a common hunting ground was not foreign to the tribes of the Northwest; in fact, a regional Indian commons already existed. The

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6 William E. Farr, ""When We Were First Paid": The Blackfoot Treaty, the Western Tribes, And the Creation of the Common Hunting Ground, 1855,” *Great Plains Quarterly*, v.21 no.2 (2001): 131.
8 Ibid., 737.
Lame Bull Treaty did not create a common hunting ground, rather, it merely recognized, defined, and limited the pre-existing commons.\(^9\) This local commons would live a short life, however, as the territory in question would constitute just one chapter in “the essential story at the heart of America’s western past: the local commons giving way to the extra-local, the community surrendering authority in resource allocation to state or national agents.”\(^10\)

Along with the establishment of a common hunting grounds, the Lame Bull Treaty designated a large swath of land, extending east from current day Glacier National Park to the border of North Dakota, and extending north from the Mussellshell and Missouri Rivers to the border of Canada, as “the territory of the Blackfoot Nation, over which said nation shall exercise exclusive control.”\(^11\) In exchange for the concessions made by the Blackfeet and other tribes, the government promised annual payments of $20,000 for ten years. The architects of the Lame Bull Treaty, by creating both common and exclusive territories, sought to buy time until the federal government could mobilize a full reservation effort. Whites commonly perceived the decline of the buffalo as a parallel development to the demise of native populations, and believed that in short time precipitous declines in both buffalo and Indian populations would open lands and enable a full reservation effort. They were partially right—negotiations destroyed the common hunting ground within ten years, and the buffalo had all but disappeared within thirty years.\(^12\) The “vanishing” Indian, however, never vanished.

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\(^9\) Farr, 148.
\(^11\) Kappler, 737.
\(^12\) Farr, 150.
In 1860, the first steamboats reached Fort Benton, home to the first Blackfoot Agency on the recently created Blackfeet Reservation. After the establishment of Montana as a territory in 1864 and the end of the Civil War in 1865, prospectors flocked to northwestern Montana and the "Blackfeet Wars" ensued. The Massacre on the Marias in the winter of 1870, in which the army killed 173 Blackfeet, mostly women, children, and the elderly, "pacified" the tribe, put an end to the Blackfeet Wars, and ensured safe passage through Montana for white settlers.13

Increasing white immigration in the decades following the Lame Bull Treaty of 1855 intensified efforts to acquire Blackfeet land. As the buffalo disappeared, tribes of the Plains lost their traditional means of survival. Disease and warfare ravaged native populations, which became less self-sufficient and more dependent upon the government for survival. Ever since the time of Jefferson, the government sought to procure native lands by creating states of dependence and by extending credit in hopes of generating debt.14 This tactic proved successful, on the Plains as well as across the whole continent. Situations of poverty and starvation forced tribes to sell the only commodity they had left: land.

Beginning with the Lame Bull Treaty, the Blackfeet entered into a series of treaties and agreements with the federal government that continually redefined their ever-shrinking land base. Treaties in 1865 and 1868 transferred Blackfeet lands and resources to government hands. In 1871, the United States ended formal treaty making with native tribes, and dealings with Indians took the form of Executive Orders and Acts of Congress. Two Executive Orders in 1873 and Acts of Congress in 1874 and 1888

13 Reeves and Peacock, 113.
14 Wallace, 19.
removed most of the land guaranteed to the Blackfeet in the Lame Bull Treaty of 1855. Militarily broken, the tribe’s economic independence suffered a fatal blow with the disappearance of the buffalo in the 1880s. The Dawes Severalty Act of 1887, designed to replace communal living patterns with individual, market-oriented ones, opened hundreds of thousands of acres to white settlement. By the time Congress passed the Indian Reorganization Act in 1934, 40% of reservation lands lay in the hands of whites. By 1890, the Blackfeet Reservation was a small fraction of its original size, and in 1895, that fraction would shrink even further.

**Glacier National Park**

In the early 1880s, James Willard Schultz, whose Blackfeet tales provide some of the earliest ethnographic accounts of Blackfeet life, noticed prospectors lured by rumors of gold in the hills near St. Mary Lake and suggested to a politically-connected acquaintance that the Blackfeet Reservation be opened to white settlers. The motion to open a mineral strip within the western border of the reservation made its way to the Commissioner of Indian Affairs and to the Secretary of the Interior. George Bird Grinnell, editor of *Forest & Stream*, nature advocate, and adopted member of the Blackfeet tribe, doubted the mineral content of the area in question and feared the soil erosion that mining activities would produce. Nonetheless, Grinnell eventually became one of the government’s three negotiators for the government in the land cession. In 1888, the Blackfeet sold the Sweet Grass Hills to the government, but by 1895 the proceeds from that sale had run out. Out of money and unsuccessful at farming on the

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15 Reeves and Peacock, 121.
semi-arid northern plains, the tribe turned to Grinnell, long considered a “friend,” to handle proceedings for additional land sales.\textsuperscript{16}

Differing opinions concerning the selling price and provisions of the cession divided the tribe, but, despite any dissent, all remained steadfast in their demand to retain traditional subsistence rights on any land they ceded. After working the price down from 3 million to 1.5 million dollars, the commission and the tribe sealed the deal. Ratified by Congress on June 10, 1896, the agreement drew the boundary of the new reservation, and included a provision that would continue to haunt the National Park Service to this day:

\textit{Provided,} That said Indians shall have, and do hereby reserve to themselves, the right to go upon any portion of the lands hereby conveyed so long as the same shall remain public lands of the United States, and to cut and remove therefrom wood and timber for agency and school purposes, and for their personal uses for houses, fences, and all other domestic purposes: \textit{And provided further,} That the said Indians hereby reserve and retain the right to hunt upon said lands and to fish in the streams thereof so long as the same shall remain public lands of the United States under and in accordance with the provisions of the game and fish laws of the State of Montana.\textsuperscript{17}

In 1898, the ceded strip opened to miners. By 1902, the boom had become a bust. The ceded land, however, would soon be incorporated into one of the “crown jewels” of the American national park system.

George Bird Grinnell knew that no mineral wealth lay buried in the mountains the Blackfeet called “The Backbone of the World,” but he did perceive an altogether different kind of wealth. As early as 1891 he began to entertain the idea of creating

\textsuperscript{16} For a discussion of Schultz and Grinnell and their role in advancing the 1895 agreement, see Keller and Turek, 45-47.
\textsuperscript{17} Charles Kappler, \textit{Indian Affairs: Laws and Treaties}, v.1, (Washington: Government Printing Office, 1904), 606. For consistency’s sake, I refer to the agreement negotiated in 1895 as the Agreement of 1896, reflecting the year in which Congress ratified it.
Glacier National Park. As editor of *Forest & Stream*, Grinnell published articles advocating the preservation of the region, and aided by the lobbying of local politicians, managed to convince Congress to set aside the region as a national park. On May 11, 1910, President William Howard Taft signed the necessary legislation, and Glacier National Park was born.

*Figure 1: Glacier National Park and the Blackfeet Reservation (map taken from Spence, pp. 92)*

Language in the enabling act appears contradictory. The Act conferred exclusive control of the park to the Secretary of the Interior, who was responsible for "the care, protection, management, and improvement" of the park, and whose duty it was to

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18 Keller and Turek, 48.
provide for the preservation of the park in a state of nature." The Act also specifically allowed for the harvest of dead timber, railroad access, and the leasing of hotels. These competing objectives highlight the dichotomy of use and preservation inherent in all early park legislation, and Glacier National Park’s enabling act provides just one example within the overarching national policy regarding the management of the early national park system. What the legislation did not mention, however, was the Blackfeet tribe or its rights guaranteed in the Agreement of 1896. Although the legislation failed to mention the tribe or its rights specifically, it would have serious consequences for the park’s eastern neighbors.

For some Blackfeet, the creation of the park meant opportunities for employment. As discussed in the previous chapter, early park officials adopted the mandate for recreational tourism as their chief intent, and Glacier was no exception. The powerful corporate interests guiding early park management in Glacier reserved a special role for native peoples. At the time of the park’s creation in 1910, the Great Northern Railway Company carried little commercial traffic through the area, so park bureaucrats joined with the Great Northern, its largest concessionaire, to build a park that would draw visitors. Works by Grinnell, Shultz, McClintock, Wissler, and Rinehart closely identified the Blackfeet with the Glacier area, and the railroad played upon larger cultural themes, such as the frontier myth and the “vanishing Indian” motif, to promote the Blackfeet as the “Glacier Park Indians.” The railroad did not attempt to portray the reality of tribal life under pressure to assimilate, but rather, judging by their choices and printed promotional materials, embraced and exploited the “noble savage” motif, advancing and

employing “physically impressive, fullblooded, prototypical Indians of the great Plains, horse-riding tipi-dwelling buffalo-hunting real Indians, noble savages, who would give the visitor the thrill of a lifetime, straight out of the Westerns—as long as they were not too bloodthirsty.”

The Great Northern Railway employed tribal members as dancers, greeters, and caddies for tourists staying at the company’s plush hotels. The railroad even hired a group of Blackfeet to live near Glacier Park Hotel in a small tipi encampment during the summer with nightly performances featuring singing, dances, sign language, and the occasional adoption ceremony. Officials heavily publicized the “Glacier Park Indians” in early park promotional literature, as well as through several notable trips for delegations of the “Glacier Indians” to the New York Travel Show, the Portland Rose Festival, and the Chicago Land Show. The railroad made the Blackfeet an integral and expected part of the Glacier experience.

By the early 1940s, company officials began expressing worries about the shows outside the Glacier Park Lodge, criticizing the show as monotonous, hokum, and worn out. Furthermore, the railroad experienced difficulty hiring older Blackfeet who matched the romantic image the company promoted. The younger generations proved too modern, disinterested in tribal matters, and hard to regulate. The Office of Indian Affairs had never been too enthused about the show, arguing that tribal employment for exhibition that showcased and encouraged traditional lifestyles hampered federal efforts towards assimilation. In 1950, the Great Northern officials decided to let the Blackfeet approach

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21 For early native activities and promotional efforts for the park, see Regan, 3-5.
them to arrange for entertainers; the tribe, perhaps tired of acting as show pieces, stayed away.\textsuperscript{22}

Whereas the façade-management approach adopted by the corporate culture during Glacier's early years allowed and even promoted the presence of regulated groups of Blackfeet as romantic parts of the scenic Glacier experience, the exercise of certain reserved treaty rights conflicted with the purposes of an aesthetic park and made management inconvenient and difficult. In addition to development for recreational tourism, the enabling legislation had also mandated the preservation of the park's natural resources. Designation of the park gave administrators the power to begin shaping a landscape that would conform to the desired status of the park as one existing in a "state of nature." Immediately, they banned hunting, the carrying of firearms, the cutting of live trees, homesteading, and fishing except by hook and line. Natives, whether claiming ignorance of park boundaries or openly defying park rules, persisted in their customary subsistence activities, and hunting remained widespread within the park until the mid-1910s.\textsuperscript{23} Park administrators considered Blackfeet hunting a threat to wildlife, but confusion over jurisdiction prevented clear courses of action. The confusion over jurisdiction ended in 1914, when Congress passed legislation conferring to the federal government exclusive jurisdiction over Glacier National Park. The legislation also specifically prohibited hunting in the park.\textsuperscript{24}

Punishments resulting from hunting violations in the park aroused the ire of tribal members cognizant of the 1896 agreement guarantees. In November of 1915, two

\textsuperscript{22} See Regan, 7-8, 12.
\textsuperscript{23} See Warren, 290-293.
\textsuperscript{24} Glacier National Park Act, August 22, 1914, 63 P.L. 177, 63 Cong. Ch. 264, 38 Stat. 699. See Sections 1 and 4.
Blackfeet tribal members separately wrote Montana Senator Harry Lane requesting information regarding Indian hunting rights in the park. Unsure of how to respond, Senator Lane passed along the letters to the commissioner of Indian Affairs, who in turn forwarded them to the Department of the Interior. The Solicitor of the Interior, citing the 1896 *Ward v. Race Horse* ruling that terminated Bannock hunting rights in Yellowstone, referred back to the Agreement of 1896 and concluded that the “right to hunt and fish under this agreement was temporary and precarious.” He further replied that tribal rights to game in the park had ceased upon establishment of the national park. Citing the Agreement of 1896, he asserted that, upon dedication of the ceded land as a national park, it no longer qualified as public land of the United States.

Shortly after the creation of the National Park Service in 1916, Glacier National Park officials became concerned with deer and elk hunting on the reservation to the east, where ungulates migrated during winter storms. In an effort to protect wildlife populations, officials embarked on a decades-long struggle to extend the park boundary six miles to the east. The Park Service failed in its efforts to extend the park boundary; however, it did manage to secure jurisdiction over the Blackfeet Highway that ran along the eastern border of Glacier. Park control of the highway failed to deter hunting in the park or on the reservation, and disputes persisted.

In 1924, Peter Oscar Little Chief circulated a petition on the reservation calling for recognition of native rights in Glacier, lamenting that “now we are all known as the

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25 Spence, 90.
27 In the Superintendent’s Annual Report for 1923, Supt. Eakin complained that bands of migrating elk “are being ruthlessly slaughtered by the Blackfeet Indians, and we have no recourse...the Indians are hunting the elk to a point of extermination.” See S.A.R. 1923, GNPA: F7-2.
28 Keller and Turek, 54. Superintendent Eakin complained in 1921 that train-men on the Great Northern oftentimes tipped off the natives as to the rangers’ whereabouts. See Regan, 10.
Glacier National Park [Indians] of Montana...[But we Indians can’t] hunt there.”29 The fate of the petition remains a mystery, and Little Chief inquired twice more in writing in 1926 and 1928 about its status. During this period of bureaucratic neglect, tensions between tribal members and park rangers sharpened and by the early 1930s, according to historian Mark David Spence, “a near state of war existed on the eastern side of the park.”30 Eight years after the fact, Little Chief’s petition was answered when in June of 1932 another solicitor’s report reinforced the judgment passed in 1916 that focused on a narrow, and legally disputable, definition of “public lands.” Solicitor Finney concluded that the reserved rights were determinably extinguished when the ceded lands ceased to be public lands, i.e. when Congress dedicated the land as a national park. He further noted that the Blackfeet reserved right to hunt, as stated in the Agreement of 1896, “was expressly subject to the provisions of the game and fish laws of the State of Montana.”31 A poaching case involving four Blackfeet resolved in favor of the park in the spring of 1933 confirmed the park’s right to arrest Indians in the park and demonstrated that poachers would face prosecution. A local newspaper headline read: “All Hunters Barred from Park Reserve: Indians Do Not Hold Hunting Rights by Treaty.”32

A 1935 Court of Claims decision in the case of Blackfeet Indians (et al.) v. United States further strengthened the legal position of the National Park Service. The decision claimed that prior to the act of May 11, 1910, the Indians of the Blackfeet Reservation did not exercise to any appreciable extent the rights reserved in the aforesaid agreement of September 26, 1895, to hunt and fish in and remove timber

29 Quoted in Regan, 10-11.
30 See Spence, 93-94.
from the land ceded in the agreement, and such rights were authoritatively terminated by the limitations of the act of May 11, 1910.33

This decision surely came as a surprise to many Blackfeet who had been chastised by park rangers for exercising their reserved rights, as it must have for tribal members old enough to remember traditional use of the area before the creation of the park. James Willard Schultz, among others, had testified that some two hundred Blackfeet had actively used the land in question between 1895 and 1910, but personal observations and oral history failed to convince the courts. Anglo-American cultural prejudice has led many to dismiss oral tradition as mere superstition without any factual foundation and to accept only written documentation as valid. The clash of cultures embodied in these different forms of historical transmission has frequently proved disastrous for native societies that have been forced to conform to the demands of written documentation and have, in many cases like this one, failed. When discussing the important role that oral tradition plays in Blackfeet culture, Tiny-Man Heavy Runner, referring to the writings of James Willard Schultz, insisted that “it (our history) is in writing.”34 The opinion that tribal groups had not extensively used park lands was not a novel one, as ecologists, park officials, and bureaucrats made similar arguments in the case of Yellowstone and elsewhere.35 In one of the earliest histories of GNP, Madison Grant wrote that the east side of the park once “formed the westerly portion of the Blackfeet Indian Reservation, but was not used by these Indians.”36

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35 As noted in Chapter 1, pioneer ecologist Victor E. Shelford cited the absence of native use of park-lands as justification for their exclusion. See Shelford, “The Preservation of Natural Biotic Communities,” pp. 241. For a brief summary of the widespread misconceptions holding that Indians feared national park areas, see Keller and Turek, 24.
In the 1930s, as the NPS vigorously enforced anti-hunting laws in GNP with the Interior Department's unwavering legal support, larger changes in federal Indian policy prompted the park service to adopt new paradigms towards native peoples residing on lands adjacent to newly-designated park units and it began loosening strictures pertaining to native subsistence uses. According to historian Sherry Smith, writers like Grinnell and McClintock succeeded in creating new ways to conceptualize native peoples and helped lay the intellectual and cultural groundwork for the Indian New Deal and for deeper changes in popular conceptions of Indians in America that occurred in the 1920s and 1930s. Their writings coincided with the rise of the professionalization in anthropology. Anthropologists, led by Franz Boaz, joined with such popular writers in challenging federal policies aimed at forced acculturation and, through their promotion of cultural relativism, laid the philosophical basis for an enlightened Indian policy. Mounting pressure for substantial policy reform in the 1920s impacted the Roosevelt administration, whose Commissioner of Indian Affairs, John Collier, ushered in the Indian New Deal. The Indian Reorganization Act of 1934, originally the brain-child of Collier, provided for tribal self-determination of lands, culture, and government, thereby constituting a sharp policy reversal from the assimilationist goal of allotment. Although none within the Indian Service directly supported native claims to the established national parks, respect for native cultures, a proclaimed cornerstone of the Indian New Deal, did affect policy formulation in newly formed park areas.

38 Smith, 5.
39 Dippie, 281.
40 See Spence, 134; Norris, 21.
Although most of the new parks condoned only limited gathering activities of plant materials for nutritional, construction, craft, or ceremonial purposes, a few park units tacitly allowed hunting. At Everglades National Park (1934) and Olympic National Park (1938), park officials proved far less zealous in their enforcement efforts than officials at Glacier. In Everglades National Park and Olympic National Park, officials reluctantly accepted subsistence hunting so long as it remained both small in scale and away from the public view. Once hunting harvests violated either of these conditions, as they did in Olympic National Park in the early 1980s, the guiding principles of the National Park System triumphed over native land rights. Changing perceptions of native peoples may have impacted the formation of subsistence regulation in newly-created parks, but they failed to make headway against the enshrined traditions of parks like Glacier, one of the emulated “crown jewels” of the National Park System.

After the Court of Claims ruling in 1935 officially terminated Blackfeet rights within the park, the park and the tribe locked into a stalemate that remains largely unresolved to this day. The Blackfeet were one of the first native groups to reorganize under the IRA and Blackfeet animosity towards the park became rooted in a centralized political body, which spread and became an integral part of tribal policy and an expression of Blackfeet national identity. In spite of overall negative opinions

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41 For a concise list of known subsistence uses in non-Alaskan NPS units established prior to 1976, see Norris, 24.
42 For a brief summary of subsistence regulation at Everglades National Park and Olympic National Park, see Norris, 21-23. For a more thorough treatment, see Keller and Turek, 90-131, 216-232.
regarding the park, tensions eased in the late 1930s and for over two decades relations appeared relatively amicable and the Blackfeet abstained in their pressure upon park officials for the recognition of hunting rights in the park.44 During this temporarily dormant period in tribal-park tensions, changing historical conditions and opinions greatly impacted development and management in Glacier and throughout the entire National Park System.

The Bigger Picture

The end of WWII in 1945 signaled an end to economic stringencies and unprecedented numbers of visitors ventured out to the national parks. Unlike other parks, Glacier was not totally inundated by tourists and the post-war tourism boom did not overwhelm the park’s facilities.45 By the mid-1940s, most tourists visited the park by automobile and highway maintenance constituted a major factor in the park’s effort to enhance the tourist experience. In 1955, the National Park Service initiated its ambitious “Mission 66” program that sought to prepare the parks for anticipated increases in tourist numbers. Mission 66 dominated the National Park Service program at Glacier for a decade; however, it did not signify a blank check for rampant development.46 The fundamental principle of the program embodied the twin pillars of the park system: preservation and use. Assuming visitors would use certain areas, park officials made

44 In a March 24, 2005 interview Ted Hall, BIA employee with long experience dealing with tribal-park matters, claimed that the tribe and the park got along fine until Edward A. Hummel was appointed Superintendent in 1958. Supt. Hummel, according to Hall, took a hard line against the Indians and acted as if there was no agreement at all. Interview in possession of the author.
45 Buckholtz, 116.
preparations by improving roads, trails, and park facilities that would limit the impact to specified areas, in effect preserving the wilderness condition of the rest of the park.\footnote{See Sellars, 181; Buckholtz, 93. Buckholtz claims the nature of the terrain in Glacier made tourists reluctant to leave the developed areas; thus, the developed areas succeeded in confining tourists to small portions of the park, thereby protecting and preserving the adjacent natural areas. See Buckholtz, 119.}

Not surprisingly, the pro-development aspect of the Mission 66 program provoked harsh criticism, far more than previous park development had faced. Leaders of the burgeoning environmental movement voiced their concerns directly to the public and to politicians and effectively broadcast their disapproval of national park management. Critics lambasted the proliferation of tourist facilities, road design, and excessive road construction, objecting to the modernization and urbanization of the national parks encouraged by the Mission 66 program.\footnote{For general critiques, see Sellars, 185. For criticisms specifically leveled at GNP, see Newell, Walter, and McDonald, 180.} In 1963, ecologists, whose influence in the park service had waned towards the end of the 1930s, again produced a written report echoing many of the suggestions and critiques regarding park management included in the 1933\textit{Fauna of the National Parks}. This time, however, their arguments reached a much wider audience and resonated much more powerfully.

