The Right to Risk In Wilderness

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ABSTRACT — This article proposes an expansion of outdoor recreation opportunities to include wilderness areas in which users would bear sole responsibility for their personal welfare. Agencies managing areas designated for full-risk use would be absolved, indeed prohibited, from intervening at any time on behalf of any recreationist in distress.

One of the goals of agencies responsible for managing wilderness is that of providing a diversity of recreation opportunities. It is recognized widely that people vary in their motivations for recreating in wilderness and that public agencies have an obligation to plan for a variety of experiences. Some people, for example, want to enjoy wilderness under controlled circumstances which allow ease of access, sociability, and freedom within limits. Others seek a more primitive experience characterized by adventure, challenge, and risk.

Robert Marshall (1930), one of the leading proponents of a national wilderness preservation system in the United States, argued that wilderness should provide an “opportunity for complete self-sufficiency.” More recently, Nash (1978) and others interpreting the Wilderness Act of 1964 have added that wilderness is a place where users are responsible for their own safety, where a physical and mental challenge to survive exists, and where self-reliance reigns. Lucas (1973) also has suggested that wilderness is meant to offer “the fascination of the natural scene, the observation of natural processes at work, and the challenge of essentially undeveloped land.”

It is our view that the range of recreation opportunities currently offered in the National Wilderness Preservation System (NWPS) is incomplete. Specifically, we believe opportunities are lacking at the primitive end. We believe further that managing agencies have contributed to this situation through controls which diminish the opportunities for a person to fulfill needs for adventure, challenge, and risk. Our purpose in writing this article is to propose that management practices in selected areas be altered to accommodate individuals who desire the ultimate in a wilderness recreation experience.

Increasing Agency Control

In general, the history of wilderness management has been one of increasing agency control over the user. While much of this control has been initiated to protect the wilderness itself, the experience of the recreationist has been affected as well. Use permits, reservation systems, length-of-stay limitations, certification of users and leaders, and inspection of equipment have taken much responsibility for the welfare of the user away from the individual and given it to a governmental agency. Consequently, the senses of challenge and self-reliance which Nash views as being integral to a wilderness experience have been eroded. Users are all too aware that should they become injured, ill, lost, or declared overdue, the managing agency stands ready to rescue them.
The situation at Mt. McKinley National Park in Alaska illustrates the direction in which increasing agency controls may be taking recreationists. Mt. McKinley, the highest peak in North America, has in the past represented the extreme in wilderness—remoteness, primitiveness, and a source of struggle and risk. Increasing use, however, has resulted in agency assumption of responsibility for the safety of climbers. Currently the National Park Service requires permits of all climbers, appraises leader and climber qualifications, specifies equipment required, and recommends that each climbing group have a two-way radio so it can call for assistance (USDI National Park Service 1981). Such controls have in effect made the area less than wild. For example, there were 12 evacuations off Mt. McKinley during the 1979 climbing season by airplanes, helicopters, and rescue parties on foot at a cost to the Park Service of $10,000 (Gerhard 1980). This “insurance mentality” (Leonard 1974) has dissipated to a considerable degree the element of risk and has resulted in some climbers attempting illegal secret ascents on McKinley and other Alaskan mountains just to regain a sense of self-control (Buchanan 1980).

The realization that rescue is available also has led to a degradation of the resource itself. On Mt. McKinley, climbers often are exhausted and in disarray on the trip down the mountain—the consequence of poor conditioning, poor planning, and an attitude of “We can climb quickly, descend quickly, and radio for help if we run into problems.” Many climbers abandon their possessions in a hasty retreat down the mountain (Gerhard 1980), thus creating eyesores and stimulating still more agency controls. In sum, as one land manager in the Northern Rocky Mountains observed