\textit{Wildlife Management in the National Parks}, more commonly known as the Leopold Report, appeared in 1963 and represented the first review of Park Service natural resource management conducted by experts from outside the bureau. The study reflected the growing awareness of ecology and received widespread publicity, contributing to the growing criticism of the commercialization of the national parks.\footnote{The report was reprinted in its entirety in \textit{Living Wilderness}, \textit{Audubon, National Parks Magazine}, and \textit{American Forests}.} Similarities between the Leopold Report and the \textit{Fauna of the National Parks} abound. Overall, the central
theme of the report insisted that scientific management of the parks should replace strict
protection of the parks’ resources in order to ensure their preservation.50

The stated objective of the Leopold Report mirrored that expressed in *Fauna of
the National Parks*. The “objective of every national park,” wrote Leopold and the gang,
should be the maintenance and/or re-creation of a “reasonable illusion of primitive
America.” The most quoted passage declared that a “national park should represent a
vignette of primitive America.” The authors defined “primitive America” as “the
condition that prevailed when the area was first visited by the white man.”51 Thus, the
authors, like the early modern ecologists and preservationists in general throughout the
1960s, adhered to and reinforced the widespread paradigm positing modern man as a
disruptive and unnatural presence in wilderness areas, assuming that Europeans were
harbingers of widespread environmental degradation. They did not draw the dichotomy
between Man and Nature as sharply, however, when addressing Native Americans. The
report implied that native groups only minimally altered their environments and caused
little to no adverse effects on the natural world. At the same time, it denied them any
agency in the historical evolution of the American landscape. The authors endorsed
manipulation of the environment by the Indians, particularly their use of fire. In 1967,
the NPS reversed its long-standing policy of absolute fire-suppression in the majority of
its parks; however, despite the report’s implication that native modification of the
environment had been “natural,” the Park Service had neither the intention nor the means

50 A. Starker Leopold, S.A. Cain, C.M. Cottam, I.N. Gabrielson, T.L. Kimball, “Wildlife Management in
the National Parks,” in *The Great New Wilderness Debate*, 105, 108.
51 Ibid., 106-107.
to make allowances for the extensive use of fire by Native Americans in its forests. Humans, including Indians, no longer were agents of “natural” change.\textsuperscript{52}

The Park Service adopted the Leopold Report as policy soon after its appearance in 1963, and, as historian Richard Sellars has opined, much of National Park Service history since then has been shaped by the continuing struggle to change the direction of national park management, particularly as it affects natural resources.\textsuperscript{53} The year after publication of the Leopold Report, Congress passed revolutionary legislation, inspired by the report and by the growing environmental movement, that would impact lands on a much larger scale. The Wilderness Act of 1964 authorized Congress to set aside federal lands, not just within the National Park System, as nature preserves without any overt development. The act defined wilderness as

\begin{quote}
    an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain...an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man’s work substantially unnoticeable...\textsuperscript{54}
\end{quote}

This act finally provided a legislative avenue for the preservation of areas conforming to the primitive ideals envisioned by the authors of \textit{Fauna of the National Parks} and the Leopold Report. The act also presupposed that humans were not agents of natural change.

Although the Wilderness Act of 1964 proved a sharp contrast to the goals of Mission 66, it too addressed the dual objectives of the park system. The Act articulated a

\textsuperscript{52} Runte, 206.
\textsuperscript{53} Sellars, 215.
\textsuperscript{54} “An Act To establish a National Wilderness Preservation System for the permanent good of the whole people, and for other purposes,” Sept. 3, 1964, P.L. 88-577; 88 Congress.
preservation rationale by prohibiting future development and human habitation in
designated wilderness areas. The Act also expressly revealed a recreation rationale,
declaring wilderness an "enduring resource...for the use and enjoyment of the American
people," thereby justifying wilderness because of its instrumental value as a setting for
certain outdoor recreational activities and for solitude. Furthermore, in addition to
addressing preservation and recreational use, the Act contained a group of pro-
development clauses that limited wilderness preservation. The Act did not specifically
mention native peoples; nonetheless, it would become another sticky point of contention
between the Blackfeet and Glacier National Park. Proponents of wilderness designation
in the "ceded strip" feared the impact that recognition of native rights could have on their
efforts, whereas the tribe feared the effects that wilderness designation could have on the
exercise of reserved usufruct rights.

Accompanying major developments in the national environmental agenda during
the 1960s were changes in cultural conceptions of native peoples. After WWII, popular
opinion turned against the cultural pluralism embodied in the Indian New Deal as the
Eisenhower administration proposed the termination of federal services and recognition
as a challenge to tribal self-determination. Termination faded by 1960, and the
philosophical legacies of Collier's Indian New Deal influenced Indian policy in the
decades that followed. Beginning in the 1960s, the counter-culture advocated a "back
to the land" philosophy as it rebelled against the dominant culture and yearned for an
alternative to an increasingly technological and materialistic society. In doing so, the

55 For an insightful analysis of the Wilderness Act of 1964 and its embodiment of the dual objectives of the
national park ideal, see Mark Woods, "Federal Wilderness Preservation in the United States: The
56 See Dippie, 342-344.
movement searched for a symbol that would epitomize its tenets, and, like primitivist
movements had in the past, it emulated the folkways of people perceived as living closer
to nature, in this case those of Native Americans. The environmental movement
embraced the image of the “noble savage” as one imbued with ecological wisdom and
extolled the romantic character of traditional tribal culture.\textsuperscript{57} Renewed respect for tribal
culture, by the counter-culture and by society as a whole, influenced the NPS, which,
beginning in the early 1960s, began to adopt new attitudes toward Native Americans.

Due to increased sympathy toward Indian causes by society as a whole, as well as
increased militancy among native groups in the vicinity of existing park units and among
tribal communities involved in attempts to establish new park units, the Park Service, by
the early 1970s, displayed more sensitivity and respect for tribal viewpoints. As an
example, the Park Service began to allow greater native uses of existing parks and
included native concerns in the planning of new parks. Many of the sixty-four national
recreation areas, national seashores, and national lakeshores the NPS created between
1963 and 1972 (all technically National Park Service units) allowed hunting.\textsuperscript{58}
Permissible hunting by any group in the national parks, however, remains a rare
exception, whereas activities like regulated collecting of plant materials for specific
purposes pose far less of a challenge to the ideals of the National Park System.

The tumultuous events of the 1960s, in addition to shaping the public’s opinions
of native peoples, also caused reverberations in Indian country. Native communities
across the country witnessed a resurgence of interest in traditional tribal culture and,

\textsuperscript{57} For more on changing cultural conceptions of Indians in the 1960s and 1970s, see Shepard Krech III, \textit{The
Ecological Indian: Myth and History}, (New York: W.W. Norton & Company, 1999), 15-16, 20-22, 27; see
also Deloria, 154-169.
\textsuperscript{58} For NPS policies regarding park units in the 1960s and 1970s, see Norris, 25-27.
inspired by the success of African-Americans in the Civil Rights movement of the 1960s, began actively to assert their rights again in the 1960s. Political activism thrived among many native communities, mostly urban ones, and gave rise to the Red Power Movement. The American Indian Movement (AIM) staged a number of high-profile demonstrations demanding recognition of tribal rights: the occupation of Alcatraz Island (1969-1971), the Trail of Broken Treaties march on Washington, D.C. and the trashing of the BIA building (1972), and the heavily publicized reoccupation and protracted siege at Wounded Knee (1973). AIM attracted several Blackfeet members into its ranks, and Woody Kipp, the man whose court victory in 1974 reinvigorated tribal pressures upon Glacier to recognize the usufruct rights in the Agreement of 1896, personally participated in the march on D.C. and the flare-up at Wounded Knee. The militant nature of tribal political activism did not escape the notice of Glacier Superintendent William J. Briggle, who wrote in February of 1973, regarding a proposed cooperative visitor center between the tribe and the park, that “[R]eflecting on the strained relationships with Indians in our country today and a possible worsening situation ahead, one of the ways we might help alleviate this is to work together cooperatively where opportunities are available.” Briggle’s attempt to defuse a potentially explosive situation proved ineffectual, and his premonition came to fruition less than a year later when a tribal member rekindled the fiery situation between the park and the tribe.


Revival

On September 15, 1973, park rangers arrested Woody Kipp for entering the park without paying the entrance fee required by law. He appealed to the United States District Court For The District Of Montana, Great Falls Division, and the judge’s ruling on January 2, 1974 boded well for the tribe. The judge focused on the definition of public lands in the cession agreement. He noted that “public lands of the United States,” in strict legal terms, refers to lands subject to sale or disposal under general laws. By this definition, lands in GNP did not qualify as public lands. On the other hand, the judge acknowledged the definition of “public lands of the United States” in popular usage as referring to lands belonging to the government and open to the public. The judge reiterated the rule of interpretation stating that a “treaty with Indians must be construed, not according to the technical meaning of its words to learned lawyers, but in the sense in which they would naturally be understood by the Indians.” The judge ruled in Kipp’s favor, arguing that it was “inconceivable that the Indians understood that there was hidden in the questioned phrase a privilege in the United States to terminate the reserved rights by changing the character of the public ownership...I conclude that the reserved rights were not extinguished by the act creating the park.”¹⁶¹ Although the judge upheld the right of free entry, he did not apply his ruling to the other rights of hunting, fishing, or wood-gathering. Nonetheless, park officials feared the potential ramifications of the ruling upholding any Blackfeet rights within the park.

Officials within the Park Service immediately lobbied to appeal the Kipp decision, for several reasons. Coinciding with the Kipp battle was an effort by the Park Service to establish some 917,600 acres within Glacier National Park, roughly 95%, as a

“wilderness area” as proposed by the Wilderness Act of 1964. Since nearly half of this acreage lay east of the Continental Divide, the proposed land was “subject to the alleged rights of the Blackfeet Indians to remove weed and timber, hunt and fish.” NPS Director Ronald Walker wrote in February of 1974 that “the arguments utilized to uphold the right of entry into the park might also be employed to support the right to remove timber from wilderness therein.” Aware that section 4(a)(3) of the Wilderness Act provided that the act could not “…modify the statutory authority under which units of the National Park System are created,” the Park Service included a provision accompanying the draft wilderness proposal repealing the “alleged rights of the Blackfeet Indians” and strongly recommending that the government appeal the “Kipp” decision. Since the Wilderness Act defined wilderness as federal “land retaining its primeval character and influence…with the imprint of man’s work substantially unnoticeable,” then logging, wrote Walker, “within a Glacier wilderness would violate the intent of the Wilderness Act.”62

Superintendent Briggle of GNP shared the Director’s desire to appeal the Kipp decision, but for different reasons. Labeling Kipp’s action an “obvious test case” in a letter to the Regional Director of the Midwest Region penned less than a week after the judge’s decision, Briggle noted that the decision acted only on the right of entry and did not pertain to any of the other claimed rights. However, fearing a precedent, Briggle worried: “[W]e are deeply concerned with Judge Smith’s decision because of the other rights claimed by the Blackfeet Indians,” and “are of the strong opinion that an appeal

should be made on this case.” He admitted that while “it might be possible to live with the free entry aspect of the decision, any unfavorable decision about hunting and timber harvest that might be rendered would be completely unacceptable in a national park.” The Superintendent advocated taking a positive stand on “this lesser decision,” writing that “[W]e fully anticipate that test cases of the other rights will be forthcoming.”

Again, his prediction came true.

Inspired by Kipp’s victory, three tribal members next intentionally violated park regulations to test the usufruct rights in the Agreement of 1896. At 3:45 P.M. on January 23, 1974, a park ranger apprehended three tribal members in the process of committing three separate violations near the St. Mary Visitor Center. George Kipp II, brother of Woody Kipp, had fired a Winchester 270 and was charged with hunting; Charles J. Momberg was caught in possession of fishing equipment in closed waters and was charged with fishing out of season; Darrell Momberg was apprehended cutting a small live tree and charged with destroying a tree branch. Charles Momberg and George Kipp pleaded nolo contendere to their charges and were given a fine of $100, later suspended, and were placed on a 90-day non-supervisory probation. Darrell Momberg entered a plea of not guilty. On July 9, 1974, U.S. District Judge Russell E. Smith, the same judge who had acquitted Woody Kipp, found Darrell Momberg guilty of the crime as charged and fined the defendant $1.00. In his ruling, the judge concluded that the defendant had cut a piece of dead wood from a live tree “for the purpose of testing the Indian rights,” and not “for any of the purposes mentioned in the agreement.” The same

64 A memo from GNP Superintendent Mart to the Regional Director of the Midwest Region, January 24, 1974, related a call from an attorney in Browning indicating, before the transgressions occurred, that "certain unidentified Indians desired to be arrested for hunting and fishing in the park," GNPA: F19-13.
judge admitted he had recently become aware of the 1935 Court of Claims finding that officially terminated tribal rights. Backtracking from his analysis in United States v. Kipp, the judge upheld the earlier decision and the tribe’s window of opportunity all but disappeared.\textsuperscript{65} Tribal rights to free entry did remain intact, however.

The inconsistency of the judge’s ruling did not escape the attention of the tribe, and shortly after the Momberg ruling tribal lawyers teamed up with the Native American Rights Fund to write a petition to the Secretary of the Interior. Presenting a comprehensive analysis of previous cases and legal precedents, the petition requested that the Department recognize the usufruct rights guaranteed in the Agreement of 1896 and that the National Park Service enter into a cooperative agreement with the tribe to implement the reserved rights. Moreover, the petition asserted unequivocally that the establishment of Glacier National Park had not abrogated the reserved rights.\textsuperscript{66}

The petition advanced two core arguments challenging the validity of the Department’s refusal to recognize the agreement rights. The first argument dealt with the rule of interpretation, or what legalists call the Canons of Construction. The Canons of Construction mandate that courts must examine the historical circumstances in which the government and tribes negotiated treaties/agreements and, relying on the negotiation process itself, must interpret treaties/agreements “in the sense in which they would naturally be understood by the Indians.” Judge Smith’s decision in the Kipp case adhered to the rule of interpretation, and the authors of the petition declared that the legal analysis in the “Kipp” decision should remain determinative; thus, the adverse ruling in the

\textsuperscript{65} For details about the transgressions and the Momberg decision, see above letter; S.A.R. 1974, GNPA; 29 Stat. 353-354.

\textsuperscript{66} Philip E. Roy, “Petition of the Blackfeet Tribe of Indians to the Secretary of the Interior to approve a conservation agreement providing for the regulation of Blackfeet reserved rights on the eastern portion of Glacier National Park,” (Browning, MT, 1975), 1.
“Momberg” case was unjustified as the 1935 Court of Claims finding should not set aside the determination in the “Kipp” case. Judge Smith had cited the 1899 Jones v. Meehan case as precedent, but in fact the Supreme Court first stated the basic rule in Worcester v. Georgia (1832), and Chief Justice Marshall’s express statement in the case established the standard for judicial interpretations of Indian treaties ever since.67

The second core argument advanced by the authors of the petition dealt with the inherent sovereignty of Indian nations spelled out in the 1832 ruling Cherokee Nation v. Georgia. As sovereign nations with inherent powers of self-government, tribes retain the power to regulate the exercise of reserved rights both on and off reservations; however, the Lone Wolf v. Hitchcock ruling in 1903 granted plenary power to Congress to unilaterally abrogate treaties made with tribes. Subsequent Supreme Court rulings determined that in order to exercise this power, Congress must issue an express statement of the intention to extinguish reserved rights. Noting that both the 1910 and 1914 statutes establishing the park and prohibiting hunting, respectively, made no mention of Blackfeet rights, the authors concluded that “longstanding principles of federal Indian law preclude abrogation where there is no clear legislative intention to do so.”68

The Secretary of the Interior rejected the proposal. Interior Solicitor Austin concluded that “a legal basis does not exist for granting the petition and, therefore, the

68 Roy, 5-6, 23, direct quote pp. 46.
petition must be rejected on legal grounds.” Like Judge Smith had done in the
“Momberg” ruling, the Solicitor reiterated that the viability of the alleged rights had been
previously litigated and decided by the Court of Claims in 1935, which declared that “the
1895 reserved rights had terminated and that no compensation was due.” Agreeing with
the petition’s allegations that Congress made no express intention to abrogate tribal
rights, Austin responded “it is evident that Congress intended to prohibit hunting and
timbering in Glacier National Park with no exception for the Blackfeet Tribe...on the
face of the 1914 statute.” Thus, since Congress made no express provision to preserve
the rights, “we interpret the 1914 statute as terminating those rights.” The Solicitor did
uphold the right of free access for tribal members.69

Although the petition failed to produce its desired effect, the compelling legal
arguments contained therein did not fall on deaf ears. In a letter sent to the Assistant
Secretary of Fish, Wildlife, and Parks and to the Commissioner of Indian Affairs,
Solicitor Austin admitted that the tribe’s arguments were not “totally unpersuasive or
unworthy of consideration.” Perhaps aware that his rejection of the petition rested on a
shaky legal foundation, the solicitor expressed concern that other legal bodies could
arrive at a different verdict regarding the alleged rights. This concern held immediate
importance because several wilderness proposals affecting the ceded strip were currently
pending before Congress, and the Solicitor warned that “Congressional deliberations on
these bills may provide an opportunity to seek legislation favorable to the tribe.” In a
startling about-face, the Solicitor recommended that, in order to avoid a potential
Congressional ruling officially recognizing tribal rights, “you may wish, as a policy

69 Letter from Solicitor Austin to Philip E. Roy, General Counsel of the Blackfeet Tribe, December 17,
matter, to consider a legislative accommodation of the tribe’s request.” No effort towards legislative accommodation ever surfaced. Congress also never formally designated any land as “wilderness” areas in Glacier National Park.

The National Parks and Conservation Association, an environmental watchdog group that had condemned the petition by declaring that “Indian attempts to penetrate national Park lands for exploitative purposes...represent another sad commentary in Native American History,” took comfort in the legal rejection of claimed tribal rights. Officials at GNP surely rejoiced as well. Nevertheless, park officials rightfully sensed tribal backlash and took steps in the mid-to-late 1970s in hopes of preventing a souring of relations. The park increased efforts, at least on paper, to improve general relations by maintaining communication with tribal officials, working cooperatively with the tribe, and accommodating, when possible, tribal requests. Superintendent Iversen wrote in early 1975 that “[W]e are genuinely sincere in working with the Blackfeet to our mutual benefit and have recently demonstrated it by our actions,” noting that park officials withdrew a court case regarding cattle trespassing, established positive equal employment opportunity goals, and directed more park interpretive programs to appreciation of Indian cultures. A subsequent park press release announced that both tribal and park officials were “exploring ways to improve their neighborly relationship.”

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70 Letter from Solicitor Austin to Assistant Secretary of Fish, Wildlife, and Parks and to the Commissioner of Indian Affairs, February 24, 1976, GNPA, F19-13.
71 See Ashby, 72.
72 Letter from Supt. Iversen to Mr. James Baker, Vice Chairman of the Blackfeet Tribal Business Council, January 10, 1975, GNPA: F19-13. The S.A.R. from 1975 stated that “Blackfeet Indian cultural programs and relationships with the park increased over the year,” citing the regular showing of the film “The Sun Gave Man the Power,” the development of an A/V Program on Blackfeet crafts, the performance of dance and crafts in the St. Mary Visitor Center, and the involvement of Blackfeet leaders in training sessions.
Reciprocating park attempts to improve communications, Mr. Earl Old Person, Blackfeet Tribal Chairman, stated in 1977 that “neither the Blackfeet Reservation or Glacier National Park can operate successfully in administrative isolation.” He professed that “when neighbors learn to know each other better there will be a higher degree of mutual respect and understanding.” In what the park dubbed the first joint meeting between the tribal council and park staff, tribal officials echoed Earl Old Person’s sentiments and traced the source of most controversial problems between the tribe and the park to rumors, misinformation, and poor communications which, claimed tribal officials, “we are working to eradicate.” In kind, the park also worked to rectify problems related to misunderstanding.

Prior to the early 1970s, notable tribal contention over the denial of Blackfeet alleged rights within Glacier had largely subsided by the late 1930s. For many park employees in the late 1970s, the issue of tribal rights was either a faint memory, or more likely, to use the parlance of our time, “news to me.” The revival of the issue brought on by the high-profile court cases in the mid-1970s resuscitated a tense atmosphere, and park officials felt compelled to inform all park personnel, especially the park rangers who dealt directly with tribal members, on matters pertaining to tribal relations. A briefing statement posted to park personnel shortly after the Solicitor’s rejection of the tribal petition provided a brief background of the issue by describing, if inadequately, the Agreement of 1896. After outlining the test cases brought to court and the ultimate rulings in favor of the National Park Service, the statement acknowledged that tribal “members continue to feel that certain rights were retained.” The statement made clear

74 Ibid.
the park's position: “If permitted these rights would allow Tribal members to undertake many activities contrary to National Park Service policies and regulations and lead to the decimation of the natural resources on the east side of the Continental Divide. The National Park Service contends that legislation subsequent to the Treaty of 1895, negates any remaining Blackfeet rights.”

In addition to providing background and clarifying the park's official position, the statement made recommendations as to necessary courses of action. It proclaimed that park personnel should work to maintain the best possible relations with the tribe on a local level; however, it warned that “the Treaty rights claimed sometimes makes[sic] a good working relationship more difficult.” It further demanded that park personnel exercise great care with law enforcement actions taken against tribal members and that cases involving treaty rights “must be very clear cut and without technical procedure faults in the execution of park actions.” Park staff doubtlessly hoped to avoid any confrontation that could exacerbate tensions and cause a public outcry, as did tribal officials.

The alleviation of public concern and the conveyance of a good working relationship between the two parties constituted important goals for both park and tribal officials. Since most visitors to the park also traveled through the Blackfeet Reservation, it was in the public interest that the park and the tribe work together in

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77 Ibid.
serving the visitors: any tourist deterrents could have adverse financial ramifications for both parties. The fact that a good amount of tourist travel went through the reservation is of no small consequence. Park rangers did not deny the legally-sanctioned right of free access to tribal members; nevertheless, the tendency of non-Indians to pass through the reservation and into the park while claiming to be members of the Blackfeet Nation did not proceed unnoticed and generated much concern for park officials.79

Proximity considerations also engendered concerns over the desired aesthetics of the "Glacier experience." As noted earlier, during the park's early years officials unsuccessfully tried to extend the eastward boundary in order to protect ungulate populations that migrated east to lower elevations in the winter. Another motive for the proposed extension lay in the park's desire to shield tourists from the realities of modern Indian life: signs, stores, and unsightly shacks could offend some tourists during their wilderness excursions.80

In spite of mutual efforts towards accommodation and positive feedback from joint meetings, park and tribal officials failed to preserve an amicable atmosphere along the contested park border.81 Some Blackfeet individuals took matters into their own hands and lashed out against park rangers. In the late summer of 1977, four tribal members assaulted two park rangers, and in the early 1980s, according to an anonymous retired ranger interviewed by historian Mark David Spence in 1994, a near state of war

79 See Memo of Meeting between Glacier National Park Staff and Blackfeet Indian Tribal Council Members, May 10, 1979, GNPA: F20-8.
80 Keller and Turek, 61-62.
81 Tribal and park leaders expressed optimism after several meetings in the late 1970s. See Letter from Supt. Iversen to Regional Director re: Meeting with Blackfeet Tribal Officials, September 12, 1977, GNPA; U.S. Department of the Interior/National Park Service News Release: "Joint Meeting Between Blackfeet Tribal Council and Glacier National Park Staff," January 25, 1978, GNPA; Memo of Meeting between Glacier National Park Staff and Blackfeet Indian Tribal Council Members, May 10, 1979, GNPA.
resurfaced and armed conflict nearly broke out on several occasions. Although park officials met frequently with tribal officials and enhanced their efforts to sensitize the Glacier staff and tourists to issues concerning the Blackfeet tribe in the decades that followed, they did not budge from their policy prohibiting native hunting within the park.

While a state of discontent festered along the eastern border of GNP in the early 1980s, developments elsewhere rattled the foundations of the National Park System. Unlike in the contiguous United States, the federal government established national parklands in Alaska before extinguishing aboriginal title; thus, many parks in Alaska today allow inhabitation as well as hunting by indigenous groups. With the passage of the Alaska Native Claim Settlement Act (ANCSA) in 1971, Congress officially extinguished all aboriginal title to land; however, lawmakers recognized that the termination of aboriginal title would have to be accompanied by legal protections of the natives’ continued subsistence use of the public lands. On December 2, 1980, Congress passed the Alaska National Interest Lands Conservation Act (ANILCA), which designated 100 million acres, roughly 28 percent of the state, as conservation areas and added ten new units to the national park system, nine of which allowed subsistence use. The NPS maintained that subsistence activities, including hunting, could be compatible with wildlife conservation and the national park idea in Alaskan park units.

Neither the NPS, Congress, nor the general public shared such an optimistic appraisal of native hunting in national parks in the lower forty-eight. The issue came under the national spotlight in January of 1984 when a judge dismissed charges against

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82 For more on the assault on park rangers, see Letter from Supt. Iversen to Regional Director, September 12, 1977, GNPA: F19-13. For more on general discord in the early 1980s, see Spence, 99-100, 169.
84 Ibid., 85.
two enrolled members of the Quinault Indian Tribe caught illegally hunting several elk within Olympic National Park, basing his decision on explicit treaty guarantees made in 1855. The enabling legislation for the park, established in 1938, not only preserved Indian treaty rights but also failed to ban hunting in the park. Although Congress officially banned hunting in the park in 1942, the Quinault tribe had an unspoken agreement with park rangers: as long as tribal members used discretion when poaching within the park, stayed out of public view, hunted for ceremonial or subsistence purposes only, and did not abuse the privilege, rangers looked the other way and did not bother them. The judge's acquittal of the two immediately sent shockwaves through the environmental and hunting communities and caused a public uproar. Raising the unsettling specter of widespread uncontrolled Indian hunting on federal lands and remonstrating against a frightening precedent, the government pressured the court to re-hear the case. The court reversed its decision, upheld Park Service regulations, and convicted the two tribal members.\(^8^5\) Court recognition of native treaty rights in the national park system enjoyed a short-lived reign of success, but in the end, the entrenched, federally-supported guidelines of the national park ideal triumphed over native claims to the cherished American landscape contained within park boundaries.

A quarter of a century after the "Momberg" case, another violation of park regulations revived the controversy over Blackfeet rights in the eastern half of Glacier National Park. On January 18, 2000, two NPS biologists surveying bighorn sheep on Spot Mountain spotted two tribal members illegally hunting sheep within the park and radioed the hunters' location to Forest Service officers who apprehended the two tribal members on the Blackfeet Reservation. After being indicted with conspiring to violate

\(^8^5\) See Holt, "Can Indians Hunt?" 208-211, 243-244; Keller and Turek, 90, 122-124.
the *Lacey Act*, one of the defendants, Bailey D. Peterson, appealed the case to test the reserved rights issue. Some observers held high hopes for the case. *Indian Country Today* covered the story under the headline: “Blackfeet hunter case may resolve century-old federal land dispute.” The tribe was divided in its support of Mr. Peterson, as the defendant was trophy hunting rather than subsistence hunting. The defendant had killed three bighorn sheep, but had just taken the heads and had not preserved the meat. On November 17, Judge Donald Molloy of the U.S. District Court denied the defendant’s motion to dismiss the case. The judge held that the Act of August 22, 1914, that officially prohibited hunting in the park applied to the Blackfeet in abrogating their right to hunt, as all hunting was prohibited in the park. Some tribal members consider this case, like the “Momberg” decision, a setback for the Blackfeet in exercising their reserved rights and fear that it could be another obstacle in asserting reserved rights for the tribe in the future.

**Summary**

The Blackfeet, like most tribes, conveyed vast tracts of land to the federal government, reserving pre-existing rights to themselves through treaties and agreements that specified the forms and limitations of the reserved rights. The Blackfeet Reservation borders Glacier National Park, and the exercise of these rights sometimes conflicted with the purposes of the national parks, making management inconvenient and difficult. Of the four reserved rights enumerated in the Agreement of 1896--unrestricted access, the cutting of timber, hunting, and fishing--hunting constituted the primary point of

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86 See U.S. v. Peterson, November 17, 2000, 121 F. Supp. 2d 1309, CR 00-9-M-DWM.
88 Spoonhunter, 66-67.
89 See U.S. v. Peterson; Spoonhunter, 66-67.
contention between the Blackfeet and the park in the decades following the establishment of Glacier National Park. Blackfeet attempts to win recognition of hunting rights met with staunch opposition by park officials and official rejection by federal courts based on legal grounds. Several scholars, mentioned in this chapter, have leveled scathing indictments at the government's interpretation of the Agreement of 1896. My objective here is not to join the chorus, but rather to place the act of hunting in Glacier within the larger context of hunting in the National Park System. More than any other, hunting represents an extractive activity that threatens the natural resources and the aesthetic quality of the parks, as well as the safety of tourists and hikers; thus, proponents of the national parks have deemed it an unacceptable practice in the sacrosanct National Park System.

The 1984 case of United States v. Hicks in which, under federal pressure, a judge overturned a favorable decision for tribal hunting rights, holds great significance for several reasons. First, it illustrates the leverage the government possesses and the extent to which it will use such leverage to prohibit hunting in the national parks. Second, the case shows that park officials and government agents are not the only steadfast opponents of hunting in the national parks. Public uproar by environmentalists and hunters threatened to turn the situation in Olympic National Park into a political nightmare. For these reasons, permissible hunting in the national parks by any group remains a highly unlikely possibility.

During a span of a few months in the 1970s, the Blackfeet tested all the explicit agreement rights: hunting, fishing, timber cutting, and free entry. The park charged George Kipp II and Charles Momberg, Jr. with hunting and fishing out of season,
respectively, but neither of the defendants raised the treaty defense in their case and they both pleaded no contest. The defendants' attorney stated that the tribe preferred to raise the agreement issues pertaining to hunting and fishing rights directly with the Secretary of the Interior rather than with a criminal court. In a 1985 M.A. thesis entitled “Blackfeet Agreement of 1895 and Glacier National Park,” Christopher Ashby wisely surmised that the defendants very likely adopted their position “due to the magnitude of the Government’s evidence for prosecution.”90

Historically, assertion of the reserved right of fishing has received little attention from the Blackfeet tribe. One possible reason is that traditionally, most Blackfeet considered fish taboo and only one small band actively fished for food.91 Of course, customs have changed. During a native-run interpretive tour of the park, tour guide Edward North Piegan informed the tour group that the Blackfeet did not traditionally harvest fish and would rather starve than consume the flesh reserved for the beings of the Underworld. After a slight pause, he jokingly remarked that “today we eat fish every Friday.” Furthermore, the park allows the general public to fish in its waters in-season and under regulation. The park currently requires that anglers release any bull trout caught because it is an endangered species, an obvious measure to safeguard the park’s resources for future generations. Park officials consider controlled fishing an activity compatible with the goals of the park system, but do not afford any special privileges to the Blackfeet. Perhaps park managers fear they could not control harvests out of season. Moreover, any special privileges for the tribe very well could engender unwanted and public hostility from environmental and sporting groups.

90 Ashby, 69.
91 For more on taboo flesh foods among the Blackfeet, see Ewers, 86-87.
Darrell Momberg, charged with cutting a live tree in 1973, did plead not guilty to the charge and went before the judge to test the agreement rights. Judge Smith ruled that the defendant had not cut the tree for domestic purposes, as stated in the agreement, but rather to test the agreement rights and found him guilty. By skirting the issue, the judge prevented Momberg from using the Agreement as a defense for his violation. The removal of vegetative resources, like hunting, represents an extractive activity with potentially harmful results to the park’s resources and aesthetic presentation. The park has acknowledged that many plants in the region have religious significance for the Blackfeet and does allow the tribe to gather medicinal herbs under permit; however, as early as 1980 park managers expressed concern that increased harvests might cause detrimental effects to the park’s resources.\textsuperscript{92} The cutting of timber for domestic purposes, or for any purpose, closely resembles logging, an act incompatible with park ideals and certain to draw fire from environmental and logging groups. Considering that park officials have identified Blackfeet and Forest Service logging adjacent to the park as a primary threat to the park proper, permissible timber extraction on any scale by any group within the park too seems an unlikely possibility.\textsuperscript{93}

Of the four explicit agreement rights, free entry remains the only one honored by the National Park Service. The fact that tribal members may enter the park without paying an entrance fee may irk some visitors who resent paying the modest fee when others are exempted, but acknowledging that Blackfeet tribal members may enter the park free of charge in no way confers special use privileges harmful of the park’s

\textsuperscript{93} Both the “Summary of Threats to Glacier National Park” released in 1980 and many of the Superintendent Annual Reports from the last two decades identify logging by the Forest Service and the Blackfeet Nation as external threats to GNP.
resources or recreational capacity. The right of free access may have caused some administrative problems for park personnel at the entrance gates on the eastern side of the park, but overall it poses little challenge to the underlying goals of the national park system. Superintendent Briggle expressed this position concisely when he wrote in 1974, regarding the “Kipp” decision, that while “it might be possible to live with the free entry aspect of the decision, any unfavorable decision about hunting and timber harvest that might be rendered would be completely unacceptable in a national park.”

Controversy over the Agreement and the reserved rights contained therein has underlain many of the problems between the park and the tribe. Many tribal members remain suspicious of the validity of the agreement as it appears on paper and the government’s interpretation of the agreement and maintain that the tribal representatives present at the negotiations intended to retain the opportunity for their descendants to subsist on the ceded lands indefinitely. For many Blackfeet in the modern era, subsistence transcends the activities expressly listed in the Agreement of 1896. The exercise of implied subsistence activities on the ceded strip in the modern era comprises the focus of the rest of this study.

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Chapter 3—The Modern Era: Livestock and Contested Terrain

The Great Northern Railway no longer owns the Glacier Park Lodge, but Blackfeet themes still have a visible presence in the historic lodge and continue to figure into the “Glacier experience.” Large canvases and flags portraying frontier themes, including Indians, adorn the walls of the hotel and hang from the rafters of the in-house restaurant. A teepee decorates the vast, manicured front lawn, and poles carved in the likeness of noble, stoic chiefs support the roof of the front porch. A picture-book near a stuffed mountain goat contains photos of Blackfeet groups greeting visitors to the lodge in the early twentieth century. No dancers entertain guests as in the past, but Curly Bear Wagner still holds his weekly “fireside chats,” begun in the 1980s as part of the “Native America Speaks” program, with guests in the lobby of the lodge. In early fall of 2005, I managed to catch Curly Bear’s last performance of the season. He injected a healthy dose of humor throughout his performance, regaling the crowd with tales of horse-theft, Blackfeet encounters with Lewis and Clark, and the important role women have played in Blackfeet culture. At one point he asked the audience what wildlife they had seen on their trip. After running down a list of famous Glacier wildlife without eliciting any answers in the affirmative, Curly Bear asked if anyone had seen any “slow elk.” He met with looks of confusion. After a silent pause interrupted only by the crackling of burning logs, a couple across the way burst into laughter-- they got it. The female loudly proclaimed, “He’s talking about cows!” The audience joined in the laughter, with several raising their hands signifying that they had indeed seen cattle on their trip.
Most visitors to the Glacier Park Lodge, or to Glacier National Park, likely do not include cows on their list of "hope-to-see" animals in the rugged and sublime Montana wilderness. What most tourists probably do not realize is that the Glacier Park Lodge does not reside in the park proper, but rather rests on reservation land. The official entrance to the park lies several miles away. Driving along the road to the Two Medicine entrance to the park, I spotted dozens of "slow elk" foraging in the valley on the eastern side of the road, the side farther from the park boundary. No tangible divide delineates the border of the park, which makes it quite simple for grazing livestock from the reservation to drift into the park. The ancient and persistent recurrence of such activity has generated much consternation and frustration for park personnel, and mitigation measures enacted by the park has in turn aggravated many in the Blackfeet community. Thus, the grazing of livestock on park land provides yet another point of contention between the two parties.

The disappearance of the buffalo, the "staff of life" for the Blackfeet, forced tribal members to adopt nontraditional forms of subsistence. One enterprise promoted by government agents and embraced by some was cattle ranching. Traditional cattle grazing techniques on the reservation allowed livestock to roam at will with very little control over their movements, and tribal adherence to such methods throughout the twentieth century resulted in stock near the western border of the reservation, often grazing on lands within Glacier National Park. Park personnel considered grazing from the reservation illegal trespass that compromised the preservation and aesthetic goals of the park system. Tribal members evoked the oral history of the Agreement of 1896 to argue they held rights to use the land for grazing, as well as to claim that the current location of
the boundary does not match the boundary described in the agreement. A legal ruling in 1976 officially denied tribal grazing rights and park managers twice attempted to fence lengths of the boundary as a permanent and effective solution to the problem. Tribal resistance and political maneuvering halted both efforts as tribal members vehemently opposed a visible and permanent symbol of denied rights and alienation. Joint efforts have largely failed to alleviate problems associated with stock trespass, and it continues as an issue of contention to this day.

In its quest to "civilize" the Indians, the federal government sought to replace the traditional nomadic tribal activities of hunting and gathering with sedentary, "civilized" pursuits such as agriculture and the raising of livestock. The Agreement of 1896 recognized that "the situation of the Blackfeet Reservation renders it wholly unfit for agriculture, and since these Indians have shown within the past four years that they can successfully raise horned cattle," then "there is every probability that they will become self-supporting by attention to this industry."\(^1\) As did many other tribes, the Blackfeet favored the herding of cattle over farming, for ranching somewhat resembled caring for horses, an honorable and prestigious activity in many tribal communities.\(^2\) Although the tribe made noticeable progress in the cattle business in the 1890s, drought and overgrazing became major problems for tribal ranchers. Local cattle barons, in violation of federal law, extensively ran herds of cattle onto the Blackfeet reservation that consumed much of the grass, thereby undermining tribal ranching efforts and


\(^{2}\) Ewers, 307.
contributing to overgrazing.³ Agency corruption and illegal livestock trespassing on reservation land prevented the tribe as a whole from developing strong, profitable ties to the cattle market, and by 1918 only three percent of the population owned the estimated 40,000 head of cattle on the reservation, while most owned none at all.⁴ By this time, Glacier National Park had come into existence and soon enough the Blackfeet, formerly victims of illegal livestock trespass, would become brandished by park officials as the transgressors.

Secretary of the Interior Walter L. Fisher instructed William R. Logan, Glacier’s first Superintendent, to protect the area from poachers, grazing interests, illegal timber cutting, or other “depredations” that threatened the park’s ultimate preservation.⁵ As noted in Chapter 1, preservation for early park managers, including Logan, meant selective protection of park resources and did not necessarily imply keeping the park in an unimpaired, natural state. Although Glacier’s enabling legislation specified the “preservation of the Park in a state of nature” as a primary goal, it also allowed Park superintendents to lease acreages within the park to private individuals. In addition to allowing timber production, the park’s early superintendents issued several grazing permits to private landowners in the region, thereby substantiating claims that Glacier’s early managers did not adhere to a strict program of resource preservation.⁶ Stephen Mather, first director of the National Park Service, reluctantly accepted the practice of cattle grazing in the national parks and argued that officials should restrict such activities to isolated regions where any evidence of destruction or resource utilization could escape

⁴ Ibid., 37.
⁵ Buckholtz, 15.
⁶ Ibid., 19.
the notice of tourists. According to one tribal member, the park continued limited grazing activities until the late 1940s.

The park may have allowed grazing if approved and regulated by park officials, but it did not condone or permit such activity by unlicensed outside interests. On several occasions early in the park’s existence, park officials brought ranchers to court for grazing in the park without permits. But overall, the issue did not receive serious attention from park superintendents until the early 1970s. When it did, park officials pointed to the Blackfeet Reservation as the primary source of livestock wandering into and damaging the park. Nearly every park document addressing the issue claimed that it was an “ancient” or “long-standing” problem. Writing in 1970, a ranger from the Two Medicine administrative unit, on the eastern border of the park, labeled stock trespass an “historic problem in Two Medicine, and one that is mentioned in practically every ranger report from that area.”

The issue received scant attention from park authorities until William J. Briggle began developing measures to address the problem in 1973. What prompted Superintendent Briggle and his successors to initiate formal proceedings and devote considerable attention to solving problems associated with livestock grazing within the park? Several factors may explain his break with tradition. Perhaps Superintendent Briggle had an assertive and active personality. Certainly, larger developments affecting the three concepts introduced in the first chapter, i.e. the two

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7 Ibid., 44.
8 Ted Hall, interview with author, March 24, 2005.
9 For a few examples, see the Superintendent’s Monthly Report for September, 1922, and July, 1923, GNPA: F7-2, F7-3.
dialectic forces shaping park management (use vs. preservation) and perceptions of American Indians, created a situation that required serious attention.

The recreation rationale underlying the park system necessitated action regarding stock trespass in order to maintain and present a desirable aesthetic package for the tourist industry. A park ranger complaining about stock trespass in 1970 surmised that perhaps “the main reason so little has been done to control trespass is because most of it is out of sight of visitors and administrators.”

This statement implies that, historically, the eastern parts of the park most vulnerable to stock grazing did not receive heavy visitation. During the 1960s this began to change. Glacier’s “Mission 66” program stressed development to accommodate rising trends in tourism following WWII. In 1960, Glacier Park Inc. bought out the Great Northern and became the park’s primary concessionaire, and still is today. GPI immediately initiated an aggressive development policy, and with park support constructed more new buildings and improved more concession facilities between 1962 and 1967 than the Great Northern had in the previous three decades.

Much of this development took place in the eastern portions of the park. Thus, increased visitation in the park forced park officials to pay closer attention to activities that impacted the aesthetics of the park. The same ranger quoted above exclaimed later in the report that “[S]tock trespass is a problem that is visibly there—the cattle can be seen and effects of trampling and overgrazing are obvious.” Beginning in the mid-1970s, complaints about the presence of cattle filtered in from local conservationists and park visitors and compelled park personnel to take action. The

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11 Ibid.
12 Buckholtz, 105.
“pristine” Glacier wilderness portrayed by park promoters and expected by tourists did not include livestock.

The preservation rationale also helps explain why officials in Glacier began earnestly to address grazing in the park in the early 1970s. As ecological ideas finally took hold and exerted influence on park operations in the 1960s, park observers began to recognize events occurring external to park boundaries as the cause of serious damage to park resources. Adjacent activities included road development, logging, agriculture, energy extraction, and grazing, just to name a few. Concurrent with this revelation was an increased emphasis on resource and habitat management within the parks. In the case of Glacier, grazing represented both an external and internal threat whose detrimental effects on park resources compromised the newly emphasized goal of maintaining and/or restoring parks to their “primitive” conditions. The same ranger quoted above noted that “now that the service is so conscious of resources management, something should be done.” Whether or not tourists could see the effects of grazing, ranger reports about resource degradation and the enhanced importance attached to resource management and preservation in general demanded that park officials actively take steps to resolve problems associated with livestock grazing.

Changes in perceptions natives held about their own identities and resultant actions also coerced park officials into intensifying efforts towards resolving livestock problems in Glacier. As discussed in the previous chapter, in the 1960s and 1970s native groups began proudly to embrace their identities as American Indians, and a resurgence of interest in tribal customs and history led Indians across the country actively to assert...
their rights. The Blackfeet channeled this impulse into pressuring Glacier to recognize the reserved rights listed in the Agreement of 1896. Although the Agreement failed to include grazing explicitly, many Blackfeet read between the lines and claimed that they had retained grazing rights. Pressured by the tribe, park officials deemed it utterly necessary to take a firm and proactive stance on grazing within the park lest they appear submissive to tribal claims regarding alleged rights and indifferent to perceived threats to the park. Tribal members based much of their resistance to park mitigation measures on alleged rights derived from the Agreement of 1896 and viewed the problem as a treaty rights issue. The park viewed it as a clear-cut trespassing issue with legal ramifications.

A 1965 Solicitor's opinion on cattle trespassing in Yellowstone National Park clarified the legal status of livestock trespassing on national park lands. The attorney for a defendant in a cattle trespass case argued that under Montana state law, cattle are not legally trespassing unless there is a legal fence between the parties. Moreover, Montana law does not require stock-owners to fence land. The Solicitor responded that the park was under exclusive jurisdiction of the United States, and “with certain exceptions, not germane here, the laws of the state adjoining the Park have no force or effect within the Park.” Thus, federal law superseded state law regarding trespassing of domestic animals on federal lands. This opinion provided a clear course of legal action for officials at Glacier.

In the winter of 1973, Superintendent Briggle approved a memo laying out a three-year plan of control measures designed to eliminate domestic livestock trespass

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17 Memo from Field Solicitor to Midwest Regional Director re: Cattle Trespass in Yellowstone, August 10, 1965, pp. 1-2, available in the “Livestock Trespassing Binder” at the Chief Ranger’s Office in West Glacier, MT. Hereafter referred to as “Binder.”
along the east boundary of the park. The plan included constructing a total of 30 miles of fencing consisting of drift fences, electric fences, and cattleguards on all east side entrance roads at the boundary. As an interim protective measure, the plan suggested employing a “cowboy herder type individual” with horse and dogs to patrol the boundary and ward off or remove trespassing livestock.\(^{18}\) In late summer of the same year, park personnel initiated enforcement of horse and cattle trespass violations, issuing notices and citing and fining several individuals. The Superintendent wrote that the “park will continue with its aggressive efforts to control trespass livestock.”\(^{19}\) Adhering to more strict management regimes, the park also removed horse concession facilities on the shore of Lake McDonald to prevent possible pollution and preserve aesthetic quality.\(^{20}\)

As the park began to take proactive measures against livestock trespassing from the Blackfeet Reservation, tribal members in turn took proactive measures against the park and brazenly asserted their perceived rights on the ceded strip. Although Judge Russell E. Smith’s January 1974 decision in the “Kipp” case upholding the tribal right of free entry failed to address other rights listed in the Agreement of 1896, it did contain testimony from tribal leaders at the negotiations expressing their desire to reserve timber and grazing lands in the ceded strip.\(^{21}\) The minor victory troubled park officials and inspired subsequent premeditated test cases that ultimately failed to advance tribal interests. Nonetheless, the tribal petition submitted in 1975 demanding recognition of tribal rights and proposing a joint conservation agreement generated concern for park

\(^{18}\) Memo from Chief Ranger to District Manager, Hudson Bay re: Control of Livestock Trespass along Park Boundary, February 23, 1973, pp. 1, “Binder.”
\(^{19}\) S.A.R. 1973, pp. 6, GNPA.
\(^{20}\) Ibid., pp. 3.
officials, who stepped up demands to clarify the park's position regarding livestock trespassing.

In December of 1975, Visitor Protection Specialist Robert A. Burns wrote that joint efforts to solve livestock trespassing problems "with the Blackfeet Tribe have not been successful and each attempt to do so seems to escalate (sic) the seriousness of this problem and to add recognition and validity to the Indian claims on Park lands according to the original treaty agreements." He noted that recent court actions had proved ineffective and expressed disapproval over the option of impounding trespassing livestock due to staffing issues and the certainty of straining "the friendly relations which we have been trying to maintain." Burns also repeated an earlier request for information deemed crucial to defending the eastern portion of the park against alleged Blackfeet rights: basic quantitative data outlining adverse impacts from stock trespass.

In October of 1971 and again in July of 1975, Resource Management Specialist Clyde M. Fauley stressed the need for basic quantitative data to support ranger and naturalist claims of vegetative resource degradation and adverse impacts on grizzly, mountain sheep and other wildlife on the east side of the park resulting from extensive domestic livestock trespass. Whereas the first request remained unanswered and largely ignored for nearly four years, tribal pressures upon the park several years later conferred a sense of importance and urgency to the issue. The Chief Park Ranger forwarded the request to the Superintendent, reminding him "that it was difficult to answer the question

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22 Memo from Visitor Protection Specialist to Chief Park Ranger re: Research Proposal (Adverse Impact of Domestic Livestock Trespass), December 19, 1975, pp. 1, "Binder."
23 Memo from the Resource Management Specialist to the Chief Park Ranger re: Research on adverse impacts of domestic livestock trespass, July 16, 1975, "Binder."
asked at the last Tribal Council meeting ‘What does grazing hurt?’ Park personnel apparently believed that scientific data was required in order to make a firm, justifiable stance against livestock trespassing. In a formal research proposal submitted in December of 1975, the Visitor Protection Specialist, referring to the tribal petition then under consideration by the Secretary of the Interior, wrote that

[S]hould the treaty claims or the conservation agreement recently submitted by the Tribe be seriously considered at higher Government levels a factual research package which verifies our claim of serious degradation of the natural resources will be the key to our defense of retaining land east of the Continental Divide as part of the National Park.

In addition to defending the status of the park against treaty claims, the requested data was “needed in order to determine courses of action to prevent trespass..., prepare prosecution actions for trespass court cases, and possibly justify funds for fencing.”

Funding for an extensive research program never appeared. The results of a field study conducted by a graduate student from the University of Idaho years later proved largely inconclusive and ineffectual. Echoing ranger reports, the study described extensive trail networks, trampling damage to beaver dams, and trampling around water sites. The author concluded that trespass had not greatly influenced the grassland type at the time and that overall effects of trespass on the vegetation appeared minimal. She further concluded that competition between livestock and elk could not be evaluated without intensive further study. Due to insufficient funding for long-term research, most impacts have not been quantified and are still derived from park ranger, naturalist,

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24 Memo from Chief Park Ranger to Superintendent, July 18, 1975, “Binder.”
26 Ibid., 2.
and visitor observations and experiences. On a larger scale, the dearth of applied ecological research and the subjectivity involved with defining “overgrazing” have made it difficult to quantify the ecological impacts of grazing, and despite the significant growth in the literature in the last two decades, scientists continue to disagree over the extent to which grazing causes environmental disturbance.

Fortunately for park officials, defending the eastern portion of the park from alleged treaty rights, grazing or otherwise, did not require a “factual research package.” Events in the legal arena settled the issue. On July 20th, 1976, Judge Russell E. Smith found tribal member Lloyd Flammond guilty of allowing his cattle to trespass in Glacier National Park. The judge admitted that tribal negotiators in 1895 had bargained for a reservation of grazing rights, but “whatever may have happened to the fishing, hunting, and firewood rights which were reserved, no grazing rights were ever reserved to the Indians.” He further asserted that the law required all persons, regardless of ethnicity, to fence their cattle out of federal lands. The judge fined him $250 and placed him on unsupervised probation for three years. Superintendent Iversen wrote: “[W]e consider this a landmark case.”

Just a few months prior to the ruling, the Interior Secretary had rejected the tribal petition and officially stated that Blackfeet treaty rights did not survive the creation of the national park. In conjunction, these two legal opinions created a near impregnable line of defense for the park against Blackfeet treaty claims. As Regional Solicitor John R. Little

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31 S.A.R. 1976, GNPA.
wrote to the Regional Director of the NPS, since the Agreement of 1896 "is silent on the question of grazing...we do not believe the Blackfeet ever retained such rights...and, thus, have no right at present. Further, should such treaty rights exist by virtue of the treaty, the Solicitor’s opinion rendered on February 24, 1976 would apply to the situation." Simply put, the legal position was that the tribe never reserved grazing rights, and those rights they did reserve expired upon creation of the park. Park officials now possessed legal authority to prohibit and penalize stock trespass within the park.

Legal authority secured, park officials still faced the daunting task of actually preventing stock trespass, and this task proved rife with complication. In the years that followed, the park persisted in employing an array of measures in hopes of eliminating stock trespass from the reservation, but overall they met with little success. The park hired a cowboy with horse and dog for a summer to ward off and remove trespassing livestock, but the length of the border, roughly 64 miles, rendered the task a physical impossibility for a “lone ranger.” Rangers impounded cattle and horses and then fined the owners for the impoundment fees, but inadequate facilities hampered success and cattle and horses mysteriously escaped on several occasions. The park also attempted offering leeway to owners of trespass stock by sending warning letters alerting them to stock trespass and granting 72 hours after receipt of their letter to remove said livestock. After the grace period, the owners received citations and became subject to legal action. Convictions failed to deter further trespass.33

32 Memo from Regional Solicitor, Denver, to the Regional Director, Rocky Mountain Region, NPS, Denver, June 30, 1977, “Binder.”
33 For a summary of conditions, management actions, and results of action, see handwritten Memo from Hudson Bay District Ranger Bob Frauson, March 9, 1977, pp. 1-2, “Binder.”
The only measure that seemed to work was fences. By March of 1977, park personnel had constructed five miles of wire fence and one mile of electric fence. The absence of continuing programs for fence repair and maintenance, combined with alleged incidences of deliberate cutting and removal of fence portions, left many of the fences in poor condition. In March of 1977, the Hudson Bay District Ranger stressed that in order to eliminate stock trespass, the park needed to initiate a large program of fencing and cattle guards for the eastern and southern boundaries of the park. His impassioned plea for a fencing program was not new. Park personnel had identified fencing as the best solution and had proposed plans and recommendations for fencing parts of the boundary for years. Now, armed with legal authority to prohibit grazing from the reservation, park officials took serious steps to get the job done.

Several obstacles stood in their way. One was funding. Federal law required that owners of livestock bear the burden of fencing cattle out of federal lands. In United States v. Flammond, Judge Smith acknowledged that this requirement, “though onerous, is legal.” The park rightfully assumed that ranchers on tribal lands held no desire to fund drift fences personally, so they successfully lobbied the National Park Service and received $53,000 to fund the fencing of the boundary. Another obstacle lay with maintenance of the boundary. Issues such as severe winter climate and questions

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34 Ibid., 3.
36 United States v. Lloyd Flammond, pp. 2.
37 See Memo from Supt. Iversen to Regional Director, RMR re: Fencing Project, October 18, 1978, “Binder.”
pertaining to responsibility over maintenance and continued funding complicated the proposal.\textsuperscript{38} According to tribal member Ted Hall, questions such as where to fence and how to maintain it posed bigger problems than the cattle themselves.\textsuperscript{39} Problems over maintenance never arose, however, as the third obstacle, tribal opposition, forced park officials to abandon the fencing project.

Superintendent Iversen may have received mixed messages from the tribe regarding fencing of the boundary. At a meeting in 1975, the tribal council objected to a fencing project and the park abandoned its plans, and on several other occasions negotiations between the tribe and the park broke down on a joint fencing venture as the tribe was convinced that a fence would weaken claims to park lands.\textsuperscript{40} Yet, on May 31, 1977, Superintendent Iversen received a letter from Leonard Mountain Chief, Land Committee Chairman for the Blackfeet, proposing negotiations on the boundary line. He wrote: “[W]e feel the Boundary is not proper at the present time, due to the fact, it is not fenced, which makes it impossible to keep the animals from the Park to remain in the Park and the animals from the Blackfeet reservation out of there.” Mountain Chief claimed that animals from the park ran on the road rights-of-way, “which is endangering our people.”\textsuperscript{41} Confused yet determined, Superintendent Iversen proceeded with the fencing plan and advertised the recently awarded contract.

When the tribe realized that the NPS was finalizing plans to approve the contract for construction of 35.2 miles of fencing along the park’s eastern boundary, opposition came fast and furious. Daniel Boggs, Chairman of the Blackfeet Tribal Business

\textsuperscript{38} See Letter from Field Solicitor to Research Specialist, February 19, 1975, GNPA.
\textsuperscript{39} Ted Hall, interview with author, March 24, 2005.
\textsuperscript{40} See Memo from Supt. Iversen to Chief Ranger re: Meeting with the Blackfeet Tribal Council, June 17, 1977, GNPA; Memo from Hudson Bay District Ranger Bob Frauson, March 9, 1977, pp. 2.
\textsuperscript{41} Letter from Leonard Mountain Chief to Supt. Iversen, May 26, 1977, “Binder.”
Council, wrote to Glacier officials that "your recent action has created strong and totally negative reaction here on the Reservation." An enclosed tribal resolution officially expressed strong objection to the construction of the fence and demanded that the National Park Service "cease and desist from any and all plans for construction of said fencing." As grounds for its position and recommended course of action, the tribe accused the park of neglecting to consult with the tribe and failing to conduct an environmental or wildlife habitat study. Moreover, the "National Park Service has not consulted with the Blackfeet Tribe concerning the effects which the fencing would have upon well established treaty rights" on the ceded strip. If the park refused to "cease and desist," the tribe promised legal action and threatened to take the matter to the congressional delegation and to the media.

The National Park Service cancelled, temporarily, plans to construct drift fences along the boundary. By highlighting the absence of an environmental study, the tribe exposed a legal flaw in the proposed project, and by threatening legal action, the tribe forced the park to postpone its plan for fear of potential litigation. Park officials soon dealt with these concerns, but issues surrounding treaty rights continued to plague the park as it strove to fence the boundary. The tribe had stated that the fence would impact "well established treaty rights." Legal rulings had effectively denied the tribe grazing rights, among others, on the ceded strip, but the logic behind such reasoning failed to persuade many tribal members who remained convinced that the tribe held grazing rights. Drawing upon Blackfeet oral history of the Agreement of 1896, many within the tribal

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43 The Blackfeet Nation, Tribal Resolution #208-78, August 4, 1978, copy available at the Tribal Documents Department, Browning, MT.
community believe that the Blackfeet retained the right to use the land below the tree line on the entire mountain front in the ceded strip. By analyzing the intent of the tribal signatories, many Blackfeet believe that they have a priority on utilizing these lands for grazing. A position paper issued by the Blackfeet Tribal Council stated that “[O]bvously we would have thought we could graze our cattle and horses on these lands should conditions such as drought require the use of these upstream mountain valleys.”

Furthermore, many Blackfeet reject a narrow interpretation of the Agreement that only recognizes the specific rights of access, fishing, hunting, and wood-gathering. By interpreting these rights in a broader sense, many Blackfeet claim that by retaining the four specific rights, essential to survival in 1895, the tribal signatories intended to reserve the ability of their descendants to subsist upon the ceded lands indefinitely and the explicitly-listed rights represent an implied right to continued livelihood. “Cattle,” Blackfeet Nation chairman Bill Old Chief told a Missoulian reporter in 1999, “are but a modern-day version of that old hunting right granted a century ago.”

A more effective argument advanced by the tribe years later, and based on “well established” treaty rights, asserted that a fence could potentially impact the right of free entry recognized in the “Kipp” decision in 1974. Another major concern in the tribal community dealt with the actual location of the boundary, itself a hotly contested issue.

At several meetings with park officials the tribe expressed hostility towards fencing

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because it would suggest an established boundary, and many considered the boundary's location to be inaccurate.\textsuperscript{48} The language in the Agreement of 1896 delineating the reservation boundary is quite obscure and remains open to interpretation. “Beginning at a point on the northern boundary of the reservation due north from the summit of Chief Mountain, and running thence south to said summit...,” and so forth.\textsuperscript{49} In sum, the agreement described a boundary that ran from “peak to peak,” or “mountain to mountain.” In 1932, the Blackfeet unsuccessfully pressed for compensation for lands they considered lay on the eastern side of the boundary, arguing the boundary should be four miles further to the west. Again, in 1957, the tribe petitioned the park for 45,000 acres of land that it considered part of the reservation. The federal Indian Claims Commission resurveyed the boundary with solar observation techniques, upheld the extant boundary, and dismissed the complaint.\textsuperscript{50} Nonetheless, many tribal members remain distrustful of the legal process and reject the current boundary.\textsuperscript{51}

In \textit{Blackfeet Oral History and the 1895 Agreement}, tribal member Jim Kipp utilized Blackfeet oral tradition to contest the location of the boundary. According to Kipp, corrupt reservation agents changed the original, accurate boundary map and altered the markings according to their own interests; thus, the negotiated boundary line differed from the one described in the ratified agreement. Furthermore, he accused government officials of incorrectly surveying most of the monuments used as landmarks in the

\textsuperscript{48} For example, see Memo of Meeting between Glacier National Park Staff and Blackfeet Indian Tribal Council Members, May 10, 1979, pp. 4, GNPA: F20-8; Minutes of Meeting with Glacier National Park Staff and Blackfeet Tribal Council and Other Tribal Representatives, November 3, 1982, GNPA: F19-14.


\textsuperscript{50} See Ashby, 58; Burnham, 150.

agreement, a sentiment shared by many Blackfeet elders.\textsuperscript{52} Some in the tribal community believe that at some point years ago, government agents surreptitiously moved the boundary eastward. Leon Rattler, chief of the Crazy Dogs Society, an organization dedicated to preserving Blackfeet language and traditional culture, claimed that many years ago a forest fire exposed long rows of concrete blocks, the old boundary markers, located many miles to the west of the current boundary.\textsuperscript{53}

Besieged by vociferous tribal opposition, officials at Glacier halted plans to fence the boundary, but they did not desist in trying to eliminate stock trespass. The release of the "State of the Parks Report" in 1980, the National Park Service's "first Servicewide survey designed to identify and characterize threats that endanger the natural and cultural resources of the parks," signified and mandated a serious commitment to dealing with previously neglected threats carrying the potential to cause significant damage to park resources or seriously degrade important park values or park experiences.\textsuperscript{54} The Report included grazing among 73 identified threats and attributed to the practice aesthetic degradation, physical removal of resources, and exotic encroachment, all unacceptable conditions in the national park system.\textsuperscript{55} The "Summary of Threats to Glacier National Park" listed illegal domestic livestock trespass as one of seven primary existing threats to the park. The report identified the Blackfeet Reservation as the specific source of the threat, but also acknowledged that non-Indians owned much of the trespassing livestock. The report also stated that "Blackfeet claimed treaty rights adversely affects(sic) much of

\textsuperscript{52} See Jim Kipp, 60, 81-91.
\textsuperscript{53} Leon Rattler, interview with author, Browning, Montana, March 23, 2005.
the park resource planning on the east side of the park.”56 Even if they so desired, officials at Glacier could not allow or ignore illegal livestock trespass within the park.

Park officials continued to implement new measures, both with and without tribal cooperation, in hopes of alleviating trespass problems. At meetings, park personnel insisted that drift fences were the best solutions, and claimed that fencing of 10% of the boundary would solve 90% of the problems. Tribal representatives continued to oppose the project. In 1981, legal experts advised against park plans to obtain an injunction aimed at reducing cattle trespass, citing lack of proof of irreparable damage and the difficulty involved in naming specific defendants.57 Both the tribe and the park expressed interest in a joint “range rider” program consisting of hired hands patrolling the boundary, but both parties suffered from funding problems.58 In May of 1983, the NPS issued a Law Enforcement Directive stating that “there are no easy solutions to the recurring problem, therefore, law enforcement will continue to be our primary tool.”59 In spite of these initiatives, trespass continued and the Superintendent wrote in 1983 that the “Park will continue to work towards an agreement with the Tribe on fencing as the only permanent solution to the problem.”60

In September of 1985, the Park received an unexpected token of support when five local cattle ranchers, most of whom were Blackfeet, sent a letter to the park, the Blackfeet Tribal Council, and the BIA requesting limited fencing along the contested

57 Memo from Visitor Protection Specialist to the Chief Ranger re: Discussion regarding injunction, October 30, 1981, “Binder.”
58 See Memo of Meeting between Glacier National Park Staff and Blackfeet Indian Tribal Council Members, May 10, 1979, pp. 4, GNPA: F20-8; Minutes of Meeting with Glacier National Park Staff and Blackfeet Tribal Council and Other Tribal Representatives, November 3, 1982, GNPA: F19-14.
60 S.A.R. 1982, pp. 16, GNPA.
boundary. In agreement with park officials, the ranchers admitted that past approaches had failed to curtail trespass problems, but for the first time the ranchers described how unsuccessful measures adversely affected those residing on the east side of the boundary. They blamed cost, in terms of wages and supervision, and the “necessity to ride range routinely and in inclement weather” for undermining the success of the range rider program. They continued that regulation enforcement and fines levied by the court system “created an atmosphere of contempt toward the Park Service and a feeling of ‘helplessness’ as to what could be done.” Moreover, the long hours spent herding cattle out of the park in order to avoid court penalties meant less time for other important tasks, which, indirectly, inflicted heavy financial costs upon the ranchers. Existing limited cattle fencing, according to the authors, represented the only successful measure to date, and they thought “that the same accomplishments can be made in our area with minimum fencing along major cattle routes.” Proclaimed benefits included improved working relationships, reduced resource damage in the park, greater ability for ranchers to control their cattle, and the elimination of legal actions and associated costs for ranchers, the park, and the tribe.61

The park’s first attempt to implement a fencing program years earlier had failed for two main reasons: the lack of support from local interested parties and the absence of an environmental assessment for the proposed fence. With the letter from the local ranchers, the park secured some measure of support from local interests and, intent on a fencing project, began preparing an environmental report. Superintendent Haraden wrote to Chief Old Person that the letter from local ranchers “accurately summarizes the long-term problem of livestock trespass into the park” and, after briefly listing the previous

61 Letter from five local cattle ranchers to GNP, BTC, BIA, September 21, 1985, “Binder.”
and unsuccessful measures aimed at alleviating the problem, claimed that federal regulations coupled with complaints from conservation groups and concerned individuals necessitated that park superintendents “take action, as needed, to protect the Park resources and enforce regulations.” He further alerted the Blackfeet Tribal Council to park plans to begin construction of selected and minimal fencing in the fall of 1985.62 Tribal response surprised no one. A reply stated official objection to fencing based on familiar grounds: failure to consult with the tribe, potential impacts on treaty rights, and concern for game migration and habitat.63 Superintendent Haraden assured the tribe that the park would comply with NEPA requirements regarding fence construction and invited Tribal Council representatives to discuss the issue and review the proposed fencing plans.64

A boundary fence constructed in the fall near the St. Mary entrance to the park virtually eliminated stock trespass in the area and confirmed the efficacy of fencing. A temporary cessation of grazing leases adjacent to the Boulder Creek drainage almost eradicated stock trespass in that area.65 Overall, 1985 witnessed some promising developments curbing stock trespass into the park, and events in early 1986 generated further optimism for park officials. In February, the park received $42,000 for fencing projects on the eastern boundary.66 In March, the Acting Regional Director of the NPS approved the environmental assessment prepared by GNP’s Resource Management Division. Justifying the purpose and need for the project, the report asserted that “use of Park lands by livestock alters the natural environment, reduces the carrying-capacity of

62 Letter from Superintendent Haraden to Chief Old Person, October 24, 1985, “Binder.”
64 Letter from Supt. Haraden to Chief Old Person, November 26, 1985, “Binder.”
native wildlife, reduces visitor safety, and violates the National Park Service's mandate to maintain those lands as a naturally functioning ecosystem." The environmental assessment failed to move the Tribal Council, which continued to oppose the fencing project. After consulting with the tribal council, park officials revised the Environmental Assessment to address issues of concern. The revised report promised that if "livestock grazing ceases on neighboring lands as part of a long-term management plan, the fence will be removed. The fence is solely to exclude livestock and is not meant to symbolize a property boundary, legal or otherwise; no abrogation of perceived or real treaty rights is implied."

Responding to tribal opposition and following through on pledges to involve tribal input on fencing proposals, park officials held an open house meeting at the St. Mary Dormitory and on several occasions tried to arrange meetings with tribal representatives in the spring of 1986. Attempts to gain tribal input proved fruitless, and in the summer park personnel began construction of temporary fence segments. Judging by a history of outspoken antagonism, silence from the east surely must have come as a surprise to park officials. Maybe the tribal council had other more pressing issues? Maybe they had given up? Or maybe they were enlisting aid from important people in important places?

As the park was hoping to gain tribal input and finalizing fencing plans along the eastern boundary, tribal representatives approached Senator John Melcher, D-Mont., to

70 See Glacier National Park, Case Incident #860102; "Meeting for public input to livestock trespass fencing proposal," May 7, 1986, "Binder;" Glacier National Park, Cl #860272; "Blackfeet tribal input to livestock trespass fencing proposal," June 14, 1986, "Binder."
voice their opposition to fencing and enlist him in their cause. Tribal officials pointed to treaty provisions guaranteeing tribal members access to the park, cited the “Kipp” case that officially recognized the right, and vowed that they would not accept even the smallest infringement that a fence might constitute. At the request of the tribe, Senator Melcher met with National Park Service representatives in Washington, D.C. in early September. At the meeting, Senator Melcher testified that “there is some fencing started by the Park Service ill advisedly because the clear state of the law is the Indian treaty where the Blackfeet Tribe ceded land they have that became the bulk of Glacier Park. That treaty says it cannot be fenced in, that they have to have access to it.” The Senator’s testimony had its desired effect, and the NPS committee agreed to direct Glacier Park to cease fencing activity until formal agreement had been reached with the tribe. In a subsequent press statement, Senator Melcher accused Glacier of ignoring the legal rights of the Blackfeet and called the fencing of national parks a highly questionable activity equivalent to “making national parks nothing more than big zoos.”

Congressional intervention dealt a near-fatal blow to park fencing plans and transformed a dispute between neighbors into an explosive political issue. Glacier officials could no longer fence without express approval from the Tribal Council, an unlikely condition then and one that has yet to materialize. In a letter to Montana Senator Max Baucus sent in the weeks following Melcher’s intervention, Superintendent Gilbert Lusk succinctly expressed the park’s unwavering interpretation of the grazing issue:

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71 See Blackfeet Nation, Tribal Resolution #292-86, September 9, 1986, Tribal Documents Department, Browning, MT.
72 See “Park halts work on fence project: Glacier officials, Blackfeet Tribe to try and resolve cattle grazing issue,” Associated Press, 18 September 1986.
73 Congressional Record- Senate, September 16, 1986, S12612.
74 “Park halts work on fence project: Glacier officials, Blackfeet Tribe to try and resolve cattle grazing issue,” Associated Press, 18 September 1986.
We view the situation as a livestock trespass issue only, and its resolution should not be complicated by the treaty issue. The treaty issue, as we view it, was clearly resolved in the April 8, 1935, Court of Claims ruling. If the tribe wishes to challenge the 1935 ruling, it should take place within the framework of the court system, not the NEPA process. Unless such a challenge occurs, resulting in a different ruling, the treaty issue is a moot point.  

Yet park officials failed to obtain political support for fencing projects from Senator Baucus or from members of Montana's Congressional delegation in the years that followed, and the 1986 Congressional hearings essentially prohibited future fencing of park lands as a way of dealing with the problem.

In the years following the park's second failed attempt to fence the boundary, park officials worked with the tribe to develop new measures aimed at reducing trespass incidences. None of the measures proved successful, and law enforcement remains the primary tool for preventing livestock trespass. In the days after Senator Melcher ordered Glacier to cease fencing operations, park officials met with tribal representatives to discuss the gradual establishment of a wildlife management buffer zone along the boundary as an alternative to fencing. Superintendent Lusk wrote that the park was "very supportive philosophically to the concept of a Tribal buffer zone next to the Park," and the parties set up a working group composed of tribal and park representatives to develop some workable concepts dealing with wildlife management buffer zones. Both organizations initially agreed that a mutual wildlife zone and a cooperative management approach would be beneficial and hired wildlife biologists to work towards such a goal.  

In the years that followed, the tribe placed some restrictions upon grazing allotments in

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75 Letter from Supt. Lusk to Senator Max Baucus, October 10, 1986, "Binder."
order to enhance wildlife buffer zone programs, but, according to park documents, it did not follow through with buffer zone designations, and instead issued revenue-producing grazing leases.\textsuperscript{77}

In addition to the wildlife buffer zone concept, park officials also attempted to involve the BIA in round-up operations as a new approach to curbing stock trespass. For several years beginning in 1987, the tribe temporarily quit offering grazing leases on tribal trust lands adjacent to the park and cattle trespass virtually disappeared in certain areas along the boundary.\textsuperscript{78} In a letter to Chief Earl Old Person, Superintendent Lusk expressed his pleasure over the drastic reduction of trespass cattle in the park, but also alerted the council chairman to the worsening problem of horse trespass. Noting that the horses “all are very wild,” the superintendent blamed the beasts for causing heavy impact in the sub-alpine meadows, with “deep trails and attendant erosion, dusting pits, and very heavy grazing which decreases the carrying capacity for our shared elk herd.”\textsuperscript{79} Old Person responded that “the best way to handle this problem would be to treat these animals as if they were trespassing on the reservation, round them up, pen them, advertise for the owners to appear, charge the owners for expenses, and sell the unclaimed horses.” He recommended that the park work with the BIA, as the bureau had successfully resolved such problems on the reservation in recent years through such measures.\textsuperscript{80}

Over the next several months, park officials met with BIA employees in hopes of drafting a cooperative agreement to round up trespassing horses in the park. Initially, the

\textsuperscript{77} Glacier National Park, Briefing Statement prepared for Interior Secretary Lujan re: Livestock Trespass in Glacier National Park, June 1, 1993, “Binder.”
\textsuperscript{79} Letter from Supl. Lusk to Chief Old Person, October 8, 1987, “Binder.”
\textsuperscript{80} Letter from Chief Old Person to Supl. Lusk, October 30, 1987, “Binder.”
project appeared to hold serious potential. The park assured the tribe it would hold no fiscal responsibility for round-up operations, park personnel met with BIA employees and verbally agreed upon a joint round-up operation with specified responsibilities, a draft memo of understanding officially outlined the project, and the Glacier Reporter, a local newspaper, published an impoundment notice in the spring of 1990.\textsuperscript{81} In spite of these promising signs, the joint effort for removal of horses in the park, like previous cooperative measures, fell through the cracks and never came to fruition.

Park documents in the 1990s reveal a heightened sense of urgency and responsibility felt by park managers to deal with stock trespass. Several documents supported the position that due to “recurring and unacceptable resource degradation, prompt resolution is imperative.”\textsuperscript{82} Park officials added to the list of perceived environmental threats the unknown potential for disease transmittal from domesticated livestock to bighorn sheep, including a documented occurrence between domesticated animals and desert bighorn sheep.\textsuperscript{83} Expressed dismay levied by conservation groups and private park users over the park’s policy of “allowing” trespass to happen also compelled the park to adopt a hard-line stance against trespassing.\textsuperscript{84}

The same documents also reveal deepening frustration with failed cooperative measures aimed at eliminating stock trespass. The park even encouraged the

\textsuperscript{82} Glacier National Park, Briefing Statement prepared for Interior Secretary Lujan re: Livestock Trespass in Glacier National Park, June 1, 1993, “Binder.”
\textsuperscript{84} Glacier National Park, Briefing Statement prepared for Interior Secretary Lujan re: Livestock Trespass in Glacier National Park, June 1, 1993, “Binder.”
establishment of a game park, with permissible in-season hunting of reintroduced bison and on-reservation fencing to protect the park from livestock, contiguous with the park boundary, provided that management of the game park was consistent with the protection of park resources. However, park officials expressed doubts over the success of the program because of a history of proposed buffer zones yielding to grazing leases. Park managers expressed willingness towards reaching a consensus agreement on resolution with the tribal community, but, noting that negotiations with tribal representatives had resulted in few positive actions in the past, threatened independent action should the parties fail to reach joint resolution.

In 2003, the park set out to devise a strategic fencing plan, secure internal NPS funding, and begin compiling information for an environmental assessment. Hesitant to jeopardize the possible project, park managers planned to involve tribal input only after they had drafted a complete plan with ecological studies, impacts, and rationale. As of November of 2005, the park has developed a more detailed plan, involving consultation with the tribe and the BIA, to deal with the issue. Until this plan is implemented, regulation enforcement remains the primary mitigation measure.

Enforcement is weak, however, and trespassing persists. Written complaints by park personnel in recent years testify to the low priority placed on enforcing trespass regulations and the resulting negative impacts. A law enforcement ranger wrote in 1998 that “it is almost like we are begging the person/persons to obey park rules and regulations.” He acknowledged that trespass was a “sensitive” issue with the park, but

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85 See Briefing Statement prepared for Interior Secretary Lujan re: Cattle Trespass, June 1, 1992, “Binder.”
87 Losleben, pp. 9.
88 Steve Thompson, Program Director for the Glacier Chapter of the National Parks Conservation Association, telephone interview with author, November 21, 2005.
exclaimed that the “park needs to be more aggressive...[W]e can’t sacrifice our resources just because this is a ‘sensitive’ issue. There comes a point in time when enough is enough!” Another ranger labeled it an “unacceptable situation” and argued that “besides noxious weeds replacing native vegetation, ...cattle trespass and the damage from livestock is the number one resource problem facing the Park.” In addition to detailing visible resource damage and threats to threatened species and predators, the ranger described how stock trespass detracted from visitor experiences. He noted how cattle jeopardized visitor safety by physically charging hikers, endangering drivers on park roads, and fouling drinking water. With graphic imagery he depicted the proliferation of unavoidable “cow pies” and claimed “it was impossible to not get cow excrement on your shoes and legs...[T]he area smelled like a barnyard.” He continued that if “we had been visitors, the impacts and the threats from the cows at Slide Lake would have ruined our visit to Glacier.” In perhaps the most poignant example of the extent of cattle trespass in the park, a park visitor innocently commented to a park naturalist that the park “must be making a lot of money from cattle grazing, with all the cattle I saw at Two Medicine.”

Some tribal members disagree with park claims over adverse impacts of stock trespass. Ted Hall, former BIA Resource Manager with long and extensive experience dealing with livestock trespass issues with the park, argued that cattle only minimally impact park resources and that the biggest threat is the park’s own re-vegetation projects. For example, when the park refurbished certain roads, it used topsoil from the west side

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of the mountains and thereby introduced noxious weeds. Hall also believes that the park over-exaggerates threats to the aesthetics of the park and maintains that trespass is solely an east-side issue that only occasionally affects the Upper Two Medicine area and Babb.

As to mitigation measures, Hall claims that impoundment of stock and jailing of owners creates tension and fails to accomplish anything of lasting consequence. Furthermore, by citing individuals instead of animals, the park technically violates the right of free entry for tribal members legally recognized by the ruling in the "Kipp" case in 1974. Overall, he agrees with park officials that efforts to alleviate the situation have largely failed over the years; however, he disagrees with park officials over where rightfully to place the blame.91

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**Livestock Trespass Areas**

*Glacier National Park*

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![Livestock Trespass Areas](map.png)

*Figure II: Livestock Trespass Areas, circa. 2003 (map taken from "Livestock Trespass Binder")*

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High-ranking park officials claim that in spite of numerous negotiations with tribal representatives, positive actions have been few. They blame past failures on the seeming “inability of (the) tribal council to make long-term commitments to courses of action,” and have warned the Interior Secretary that any joint resolution only holds temporary potential due to transitory and turbulent tribal politics.\footnote{Glacier National Park, “Task Directive: East Side Trespass Livestock,” April 12, 1990, pp. 2, “Binder.”}\footnote{Examples include the BIA’s takeover of reservation police responsibilities due to negligence and an illegal fund diversion story covered by the Great Falls Tribune. See Losleben, 9.} Accusations of intra-tribal corruption in recent years have also generated further concerns over accountability.\footnote{Letter from Ranger Brad Blickhan to Glacier personnel, October 16, 1998, “Binder.”} Some rangers on the east side of the park blame bureaucratic apathy and aversion to confrontation for the perpetual dire state of affairs. A park ranger wrote in 1998 that he had heard that

> politics is to blame for our lack of resolve on the cattle trespass issue, that we want to be good neighbors with the Blackfeet. I’ve heard there are treaty issues that keep us from protecting the park...If there are issues that must be settled in court, we still have a duty to protect the Park from extractive use until those issues are solved...We need to make cattle trespass a priority.\footnote{Ted Hall, telephone interview by author, November 18, 2005.}

Some within the tribal community have a different take on the situation. Ted Hall insists that the park basically talks the talk but has failed to walk the walk—a lot of lip service with no actual effort put forth. Park officials, according to Hall, do not want to spend money or create legislation and never propose solutions: they want someone else to take care of the problem. In an interview, Hall claimed that both the tribe and the BIA had been in favor of the proposed joint round-up operation in the late 1980s, but that the NPS never followed through on its pledge to fund the operation.\footnote{Ted Hall, telephone interview by author, November 18, 2005.} Hall also clarified the wildlife buffer zone concept for me. He professed that both the park and the tribe wanted...
the buffer zone, but that in order to create it someone had to purchase the income interests of the ranchers owning the land under question. "Basically," he said, "the ranchers need to get paid not to graze." During his time as cultural liaison between the park and the tribe in 1994 and 1995, Hall proposed that the park implement a resource use tax at the gate or create new fees collection legislation to fund the buffer zone, but the park rejected the idea. According to this former BIA Resource Director, impoundment and legal action never accomplished anything and the park needs "to do something real that works."96

Park officials are not the only ones opposed to grazing on park lands. Grazing on public lands has been a steady practice since the 1870s. Historically, range livestock producers have possessed political power disproportionate to their actual numbers and have managed, to a large degree, to defeat efforts by opponents to remove grazing from public lands.97 In the early years of the park system, the army made special effort to prevent encroachment by sheep and cattle in the parks it oversaw. However, in a bid to secure congressional support, Stephen T. Mather, first Director of the NPS, reluctantly supported grazing in the parks and the Organic Act of 1916 authorized the Interior Secretary to issue grazing leases.98 The grazing provision of the Organic Act of 1916 remains on the books today, although administrative regulation that disfavors livestock grazing has mitigated the provision in recent years.99 In 2002, livestock grazing was permitted in 32 units of the park system.100

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97 See Donahue, 5, 67.
98 See Sellars, 26, 84-85.
As interest in the outdoor recreational opportunities public lands offered expanded and as the environmental movement attracted increasing numbers in the latter decades of the twentieth century, grazing on public lands came under increasing fire from both sports enthusiasts and conservation groups. Mounted efforts to impose federal authority and environmental regulation over public lands inspired “sagebrush rebellions” as ranchers openly defied regulations and demonized environmentalists in many parts of the West. In turn, environmental groups have vilified livestock interests, and campaigns aimed at ending abusive livestock grazing on public lands continue to this day.

In spite of holding a general antipathy towards grazing on public lands, conservation groups do not lump livestock interests into a homogenous entity. For example, the Sierra Club states on its “Federal Public Lands Grazing Policy” webpage that

The Sierra Club recognizes that restrictions on grazing may have negative impacts on the cultural and economic stability of some communities. These impacts are apt to be most severe in Native American, minority and low-income communities. We are committed to developing partnerships with community members to identify and implement strategies to protect both traditional communities and the ecological integrity of public lands, without sacrificing either.

As discussed earlier in this chapter, officials at Glacier claimed they had received complaints from local conservationists regarding livestock trespass in Glacier National Park. Unlike with written complaints from park personnel and naturalists, I was unable to locate any complaints from conservationists in the park’s archives or in the files at the

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101 See Donahue, 247-249.
102 Ibid., 106-107.
Chief Ranger's Office. Perhaps environmental groups have been reluctant to weigh in on an issue with such special circumstances. Perhaps the Park Service keeps such files elsewhere.

In January of 2003, the NPCA named Glacier one of the ten most endangered national parks, and the private watchdog organization considers illegal livestock grazing within the park as a serious threat to the natural resources and landscape the NPCA seeks to protect. In August of 2003, a program assistant for the Glacier chapter of the NPCA issued a report that provided a brief overview of the livestock trespass issue in order to inform the NPCA of how best to work with GNP and the Blackfeet Tribe, as well as to help the organization decide what kind and level of involvement it wishes to pursue. The organization continues to encourage the park and the tribe to work together towards resolution of the issue. The positions advanced by officials at Glacier and by the representative body of the Blackfeet tribe regarding the stock trespass issue have been distinct and relatively constant, and this chapter has focused on the interplay between these two parties. The involvement of the environmental community, however, has been less visible and remains a topic for further exploration.

Summary

Although the Agreement of 1896 mentions nothing about Blackfeet grazing rights on the ceded strip, many Blackfeet interpret the pact to mean that they did retain grazing rights. The tribe has failed to gain recognition of perceived grazing rights on the ceded strip, but they have managed to prevent the park from fencing the boundary. To many within the tribe, park enforcement measures and fencing proposals violate the terms of

104 See Losleben, 2–3.
105 Steve Thompson, telephone interview with author, November 21, 2005.
the Agreement of 1896 and the intentions of the tribal signatories. Controversy over the boundary and alleged implied grazing rights are based largely on oral history, important in Blackfeet country but largely dismissed by American courts of law. The recognized right of free entry and the written agreement stipulation that the ceded strip cannot be fenced have served as more pragmatic and efficacious arguments in challenging fencing projects and such reasoning successfully secured Congressional support in 1986. In addition to accusing Glacier of ignoring tribal rights, Senator Melcher called fencing of national parks a questionable activity equivalent to "making national parks nothing more than big zoos." This is a telling statement because it implies that fencing, proposed by the park as a way of eliminating an activity that offends tourist expectations, would also detract from the desired aesthetics of the national park system. Due to such considerations, it is likely the tribe would find numerous powerful allies if the park attempts to fence the boundary again.

Some tribal members have not abandoned hope over gaining recognition of grazing rights on the ceded strip and point to a case decided elsewhere as a possible precedent in achieving their objective. In 1983, the 9th Circuit Court upheld the right of the Shoshone-Bannock tribes to graze within Caribou National Forest in Idaho, formerly part of the Fort Hall Reservation, in Swim v. Bergland. Article IV of an 1898 land cession agreement provided for tribal grazing and other use rights "[S]o long as any of the lands ceded...remain part of the public domain," a determinable cause similar to the one included in the Blackfeet Agreement of 1896. Adhering to the Canons of Construction, the judges affirmed that there "is no evidence the tribe originally understood the Article IV terms 'public domain' and 'public lands' in a narrow, legalistic

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106 Ted Hall, interview with author, March 24, 2005; see also Jim Kipp, 91.
sense.” The judges found that subsequent Executive actions did not extinguish reserved grazing rights and that such rights held priority over non-tribal grazing leases. Some Blackfeet interpreted this decision to mean that tribal members have a priority on utilizing lands on the ceded strip for grazing purposes.

Despite some similarities between the situations encountered by the Blackfeet and the Shoshone-Bannock, striking differences cast doubt over possible similar resolutions. First, the Shoshone-Bannock agreement explicitly reserved grazing rights whereas the Agreement of 1896 did not. Moreover, the Interior Solicitor on several occasions denied those rights explicitly reserved in the Agreement of 1896. Second, although the Caribou National Forest and Glacier National Park both fall under the category of federal lands, vastly different management philosophies make national forests and national parks disparate entities. The grazing of livestock, like hunting and logging, is an extractive activity that affronts both the preservation and recreation objectives of the National Park System. Its effects, according to park personnel, cause resource degradation and detract from the aesthetic expectations held by the tourist industry. Unlike hunting and logging, both prohibited activities for Indians and non-Indians alike in Glacier, the intention to reserve grazing rights on the ceded strip never made it to the ratified and official written agreement. By placing the situation within the context of the founding and guiding principles of the National Park System and by analyzing the history of selective subsistence permission and rejection of reserved usufruct rights, the denial of grazing within Glacier National Park is not surprising and future efforts to reverse this position would very likely encounter stiff resistance.

108 Jim Kipp, 91.
Chapter 4—The Modern Era: Wages and the Service Economy

On my first trip to the Glacier region in the summer of 2004, I set out for Babb, a small town on the northwestern corner of the Blackfeet Reservation near the borders of the park and Canada. As I entered the Blackfeet Reservation and came upon East Glacier, I veered off Highway 2 under an overpass proudly welcoming visitors to the park, wound north on Highway 49 past the historic Glacier Park Lodge, and pulled into a small tourist area dotted with motels, diners, and convenience stores. Unsure of how best to proceed and having forgotten the trusty road atlas, I entered a convenience store to inquire as the best route to take. After repeating my query several times to the young women working behind the counter, one responded, in broken, East-European English that she could tell me how to get to Warsaw but had never heard of Babb.

Somewhat startled, I got back on Highway 2 and headed north towards my destination. During the rest of the journey, the fact that two Polish women were running the store pressed more heavily on my mind. I recalled reading about the staggering unemployment rate on the reservation, ranging from 40 to 80%, and found it odd that Eastern Europeans from halfway across the globe could secure jobs where struggling Blackfeet Indians, residing just a stone’s throw away, could not. Several questions jumped into my mind. Were Eastern European workers an anomaly near the park? Perhaps, I pondered, the young Polish women had ties to the park, maybe relatives or acquaintances? If this were not the case, how did tribal members feel about distant foreigners landing much-needed jobs near the neighboring tourist mecca that is Glacier National Park?
As I researched the history of tribal attempts to procure an economic stake in the park in the months that followed, I found answers to most of my questions. I never did learn more about the young Polish women’s family history or the status of their trans-Atlantic connections. I did learn, however, that Eastern Europeans were not strangers behind the counters of businesses on the eastern edge of the park, and that the practice of importing workers from overseas certainly did generate resentment and indignation among many in the Blackfeet community. The difficulty encountered by tribal members in trying to secure gainful employment from the park or its concessionaires further contributed to the widespread feeling of betrayal that pervades the reservation as questionable business licensing and hiring practices have made it difficult for the Blackfeet to gain an economic stake in the lands they once controlled. Deprived of their former subsistence base, many Blackfeet in the modern era rely on the cash economy and wage labor to put bread on the table. The transition from a land-based economy to a service economy has not been easy. Convinced that the Agreement of 1896 implies rights of preference and guarantees the opportunity to eke out a living on the ceded strip, many within the tribal community have denounced park policies and the issue of employment and business rights in and around Glacier National Park provides yet another point of contention between the modern Blackfeet and the 21st century National Park Service.

The Blackfeet Nation, like many other Indian tribes, possesses a long history of tribal unemployment and economic hardship. Unlike many tribes, the Blackfeet reservation borders a world-famous national park that boasts more than two million visitors a year who liberally spend cash dollars treating themselves to an unforgettable
excursion into the Montana wilderness. The park's existence, however, has not served as a panacea for the tribe's economic woes. Historically, tribal members have held few jobs with the Park Service or with its concessionaires, and, unlike many surrounding communities that thrive on catering to the well-to-do tourists that visit the park every summer, have generally failed to capitalize on the tourist industry that supports the park. One tribal member's struggle to obtain business rights within the park in the early 1990s instigated a grassroots campaign protesting hiring practices that blossomed into a larger, unified tribal movement reasserting tribal rights on lands formerly owned by the tribe. Drawing upon a broad interpretation of the Agreement of 1896, some tribal members have clamored for preference rights in hiring practices and business licensing. Although the tribe has failed to win recognition of these alleged rights, carefully-planned and nonviolent tribal protests pressured the park and its primary concessionaire into striking agreements with the tribe to improve hiring practices and support of native artisans.

The roots of economic duress in Blackfeet country date back to the early years of the reservation era. The federal government, in keeping with its paternal practice of treating Indian nations as wards unable to manage their own affairs, did not make funds from land cessions available to Blackfeet members and instead held the monies in trust and doled out the proceeds as annuities to the tribe. The national nefarious corruption involved with the management and distribution of these funds did not bypass the Blackfeet Reservation. Around the turn of the century, agents on the reservation considered discontinuing issuing rations to the tribe, but the tribe vehemently opposed the proposition and stressed that employment opportunities virtually did not exist. Irrigation projects undertaken after 1907, aimed at promoting farming and providing employment,
failed miserably.\textsuperscript{1} Few Indians owned livestock or other assets, and unemployment and poverty plagued the reservation. By 1918, agent Fred C. Campbell considered the reservation bankrupt.\textsuperscript{2}

Even if the tribe possessed large amounts of capital at the time of the establishment of Glacier National Park, it would have had to compete with very powerful interests to secure landholdings suitable for tourism near the park. Shortly after the creation of the park in 1910, the Great Northern Railway, with backing from the Department of the Interior, purchased a 160-acre tract of reservation land stretching from East Glacier to the actual entrance of the park. The sale included neither negotiations with nor compensation for the Blackfeet. With Congressional approval, the Great Northern subsequently purchased several hundred more acres in the area, taking land from townsites on the reservation for a nominal fee. The Reclamation Service received similar generous treatment from the Department of the Interior and leased property, formerly on the reservation, to a subsidiary of the Great Northern. These land transfers, according to historian Jack Holterman, “ruled out the chance for the Blackfeet to set up their own businesses near the Park.”\textsuperscript{3} From the beginning, big corporate money and political cronyism effectively prevented the Blackfeet from establishing a foothold near the anticipated tourist destination.

By 1913, when the Great Northern completed its magnificent Glacier Park Hotel within the boundary of the reservation, the railroad had spent nearly a million dollars in

\textsuperscript{2} See Holterman, 30-31, 38.
\textsuperscript{3} For more on early land transfers near GNP, see Holterman, 35, 39.
and around Glacier National Park. As discussed in the previous chapters, the railroad employed some Blackfeet to entertain guests at the Glacier Park Hotel and thereby provided employment for tribal members. They did not, however, receive fair compensation from the railroad for their duties: after performances they passed around a hat and enjoyed some kitchen scraps. Over time the Indians tired of the charade and, no longer able to suppress feelings of exasperation over receiving poor pay to create a romantic image that benefited the Great Northern, quit entertaining at the Glacier Park Hotel. Many on the reservation considered it demeaning for a small contingency to act as showpieces for little pay. On the other hand, some who participated personally in the shows took pride in educating others about traditional Blackfeet culture. For some, rehashing the stories and rituals of old made for a good time and offered opportunities for Blackfeet orators to tell their stories. Some tribal members ventured off the reservation and capitalized on the tourist fascination for Blackfeet souvenirs by selling signed photographs, painted buckskins, and miniature teepees. The Indians participated in the railroad’s promotional efforts for nearly 40 years, and the earnings from their performances, posing sessions, and entrepreneurial endeavors represented some of the only material compensation the tribe drew from the park’s existence during that time.

The reservation Blackfeet outside the promotional world of the Great Northern struggled to make ends meet. Investments in cattle and irrigation projects failed to

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4 Burnham, 107.
5 A Senate investigator of the Blackfoot Agency commented on the disrespectful treatment and poor pay the Indians received. See Holterman, 40.
6 A March 21, 2005 interview with Ed. DesRosier, whose mother worked as a traditional dancer for the Great Northern in the 1940s, informed the discussion on tribal opinions regarding the Great Northern’s promotional presentations. Earl Old Person also commented on his role in the Great Northern programs in the late 1930s. See Eileen Finan, “Indians say they feel alienated from land that was once theirs,” Great Falls Tribune, 6 June 1994.
7 For more on Blackfeet marketing in Glacier and the highly popular Winold Reiss calendar series, see Farr, 191-192.
ameliorate the desperate economic conditions that pervaded the reservation. A reinvigorated cattle business and gas and oil sales in the late thirties and early forties offered a glimpse of hope for some, but overall, according to historian William E. Farr, "the reservation and its institutions had failed," and as the 1940s rolled around, "the Blackfeet were as dependent a people as they had been following the end of the buffalo." The Blackfeet shows at Glacier Park Lodge came to an end in the early 1950s, and tribal members rarely succeeded in landing jobs in park hotels or with the NPS.9

Their economic ties to the park severed, some within the tribe devised a plan to draw tourist money to reservation lands near the park. In the early 1950s, the tribe approached the park with plans to develop a resort along the shore of Lower St. Mary Lake. Although the Park Service had no legal jurisdiction over the area, the tribe needed its support in order to obtain the capital investment necessary for the project. The park expressed willingness to work with the tribe; nevertheless, the tribe turned to the private sector. Ultimately, the project fell apart.10

Worn but not beaten, the Blackfeet Tribal Council persevered in its attempts to capitalize on the lucrative tourist revenue that the park attracted and, in the late 1960s and early 1970s, continued planning to develop a recreational tourist industry to serve those headed to the park. They hoped to accomplish this by improving the existing facilities outside the park and by constructing new ones to provide year-round services. Proposed projects included a year-round complex at Chewing Black Bones on the shores of Lower St. Mary Lake, a year-round complex featuring a ski area at Divide Mountain, other

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8 Ibid., 97, 102.
9 Keller and Turek, 262.
10 For more on failed Blackfeet efforts to develop along the shores of Lower St. Mary Lake, see Burnham, 152-153.
facilities around Browning and East Glacier, and an upgraded St. Mary Tourist Center at the park entrance, including lodges, restaurants, stores, and an information center. The tribe also offered to buy 40 acres of park property to develop a Blackfeet Interpretive center. Park officials questioned the feasibility of constructing an interpretive center within a thousand yards of the existing St. Mary Visitor Center and expressed concern over "an apparent duplication of certain facilities...if they would provide similar services." Park officials further discouraged the acquisition of park land as only Congress could approve such a transfer of federal lands.

After the Bureau of Outdoor Recreation made $550,000 available on a matching fund basis for development of a new St. Mary complex in 1972, Superintendent William J. Briggle responded to calls for interpretive changes in the content of the St. Mary Visitor Center by proposing to the Tribal Council a refitted, cooperative visitor center with new exhibits and cultural demonstrations. NPS officials agreed that it was "basically an excellent idea," but relayed a number of recommendations and conditions ensuring the Park Service would maintain administrative control of the complex. Bureaucratic complications and pressing tribal economic concerns eventually killed the project, and the tribe failed to capitalize on Glacier's tourism. They did, however, continue to press for jobs within the park.

As described in the previous chapters, the events of the 1970s forced park officials in Glacier to pay more attention to their neighbors. Beginning in the early

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12 Letter from Acting Director of the Midwest Region to the Director of the NPS, September 20, 1972, GNPA: F19-13.
16 Burnham, 154.
1970s, the park encouraged tribal input on cultural programs and began to direct more of its interpretive programs towards appreciation of native cultures, even employing tribal members to give presentations on Blackfeet culture.\textsuperscript{17} Furthermore, communication between the two parties increased and joint meetings became more frequent. Since the park did not have a good reputation for integrating the Blackfeet into its workforce, tribal employment with the park frequently appeared among the subjects of mutual interest discussed at most of the meetings. Steps taken in the 1970s and 1980s to increase Blackfeet employment within the park included, to name a few, the establishment of positive equal employment opportunity goals, the posting of lists of locally-issued vacancy announcements, and recruiting sessions at Babb, the Tribal Employment Rights Office, Blackfeet Community College, and Browning High School career days.\textsuperscript{18} The park displayed some progress with wage grade jobs and various blue-collar jobs, but career-conditional and permanent jobs rarely went to tribal members.

Aware of this situation, the park felt obligated to detail possible reasons why it did not hire many Blackfeet onto permanent positions. Park officials claimed that many of the "non-discrimination laws and policies of the government are actually hampering the park’s efforts to hire more Blackfeet people."\textsuperscript{19} For certain jobs, applicants had to file under the Park Service centralized Denver system, and a "number of the names of Indian youths showed up quite low on the registers so we could not hire them." Other suggested obstacles included difficulties tribal members faced in filling out the necessary forms and

\textsuperscript{17} Many of the presentations were funded by the Glacier Natural History Association, not the park itself.
\textsuperscript{18} See Letter from Supt. Iversen to Blackfeet Tribal Council, January 10, 1973, GNPA: F19-13; Memo of Meeting between Glacier National Park Staff and Blackfeet Indian Tribal Council Members, May 10, 1979, GNPA: F20-8; Memo of Meeting with Glacier National Park and Blackfeet Tribal Council, November 3, 1982, GNPA: F19-14; S.A.R. 1986, GNPA. Many of the memos of meetings discussed "plans" to improve employment practices, but questions over their actual implementation have led me to omit them.
lack of seasonal housing. Furthermore, the park placed points under Native American Language, but many young tribal members did not know the Blackfeet language.\textsuperscript{20} Efforts and excuses failed to please or appease tribal members who still considered park hiring practices unfair; however, the Park Service was not the only source of employment in and around the park. Glacier Park, Inc., the park's primary concessionaire, exerted huge economic impacts on the region and was equally, if not more, guilty when it came to excluding the Blackfeet from sorely-needed wages.

For the first forty years after the park's creation, the Great Northern Railway and its subsidiary, the Glacier Park Hotel Company, acted as the major developers and primary concessionaires within Glacier National Park. As the automobile became the preferred means of travel to and through the park during the 1940s, the Great Northern and its subsidiary suffered heavy losses. An NPS directive after WWII demanding that concessionaires at the National Parks spend several million dollars for expansion and modernization of facilities to accommodate growing numbers of visitors did not bode well for the company, which lost over $1.4 million in the 1940s. Thus, the Great Northern embarked on a decade-long venture to maneuver itself out of the Park concession business. In November of 1960, Don Hummel's Glacier Park, Inc., bought all the Great Northern's holdings and became the major concessionaire in Glacier National Park, a title it still holds.\textsuperscript{21}

In an interview with historian Philip Burnham, long-time Blackfeet historian Jack Holterman asserted that the real problem with jobs and money at Glacier lay not with the

\textsuperscript{20} Memo of Meeting between Glacier National Park Staff and Blackfeet Indian Tribal Council Members, May 10, 1979, GNPA: F20-8.
\textsuperscript{21} For more on the downfall of the Great Northern and the rise of GPI, see Newell, Walter, and McDonald, 174-178.
Park Service, but with GPI. Ed DesRosier, who led a heated public campaign against both the park and GPI to run his own tour service into the park legitimately, agrees and accused GPI of “taking without giving.” GPI, according to DesRosier, never engaged in community involvement, cared little about local unemployment, and extensively recruited out of state and out of country. Overall, the “general feeling is that GPI was never a good partner to the tribe.” DesRosier did not sit idly by and passively submit to GPI’s perceived callous demeanor. He took matters into his own hands.

Ed DesRosier grew up near the park near Lower St. Mary’s Lake, the same spot that the tribe unsuccessfully had tried to develop in decades past. His mother, a full-blooded Blackfoot, had worked as a dancer for the Great Northern at the Glacier Park Lodge in the 1940s. His father was French-Irish. As a child his relatives instructed him in the oral history of the Blackfeet people and told him how the tribe had traditionally used the park for hunting, gathering, and spiritual purposes. Versed in traditional Blackfeet ties to the park and familiar with the region itself, DesRosier decided he could combine his business sense and long experience with the Department of Transportation with his cultural knowledge to create an interpretive tour of the park that focused on Blackfeet history and culture. Thus, Sun Tours was born.

In the spring of 1992, DesRosier approached Superintendent Gil Lusk with his plans to start a tour of the park. Accompanied by community leaders and tribal representatives and armed with a recognized tribal business license, DesRosier conveyed to the Superintendent that he was not only serious about his plan but also legitimate.

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22 Burnham, 197.
Courteous but noncommittal, Lusk referred DesRosier to GPI president Dale Scott. At a meeting with the prospective entrepreneur, Scott outlined the special nature of GPI's transportation contract with the park. The act that established the National Park Service authorized the service to negotiate contracts without following the usual government bidding procedures. Under the terms of park concession law, concessionaires must operate under regulations and standards established by the Park Service, even if it means that portions of the concession may be operated at a loss. GPI was not the only concessionaire in the park, but it did hold an exclusive transportation contract with the park. Technically not a monopoly, the exclusive contract appeared as such to many tribal members who considered it unfair that large corporate interests with no concern for local affairs should control concessions in the park. Scott refused to negotiate and condescendingly offered DesRosier a bus-driving position. Insulted, DesRosier refused and moved forward with his designs.

Still somewhat hopeful that the Superintendent would come through with a permit, DesRosier bought a van, printed and distributed brochures, assembled a staff, and started to conduct business without a permit. After a week of conducting tours, a park ranger pulled over a Sun Tours guide and wrote him a $100 ticket for doing business inside the national park without a permit. Similar arrests occurred the next two days. The three defendants sought to have the citations against them dismissed, citing the recognized right of unrestricted access and claiming the right to do business in the park.

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26 Ibid.
29 Ibid.
under the Agreement of 1896. Like many others on the reservation, DesRosier and company believe that their elders had intended for future generations of descendants to benefit from the land that formerly belonged to the Blackfeet. In the modern world, that means jobs and continued livelihood. In early January of 1993, the federal magistrate who heard the case dismissed their objections and ruled that regulation of commercial enterprise in the park applied to all people. He also referred to the 1935 Court of Claims determination officially terminating Blackfeet rights in the park. U.S. Magistrate Robert Holter found the three guilty of the violations and fined them a total of $200.30

Six months passed between the transgressions and the judge’s verdict, but much happened in the interim. Infuriated over the arrests, DesRosier attended the first tribal council meeting in the week following the citations. DesRosier voiced his concerns and frustrations, and a councilman stood up and asked, “What are you gonna do, stage a protest?” After a pause during which he acquired an immediate affinity for the idea, DesRosier replied, “Well, if that’s what you’ve heard, then yes!”31 When I asked DesRosier how news of the imminent protest spread, he answered that the “moccasin telegraph” took care of it. Noticing my poorly-concealed look of incomprehension, he explained, “That’s reservation lingo for word-of-mouth.”32 The moccasin telegraph broadcast its message loud and clear, and less than two months later a large crowd of tribal protesters gathered at the Glacier Park Lodge to make their voices heard.

On Friday and Saturday, August 1 and 2, more than 50 tribal members and non-Indian supporters congregated on Highway 49 in front of the Glacier Park Lodge, GPI’s

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base of operations, to protest the hiring and business practices of the park’s largest concessionaire. One purpose of the rally was to educate tourists and the company’s guests. Demonstrators lay in the highway halting traffic, passed out information sheets and questionnaires to tourists, and showcased signs reading “Boycott Glacier Lodges,” “United we stand,” “More jobs for Indians,” and “NPS, GPI Racist.” At one point, a protestors led a procession to the front door of the lodge and led a traditional tribal song. Many tourists wandered out of the lodge to discover what the commotion was all about and inquired into the causes of tribal discontent. Some were moved and asked how they could help.

Although the arrests of the tour guides provided the initial spark for the protests and the main rallying cry centered on GPI’s hiring and business practices, other issues surfaced and, as DesRosier told the press, the rally was really “about Blackfeet rights in Glacier National Park.” Several Blackfeet Tribal Business Council members and area business figures attended the demonstration and addressed the crowd over loudspeakers. Speakers demanded that GPI prove it would comply with tribal employment rights laws and negotiate other points of contention, such as land and water rights, reminding those present that the company was located on the reservation and used Blackfeet water in the hotel and employee residences. An area businessman complained that the tribe had “ordinances that are being violated...non-Indian businesses are not recognizing tribal jurisdiction on the reservation. I’m tired of the tribe accepting a passive role. We need to

take a stand on a wide range of issues threatening tribal sovereignty." On Saturday a BIA police officer issued GPI President Dale Scott a citation for failure to have a tribal business license to operate the lodge on the reservation. Later in the day GPI staff produced the required permit.\textsuperscript{37}

The large non-violent protest received considerable publicity from the local media and the park reacted quickly to the rising tensions along its eastern border. Noting that most of the recent activity was directed at GPI and not the Park Service, park officials nonetheless felt compelled to issue a briefing statement to the Director of the NPS within days of the protest detailing the recent Blackfeet activities near the park. Admitting that the picketing had not been disruptive, the statement warned that there “may be potential for picketing at Many Glacier Lodge (the location for Secretary’s Advisory Board meeting) this coming Saturday, Sunday, Monday, or Tuesday.”\textsuperscript{38}

The park was correct in its prediction-- the tribe planned on bringing their protest into the park proper during the anticipated convention. Tribal members distributed flyers advertising the rally and requesting of supporters, on behalf of the Blackfeet Tribal Business Council, “your support and attendance at a demonstration of unity at the Many Glacier Hotel,” scheduled for Monday, August 10, 4:00 P.M. What began as a protest against hiring and business practices blossomed into a community awareness movement on the reservation recognizing Blackfeet rights. In addition to demanding that the park offer Blackfeet businesses the opportunity to compete for tourism trade, the flyer insisted that the “National Park Service must respect its treaty agreement with the Blackfeet

\textsuperscript{36} Ibid.
\textsuperscript{38} Glacier National Park, “Briefing Statement: Recent Blackfeet Activities near Glacier National Park,” August 6, 1992, GNPA.
People, must fulfill the rights our grandfathers and grandmothers negotiated.”

Thus, DesRosier’s struggle for business rights became a catalyst for the reassertion of tribal rights on federal land and rekindled widespread community activism, the likes of which had not been seen since the late 1970s after the “Kipp” and “Momberg” cases.

Park officials, concerned about the park’s public image and wary of a possible deterioration in relations with the neighboring tribe, contacted the Tribal Business Council to determine its plans for the upcoming publicized demonstrations and met with tribal representatives the day before the planned protest. Superintendent Gil Lusk promised to “work with them to facilitate their First Amendment rights.”

The park followed through on its pledge to accommodate the tribe’s intentions and, in addition to authorizing a special use permit for the demonstration, provided shuttle and coordinated parking to facilitate transportation to and from the designated demonstration sites. GPI also provided large buses to transport individuals. Both the park and its major concessionaire hoped that the demonstration would proceed peacefully and would only cause minimal disturbances to visitors, concessioners, and NPS employees and property. As a precaution, the park detailed additional park rangers, referred to as a “Special Events Team,” in case the protest spiraled out of control.

On Monday, August 10th, more than 100 tribal members and supporters gathered at the Many Glacier Hotel outside the National Park System Advisory Board Meeting to urge settlement of long-festering issues between the tribe and concessionaire Glacier Park

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39 A copy of the “Rally Rally Rally” brochure can be found at GNPA.
41 The permit contained standard applicable regulations, such as the prohibiting of solicitation, the selling of items, aggressive or abrasive behavior, loud musical instruments that may hold the attention of park visitors, littering, and so on. See U.S. Department of the Interior/National Park Service, “Special Use Permit,” August 9, 1992, GNPA.
Inc. Although a park directive instructed park personnel to inform protesters about the presence of the Special Events Team only if specifically asked, demonstrators immediately noticed the armed rangers and were somewhat taken aback and frightened.\(^{43}\) Tribal members held aloft signs reading “More Jobs for Indians,” “Honor Blackfeet Rights,” and others addressing issues such as GNP’s and GPI’s alleged prejudicial hiring policies toward Indians, tribal rights for commercial activities in Glacier, and GPI’s disregard for Blackfeet water rights and business licensing rules. As promised, the Park Service invited the demonstrators inside to address the Board and discuss problems with both GPI and the park. During the meeting, the parties reached agreements on a variety of issues. GPI agreed to sign a lease for water the Glacier Park Lodge had been drawing from a reservoir on tribal land. The firm also promised to improve hiring of Blackfeet employees by extending help to the Blackfeet Community College to develop a curriculum for hospitality industry studies and by offering a “hospitality school scholarship” for Blackfeet students.\(^{44}\) GPI further pledged to support Blackfeet craftspeople by purchasing merchandise for sale in its retail outlets and concession shops. Finally, GPI agreed to negotiate a subconcessions agreement with Ed DesRosier to allow Sun Tours to operate legally in the park.\(^{45}\) The peaceful protest concluded with a friendship dance on the front lawn of the hotel.

To most observers, the events in early August proceeded smoothly and yielded positive results. In a resolution released the day after the protest at Many Glacier Hotel,

\(^{44}\) For more on the protest, the demands made by tribal members, and the agreements reached, see S.A.R. 1992, GNPA; “Blackfeet Tribe protests yield Park agreements,” Hungry Horse News, 13 August 1992.
\(^{45}\) At a table with DesRosier and a few others, Supt. Lusk and GPI CEO Joe Fassler, aware they were under public scrutiny and caught in the moment, offered a subconcessions agreement and DesRosier accepted. Ed DesRosier, interview with author, September 28, 2005.

145
the National Park System Advisory Board commended "the Blackfeet Nation and Glacier National Park for their mutual efforts to address common concerns, and for the progress made to date," and encouraged "continued dialogue in a concerted effort to identify areas of agreement and understanding." An observer from distant Illinois wrote a piece for the Hungry Horse News, a local newspaper, claiming that the peaceful demonstration "has brought together the present concessionaire and the Park Service into a significant relationship that all of us should welcome." He further exclaimed: "What a tremendous and valuable opportunity exists between Browning and West Glacier...[W]e praise the leaders in this and wish them well!" Not all shared his celebratory appraisal of the situation. A local contributor to the same paper noted that many tribal protesters "made threats and were downright mad at Glacier Park Inc. and Glacier National Park," and expressed disapproval over private confessions made by Park personnel that "Blackfeet in recent months have demanded they be hired for jobs though they aren't qualified and they refuse to even fill out applications." He concluded that tribal "authorities should be reasonable. Demands of this type and numerous threats to potential employers serve no purpose other than to aggravate the situation."

The same day the Advisory Board released its resolution, the tribe issued its own resolution that identified its three major concerns: the failure of GNP and GPI to hire members of the Blackfeet tribe, the sale of non-authentic Indian arts and crafts within park concessions, and difficulties tribal members were experiencing in taking advantage of economic opportunities within the park. To rectify these problems, the resolution

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46 National Park System Advisory Board, "Resolution 108," August 11, 1992, GNPA.
47 John Mauff, Chicago, IL, "Park history lives in Blackfeet culture" (letter to the editor), Hungry Horse News, 17 September 1992.
proposed that GNP and GPI establish programs for the recruitment, hiring, and training of tribal members in all positions. It also suggested the National Park Service establish a policy of prohibiting the sale of non-authentic Indian arts and crafts within Glacier.49 Tribal members surely took some satisfaction from the pledges made by GPI, but it stood to question whether the firm would follow through on its promises.

On July 13, 1993, GPI entered into a subconcessions agreement with Ed DesRosier authorizing Sun Tours, a Blackfeet-owned cultural and historical interpretive tour, to operate legally within the park until the end of the year. The agreement mandated that Sun Tours comply with the policies and directives of the NPS and of GPI, that ticket sales could not be available from locations in the park, and that nothing presented on the guided tour “shall denigrate National Park Service programs or policies.”50 A concessions management employee with Glacier admitted that the protests and the tensions it produced in part led park officials to pressure GPI into offering DesRosier a subconcessions contract. However, she also claimed the park felt that a native interpretive tour was an important aspect of the park that did not previously exist and officials welcomed the addition.51 In the subconcession agreement with Sun Tours, GPI also claimed that it desired “to supplement its tour services with interpretive bus tours conducted by Blackfeet Tribal members.”52 When confronted with these assertions, DesRosier scoffed and sarcastically and mockingly remarked, “Oh yeah, we agree this is a good thing.” Just short of labeling such claims bold-faced lies, DesRosier insisted to

49 Blackfeet Nation, Tribal Resolution, August 11, 1992, GNPA.
50 Glacier National Park, “Operating and Maintenance Plan Between Sun Tours, Inc. and Glacier Park, Inc. Approved by the National Park Service,” July 13, 1993, pp. 1, 3-4, GNPA.
51 Jan Knox, Concessions Management Director of GNP, interview with author, West Glacier, MT, March 1, 2005.
52 U.S. Department of the Interior/National Park Service, “Subconcession Agreement for Blackfeet Interpretive Transportation Tour Services in Glacier National Park,” a.k.a Subconcession to CC-GLAC002-81, pp. 1, GNPA.
me that the agreement came only “after we beat them over the head with it (our demands).”

In addition to granting a contract to DesRosier, the park and GPI did achieve some gains with regards to other promises they made in the wake of the nonviolent protests. The presence of an intermediary helped the parties involved work cooperatively and make real progress. In April of 1993, the park brought on tribal member and BIA employee Ted Hall as the Park’s Native American Coordinator to serve as consultant and liaison with the tribe and the BIA with the major focus directed toward employment issues. Hall’s appointment hardly represented an act of pure altruism, nor did it signify a proactive park initiative to enhance relations with its neighboring tribe. Rather, it resulted from a legal challenge mounted by Hall over none other than prejudicial hiring practices. In 1988, Hall had applied for an assistant superintendent position with Glacier. Boasting 18 years experience as a BIA administrator and meeting all five criteria for the job title, one of which was extensive knowledge of Indian treaties and affairs, Hall felt more than qualified for the position. The job went to someone else. Hall challenged the decision, citing the 1896 Agreement’s Indian hiring preference clause. After half a decade and numerous appeals, the park service settled out of court and offered him the liaison position for one year.

As Native American Program Coordinator, Hall worked with the Concessions and Express Services departments of GNP, with GPI, and with the tribe to develop recruiting, hiring, and training programs for tribal members, and also worked with the Arts and

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54 Other areas included wildlife management, cattle trespass, land development, and fire management. See Glacier National Park Release: “Native American Coordinator Detailed to Glacier,” April 14, 1993, GNPA.
Crafts coordinator to influence and evaluate the sales of authentic Indian arts and crafts in the park’s concession shops. The impact that the protests and Hall’s influence had on both the park and GPI was astonishing. In his annual report to the Director of the National Park Service, Superintendent Lusk devoted an unprecedented two and a half pages to affairs regarding tribal employment and detailed steps taken to enhance equal employment opportunity and gains made in hiring tribal members. Numbers still were low, however, with only 36 of 367 positions held by tribal members. GPI’s hiring of Native American seasonal employees increased approximately 58% from 1992 to 1993, to a total of 200. Furthermore, the firm increased its purchases of Native American crafts for resale in its retail outlets and had purchased roughly $24,000 worth of crafts by the end of August in 1993.

Despite the obvious improvements in hiring tribal members and in the overall relationship between the park, GPI, and the tribe, DesRosier pressed to obtain an independent contract from the park. In order to make available an independent contract, GPI had to waive its rights to provide interpretive vehicle tours from a Blackfeet perspective, an act company officials did not look upon favorably. At the end of the first year of Sun Tours’s sub-contract, Glacier’s Superintendent suggested renewing the contract under existing terms. DesRosier objected and spent the winter of 1993-1994 lobbying with the regional office, making phone calls and writing letters to people of importance in hopes of creating a special permit to accommodate his intentions. Finally,

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57 See S.A.R. 1993, pp. 6-7, GNPA. Native Americans held 29 of 260 (11.1%) temporary positions, and 7 of 107 (6.5%) permanent positions.
58 Ibid, 8.
59 Glacier National Park, “Squad Notes,” August 17, 1993, GNPA.
his work paid off and in the spring of 1994 GPI agreed to waive its right to provide Blackfeet interpretive tours. On June 14th, 1994, Ed DesRosier signed an independent concession permit with the Department of the Interior authorizing Sun Tours as a licensed concessioner in Glacier National Park.60

Sun Tours got off to a successful start, with its gross receipts and ridership numbers doubling within a year despite, according to DesRosier, GPI's cut-throat and underhanded business practices.61 DesRosier’s concession permit forbade him from picking up within the park proper; nevertheless, GPI still felt threatened and even rearranged its schedules in order to steal some of its rival's customers before the Sun Tours buses arrived for their scheduled pick-ups.62 Sun Tours survived GPI's aggressive campaign tactics, and business has grown most years since 1994. Although he managed to take on mammoth powerful enterprises such as Glacier National Park and Glacier Park Inc. victoriously, thereby carving a special niche for himself and his employees, DesRosier perceives his personal victory as only scratching the surface of something much larger and of greater importance to the tribe as a whole: the recognition of tribal rights, sovereignty, and cultural self-determination.63

After his conviction in 1993 for operating a business within park limits without a permit, DesRosier, with tribal financial support, appealed the ruling based on the implied right to conduct business in the Agreement of 1896. In 1995, a court of appeals expunged his charges due to the fact that the defendant had eventually been allowed to do what he was originally charged with. Like many others on the reservation, DesRosier

60 See Department of the Interior/National Park Service, Concession Permit #CP-GLAC010-94, GNPA.
61 For gross receipts and ridership information, see S.A.R. 1994-1995, pp. 18, GNPA.
believes that the government does not want to open up a proverbial “can of worms” by testing the rights guaranteed in the land cession agreement of 1896 for fear of having a weak precedent tested in the courts again. Confident and tenacious, DesRosier wanted to press for clarification of Blackfeet rights on the ceded strip even after the court threw out the case. The tribal council, however, encouraged him to drop the issue and settle for the expunged charges. DesRosier did not possess the resources to pursue battle in the legal arena, and without tribal backing he had no alternative but reluctantly to abandon his mission. He expressed in an interview that he has “strong feelings the issues could come up again sometime in the near future, and I hope they do.”

Right around the time when DesRosier grudgingly forsook his mission to press the issue of tribal rights, the tribe lost its conduit of direct communication and influence in the upper echelons of Glacier National Park. In July of 1995, Ted Hall’s detail as Native American Program Coordinator came to an end. In 2005, Hall worked for the BIA Irrigation Department in Browning, MT, and spoke with me about the results of his work with the park during his year-long tenure as cultural liaison. Hall claims that during his assignment, park recognition of tribal employment and preference rights improved. Recruitment efforts succeeded in providing seasonal work for tribal members. Employment of native interpretive presenters increased, and the “Native Speaks” program grew considerably. More dancers performed at park visitor centers, and park officials held more conferences with tribal members. After his departure, according to

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64 Ibid.

151
Hall, park policies towards improving tribal employment worsened and few Blackfeet have landed permanent positions in the park in the years since.66

Ed DesRosier also provided commentary on the lasting consequences of the agreements reached between the tribe, GNP, and GPI. Sun Tours has grown considerably since its inception, and now runs full-day tours out of East Glacier and half-day tours out of West Glacier. His personal relations with the park have improved, but his frequent referrals of tourists to GPI’s services have rarely been reciprocated. I asked if his success has opened doors for other tribal members desirous of starting businesses near the park, and he sadly admitted that, unfortunately, few have followed in his stead. He claims that park employment practices towards the Blackfeet have improved, but they still have a way to go. GPI still recruits tribal members through programs at the Blackfeet Community College, and, in addition to providing roughly 200 low-wage seasonal jobs, hires some locals on year-round at the Glacier Park Lodge as supervisors and maintenance workers. The Park Service also grants some Blackfeet summer positions. Overall, however, he feels that both GPI and GNP do not recruit aggressively enough.67

At my last meeting with DesRosier at a restaurant just outside of East Glacier in September of 2005, we happened to share the establishment with a crew of GPI employees at Glacier Park Lodge who were celebrating an end-of-the-season going-away party. Many employees at the lodge were in their twenties and, judging by their name tags, hailed from states on the East Coast. DesRosier explained that many Eastern college students still arrive en masse by bus, plane and train to work in the park’s hotels and restaurants, a visible symbol for many Indians on the reservation of GPI’s continued

disregard for local unemployment. Furthermore, GPI still imports workers from Eastern Europe in spite of the boisterous and repeated objections state politicians have raised at state tourism meetings in recent years. GPI cites a high turnover rate in low-paying, seasonal jobs as justification for this practice. Confined by work visas and the absence of nearby support networks, foreigners are less inclined than locals to quit mid-season. As DesRosier and I concluded our meeting, the remaining two GPI employees at the restaurant began chanting a song in unison. Neither Ed or I could identify the language used. As we made our final farewells, the owner of the establishment informed us that the young men were singing a Bosnian traditional folk song. DesRosier turned to me and good-naturedly, yet with solemn undertones, remarked, “You see...they’re still taking our jobs.”

The Bigger Picture

Neither the situation around Glacier nor the accusations and grievances levied by the Blackfeet are unique to northwestern Montana. Plush resorts and facilities frequented by the well-to-do and lying adjacent to poor Indian communities are a common sight at many parks and historic sites across the West. Many native communities residing near park units continue to struggle as they seek to benefit from the enormous economic opportunities that parks offer. Direct employment with the parks or with their concessionaires provides one avenue for financial gain; the marketing of local commercial enterprises in and around the park units represents another. Employed by businesses as curiosities designed to draw tourists and revenue to the parks in their infant years, many tribal communities neighboring parks in the modern era do not share in the

68 Ibid.
69 Burnham, 206.
prosperity begotten by high-profile tourist destinations and, like the Blackfeet, have felt alienated by the NPS and its concessionaires in recent decades.

As historians Robert H. Keller and Michael F. Turek ably demonstrated in their sweeping overview *American Indians and National Parks*, the variety in the relationships between native communities and national parks makes generalizing difficult and varying employment policies illustrate how complex park management can become.\(^{70}\)

Nonetheless, like the Blackfeet, many tribal societies adjacent to national parks feel underrepresented within the National Park Service. The Ute Mountain Indian Reservation shares a border with Mesa Verde National Park in southwestern Colorado, but despite park recruitment programs at local community colleges and native fairs, the NPS has had limited success hiring Indians. In 1994, Indians held only two of 120 positions. Olympic National Park in Washington has ten tribes residing along its perimeter yet historically has hired few natives. At Grand Canyon National Park in Arizona, the NPS has rarely employed Indians in park management positions, and controversy over employment preference and NPS languor in promoting tribal enterprises contributed to a state of poor relations between the park and the Havasupai in the late 1970s. At Canyon De Chelly National Monument, governed by the NPS and located in the heart of the Navajo Indian Reservation, the Navajo make up 90% of the staff.\(^{71}\)

Keller and Turek posited several reasons that help explain the situation. Poor pay for entry-level jobs helps explain why the hiring and promotion of Indians progresses so slowly. Furthermore, administrators advance in the NPS through frequent transfers, oftentimes over long distances, and many natives prefer to stay near reservations and

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\(^{70}\) Keller and Turek, xiii, 236.

\(^{71}\) For NPS employment at these park units, see Keller and Turek, 41, 133, 173, 235.
family networks. A former NPS director opined that resistance to Indian employment exists within the service itself.\footnote{Ibid., 237.} A more important factor with regards to tribal demands for preferential hiring at park units is the inherent nature and mission of the National Park Service. At a meeting between Glacier staff and members of the Blackfeet Tribal Council in 1979, Emma "Pinky" Plume, National Park Service Indian Liaison for the Rocky Mountain Region, claimed that the "National Park Service system is not the best suited to Native Americans...[M]any of them apply to parks where they don't stand a chance of getting a job at all due to high numbers of people applying and the tough competition to get a high rating on the registers."\footnote{Memo of Meeting between Glacier National Park Staff and Blackfeet Indian Tribal Council Members, May 10, 1979, pp. 3, GNPA: F20-8.} The National Park Service is a large bureaucracy imposed within an even larger bureaucracy, the Department of the Interior. Federal employment regulations are strict and bear upon applicants indiscriminately. The national park ideal mandates that the NPS serve everyone, and this democratic ideal applies to all aspects of park services, including employment. An unfortunate consequence of this proclaimed egalitarianism for native communities with immediate interests and explicit rights is that the rights of all American citizens outweigh those of any individual group.

Controversy over Indian interests in the tourist trade has also affected native groups neighboring park units on a national scale. At a meeting between Glacier staff and the Blackfeet Tribal Council in the winter of 1982, a tribal representative complained that "Glacier Park Lodge is not displaying anything of the Blackfeet people and their
cultural," despite the fact that the lounge was called the Medicine Lodge.\textsuperscript{74} Since the parks' early years, concessionaires have capitalized on the tourist fascination with Indian themes and have marketed "Indian" products; however, many of these products have not been crafted by native artisans. In the early 1990s, the Blackfeet accused GPI of selling non-authentic Indian crafts in its gift shops and demanded that the firm promote authentic, Indian-made arts and crafts. Such sentiments were neither new nor limited to northwestern Montana. In the 1930s, concerned park officials expressed fears that an influx of cheap handicrafts could spell ruin for native craftspeople. In 1935, Congress created the Indian Arts and Crafts Board to protect native artists against the encroachment of mass-produced artifacts.\textsuperscript{75} In 1960, official NPS policy set concession standards for regulating crafts marketing, but many tribes have complained that the NPS has failed in its commitment and that the policy exists only on paper.\textsuperscript{76} Contention over craft sales has been most pronounced at park units in the Southwest, most notably at Mesa Verde National Park and Grand Canyon National Park.\textsuperscript{77} In the 1970s, controversy ensued at Grand Canyon National Park as local Navajo artisans decided to bypass the middle-man and attempted to market their services within the park without official sanction, just as Ed DesRosier did decades later with much more ultimate success.

In the late 1920s, Navajo artisans, mostly women and children, established a Navajo roadside trade in rugs and silverwork outside of Grand Canyon National Park. As juniper necklaces became popular with young whites in the 1960s, the trade boomed and the profitable industry soon spread into the park. The marketing of Navajo jewelry inside

\textsuperscript{74} Minutes of Meeting with Glacier National Park Staff and Blackfeet Tribal Council and Other Tribal Representatives, November 3, 1982, pp. 3, GNPA: F19-14.

\textsuperscript{75} Burnham, 127.

\textsuperscript{76} Keller and Turek, 283.

\textsuperscript{77} See Burnham, 259, 279-280.
the park threatened the exclusive long-term contract held by Fred Harvey, the park’s primary concessionaire, whose corporate monopoly included the sale of souvenirs, curios, and trinkets. Bound by a contractual obligation with a private business, the NPS erected signs, evicted and arrested Navajo transgressors, and effectively suppressed the trade by the early 1990s, an act that caused much resentment among the Navajo. Like the Blackfeet, the Navajo perceived NPS concession policies as unjust favoritism of corporate interests at the expense of local native communities, a tradition, according to scholar Philip Burnham, “under fire all over Indian country.”

Native communities were not the only ones resentful of national park concession policy. All over the country, communities neighboring parks felt disenfranchised by corporate bias as local businesses could not compete for contracts and were thereby excluded from providing services within the park. The vested interests of corporations did not escape criticism and proponents of concession reform scored a victory with the National Parks Omnibus Management Act of 1998, Title IV of which dealt with concession reform, a product, according to NPS Deputy Director Denis Galvin, “of over 20 years of work by legislators, departmental officials, and interested citizens who desired to change the concessions contracting process.” The Act made concessions contracts more accessible to the general business community by eliminating barriers to

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78 Keller and Turek, 150.
79 Burnham, 13.
competition, namely the preferential right of renewal for large operations, thereby ending, in theory, a long tradition of regulated corporate monopolies.81

For fifty years after Yellowstone's establishment, the government liberally granted commercial leases to big firms for certain services and competition determined consumer prices and service quality. Unmanaged development plagued the early parks, and, beginning in the 1920s and continuing through the 1930s, the Park Service's first two directors, Stephen T. Mather and Horace Albright, initiated policies to replace excessive competition with government regulated monopolies and long-term exclusive contracts. They considered unbridled competition incompatible with the goals of the national parks and created a program of regulated monopolies to ensure reliable and respectable visitor services consistent with park values.82 Under NPS concession policy prior to 1998, parks awarded long-term contracts to large corporations without advertising or competitive bidding and included preferential rights of contract renewal.83

In the 1990s, public pressure to reform the concessions process intensified and some politicians banded together and proposed legislation to reform the granting of concessions in the National Park system. In 1993, Senator Dale Bumpers, D-AR, introduced a bill in the Senate to reform concession policy in the National Park System.84 The bill passed by a huge margin in the Senate (90-9), and while pending before the House of Representatives, Representative Pat Williams, D-Mont., attached an amendment, at the urging of Blackfeet leaders, stipulating that the Park Service should give preference in awarding concessions contracts to qualified Indian-owned companies

82 Keller and Turek, 148-149.
83 For a brief overview of concession policy development, see Burnham, 77-78.
or to those that demonstrate a commitment to hiring Indians. In testimony before the House of Representatives, co-sponsor Tim Johnson of South Dakota explained that many of our national parks, particularly those out West, were carved out of Indian treaty lands. When these lands were taken, the tribes lost a potential economic resource that, over time, one that is likely more valuable than are minerals, timber, or other nonrenewable resources. Since then, even though many reservations are close to the parks and suffer from up to 80 percent unemployment, the tribes have not shared in the economic opportunities created by the presence of the parks. At most national parks near reservations, one finds few Indians employed by the National Park Service or by the concessionaires, few Indian businesses involved in any way in concessions, and little recognition of the culture and achievements of the Indian people.

He continued that the amendment “is designed to promote Indian employment, business utilization, and other involvement in existing as well as future concessionaire activities at parks located on or near a reservation.” The concession reform bill passed in the House, and after years of intense negotiations over the details and semantic clarification, it became Public Law in November of 1998.

Although the Act did not explicitly direct the Park Service to grant preference to Indian-owned companies, it did authorize the Secretary of the Interior to consider, as a secondary factor in selecting the best proposals, “the extent to which plans for employment of Indians (including Native Alaskans) and involvement of businesses owned by Indians, Indian tribes, or Native Alaskans (figures) in the operation of a concession.” The Act also promoted the sale of authentic United States Indian, Alaskan Native, Native Samoan, and Native Hawaiian handicrafts and exempted all revenue

87 For a timeline of major actions on Senate Bill #208, see “Bill Summary and Status for the 103rd Congress: S.208,” <http://thomas.loc.gov/cgi-bin/bdquery/z?q?d103:SN00208:@@R>.
derived from such sales from any franchise fee payments, thus providing incentive for concessioners to purchase and market authentic native handicrafts. According to DesRosier, the terms of the 1998 concessions management reform are just starting to take effect and their success has yet to be measured.

Summary

As with the alleged right to graze livestock, the Blackfeet have failed to gain recognition of the alleged rights to conduct business on the ceded strip and preference in hiring. The Agreement of 1896 does not expressly mention any right to conduct business, but it does contain a clause pertaining to preferential hiring. Article III of the Agreement states that it “is agreed that in the employment of all agency and school employees preference in all cases be given to Indians residing on the reservation.” This clause has formed the basis for tribal demands for preferential hiring, and Ted Hall based his legal appeals of his unsuccessful bid for Assistant Superintendent on this clause. By settling out of court with Hall, the NPS avoided engaging in a protracted legal battle dealing with the controversy over rights reserved in the Agreement of 1896 and lent further credence to tribal accusations that the park remains hesitant to test a weak precedent in the legal arena.

A strictly semantic reading of the clause would invalidate claims of preferential hiring, as the NPS is not the “agency” referred to in the agreement, nor is it a “school.” A reading based on the Canons of Construction, however, could conclude that the tribal signatories understood the clause in a more general sense and intended to reserve

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89 Ibid., 416.
preferential hiring for tribal descendants in any institution that sprang up on the ceded strip. The issue has not been officially settled, but judging by a history of rulings based on narrow, semantic interpretations dismissive of native rights and protective of the underlying principles of the park ideal, the likelihood of resolution in the tribe’s favor seems unlikely. Preferential hiring of any sort compromises the democratic ideal embodied in the Park Service’s enabling legislation.

Through cleverly planned shows of tribal solidarity and community activism, the Blackfeet did succeed in forcing Glacier National Park and its primary concessionaire to alter their policies to provide more opportunities for local natives to benefit from the revenue generated by the park’s existence. Although concession reform was already on the national radar since the late 1970s, the nonviolent protests yielded immediate results that took effect before the enactment of concession reform policies that began in 1998. Whether or not the NPS and GPI will hold true to their pledges to improve employment of Blackfeet and marketing of Blackfeet crafts remains to be seen, but the opportunity for Indian-owned businesses to secure contracts for certain services is now a more readily attainable goal. Depending on the Interior Secretary’s discretion, Indian-owned businesses may receive extra points when vying for concession contracts, provided, of course, that the proposed services conform to the founding preservation and recreation ideals of the National Park System. Sun Tours represents such a service. By transporting tourists in high-occupancy vehicles, DesRosier explained, Sun Tours reduces automobile traffic in the park and thereby complies with park objectives.92

Conclusion

On a sunny autumn day in late September of 2005, I accompanied a private tour group on one of the last Sun Tours trips of the season. The tour guide, Edward North Piegan, told the group to call him by his traditional name, Mat-tson-war-nik-kap-pi. The group had difficulty pronouncing his name, so he told us it was all right if we used the English translation: “Sweetheart.” Like Curly Bear Wagner had done during his performance at the Glacier Park Lodge, Sweetheart added quite a bit of comic relief to his tour presentation. Above all, Sun Tours attempts to provide an entertaining and educational experience for tourists and includes neither political commentary nor condemnation of park policies. In addition to describing the history of the park and the natural resources unique to the area, Sweetheart interpreted the park’s resources from a Blackfeet perspective and described how the tribe had traditionally used the plants for medicinal purposes and the mountains for religious purposes. Once the van reached Logan Pass and the eastern parts of the park, the tour guide narrated in more detail how young Blackfeet warriors had traditionally ventured into the mountains for extended vision quests, seeking dreams and spiritual power. Edward DesRosier, founder and proprietor of Sun Tours, considers himself lucky and takes pride in being able to share his passion for his culture and the land with others.¹

This short anecdote is symbolic for several reasons. Not only was the Glacier region important to the tribe for physical survival before the establishment of the park, it was also a place of great spiritual importance. This study has focused on Blackfeet material subsistence in Glacier National Park, but for some within the tribal community

the area holds equal importance for spiritual subsistence. When in the early 1990s oil drilling threatened sacred landscapes on the ceded strip in Lewis and Clark National Forest, Tiny-Man Heavy Runner notified the United Nations that the Blackfeet culture was under siege and that cultural genocide was imminent. Heavy Runner informed me that traditional Blackfeet education lay in the mountains, and that “this (the mountains) is our church.” In a classic example of shifting alliances, Glacier officials, environmental groups, and segments of the Blackfeet tribe banded together in the mid-1980s to oppose drilling in the Badger-Two Medicine Area of Lewis and Clark National Forest. Due to the relentless efforts of Heavy Runner and other tribal members, the tribe has managed to obtain designation of about 70% of the affected area as a Traditional Cultural District, which makes it more difficult, though not impossible, for oil companies to drill.

Many sites within Glacier National Park also continue to hold spiritual significance for some members of the tribe. In 1973, the Tribal Council declared lands on the ceded strip as sacred ground and resolved that they should not be disturbed in any way without prior consent of the Blackfeet Tribe. One site, Chief Mountain, straddles both sides of the boundary and its protection from adverse visitor impacts remains a point of contention between some in the tribe and the Park Service. With the revival of traditional native religion in recent decades, traditional usage of Chief Mountain has risen. In the fall of 1977, the Blackfeet Tribal Business Council went on record to protect the Chief Mountain area from undesirable intrusion and closed certain surrounding areas.

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3 Keith Tatsey, Chairman of the Tribal Badger-Two Medicine Management Committee, interview with author, March 25, 2005.
4 Blackfeet Nation, Tribal Resolution #219-72, May 10, 1973, Tribal Documents Department.
east of the boundary to camping, fishing, and other recreational activities. The following summer, Congress passed the American Indian Religious Freedom Act that enabled native peoples to access and use sacred sites on federal lands. In December of 1981, the Blackfeet Tribal Business Council declared the Chief Mountain Area east of the boundary as off-limits to all persons except those entering the area for spiritual questing purposes, and requested that the National Park Service do the same on the western side of the mountain, claiming that “Indian people who have retreated to Chief Mountain for spiritual purposes have reported instances of being disturbed by tourists and other non-aligned curiosity seekers.”

The NPS Regional Director replied that due to Congressional mandates, the Park Service could not remove any portion of the park from public access. In the early 1990s, Superintendent Gil Lusk issued a formal proclamation supporting tribal efforts to preserve traditional practices on Chief Mountain, as well as the area closures east of the boundary. The statement also promised that park personnel would extend special effort to inform climbers and hikers in the park of the religious significance of the site. Superintendent Lusk also proposed nominating the site for designation as a National Historic Landmark, yet despite meetings attended by archaeologists and representatives

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5 Blackfeet Nation, “Protection of Chief Mountain as an Historic, Cultural and Spiritual Site,” excerpt of minutes from Blackfeet Tribal Business Council Meeting, September 1, 1977, Tribal Documents Department.
7 See Blackfeet Nation, Tribal Resolution #140-82, December 3, 1981, Tribal Documents Dept. See also Letter from Woody Kipp to NPS Associate Director Stanley Albright, December 10, 1981, GNPA: F176-5; Blackfeet Nation, “Chief Mountain as an Historical/Contemporary Spiritual Retreat Area,” n.d., Tribal Documents Department.
8 Letter from NPS Regional Director James B. Thompson to Chairman Boggs, February 18, 1982, GNPA: F176-5.
from the tribe and the park, by 2005 nothing has so far come of the plan.\textsuperscript{10} Park officials may support preservation of the area, but selective accessibility violates the democratic ideal of the national park system. The official position advanced by NPS is that the "park has been set aside for all people, not just Native Americans, and the closure of Chief Mountain to all but Native American religious uses would not be legal or proper."\textsuperscript{11}

In addition to highlighting the spiritual importance of the area, the Sun Tours anecdote is symbolic for other reasons. The tour service demonstrates that some things have changed. Ed DesRosier considers it ironic that his mother worked as a dancer for a big corporation, the Great Northern, for low wages to create a romantic image to draw tourist dollars, and that fifty years later her son operates his own business in the park that proudly represents Blackfeet culture and its historical ties to the park.\textsuperscript{12} The official GNP website and park brochures list Sun Tours as a transportation tour service and openly acknowledge that the tribe has used the Glacier region for centuries, an admission that has only come very recently. In 1992, the National Park Service commissioned a report to inventory the ethnographic resources of the park and the traditional associations of the lands to the Blackfeet people. The result, \textit{Our Mountains Are Our Pillows: An Ethnographic Overview of Glacier National Park} by Brian Reeves and Sandy Peacock, was a hulking volume that described the myriad of ways in which the tribe has used the region for over a thousand years. Although the Park Service has opened the door to Indian-owned businesses and has re-integrated the Blackfeet into the history of the park,

\textsuperscript{10} See Memo from Cultural Resources Management Ranger Bruce Fladmark to Supt., Assistant Supt. GLAC re: Record of Meeting, Chief Mountain National Landmark Nomination, April 29, 1991, GNPA.
\textsuperscript{11} Briefing Statement prepared for Secretary Lujan re: Relations with the Blackfeet Indians: Religious Freedom, June 1, 1992, GNPA.
\textsuperscript{12} Ed DesRosier, interview with author, March 21, 2005.
it remains reluctant to allow subsistence activities it deems unacceptable to the national park idea.

In this thesis, I have focused more specifically on the exercise of Blackfeet material subsistence in Glacier National Park in the modern era. A resurgence of interest in traditional tribal culture in the 1960s and the success of Civil Rights Movement inspired activism in Indian country and led tribal peoples across the nation to pressure the federal government into honoring native rights. The Blackfeet channeled this impulse into testing their rights in Glacier National Park. Proactive tribal measures taken in the mid-1970s forced the park officials in Glacier to pay more attention to its discontented neighbors. As a result, officials at Glacier began to consult the tribe on matters pertaining to park affairs and communications between the two parties improved. Tribal assertion of rights in recent decades, coupled with scholarly studies of traditional tribal use of park lands, forced the park to recognize the ancient ties that the Blackfeet hold with the lands in and around Glacier, a fact previously obscured and denied by park officials and scientists alike. The park geared more of its interpretive programs toward native themes and invited Blackfeet representatives to give presentations to tourists describing the historical importance of the Glacier region in Blackfeet culture. Although park officials have failed to recognize implied preferential business or hiring rights, opportunities for Indian-owned businesses to operate in the park have increased and the park and its major concessionaire have displayed a willingness to incorporate tribal members into the workforce and support native artisans. Overall, the park has become more accommodating to Blackfeet interests in recent decades than it has in the past, although some within the Blackfeet community question the sincerity of such efforts.
When I told Leon Rattler that I was researching the historical relationship between the Blackfeet and Glacier National Park, he sarcastically replied: “What relationship?”\textsuperscript{13}

Recent attempts to force recognition of subsistence rights, reserved or implied, have made little headway and the park has surrendered little ground with regards to the permission of native subsistence activities in Glacier National Park. Park officials opposed to the exercise of Blackfeet reserved rights have enjoyed the unwavering support of federal legal representatives, whose rulings, questioned by many observers, have historically repudiated native rights and proved consistently protective of the underlying goals of the national park ideal. A judge affirmed the reserved right of unrestricted access in 1974, but the status of the other three reserved rights has not changed since the early years of the twentieth century. Hunting and wood-gathering are extractive activities inimical to the national park ideal and remain prohibited. The park allows the public to fish its waters under regulation and in-season, but affords no special rights for the Blackfeet. Grazing, an implied right not covered in the Agreement of 1896, compromises the objectives of the national park system and is also prohibited. Thus, although Blackfeet pressures upon the park have engendered policy change in recent decades, the founding ideals of the national park system have continued to trump native rights and the exercise of subsistence activities that compromise the objectives of the national park idea still meet with strict interdiction.

\textsuperscript{13} Leon Rattler, interview with author, March 23, 2005.
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(NOTE: Most of the park’s documents from the last two decades have not yet been screened for privacy concerns and are not open for public viewing. To obtain such records, I formally submitted several Freedom of Information Act requests. I received most of my requests, but I did not receive specific archival location designations. Thus, I have cited many sources in this work generically as “GNPA.”)

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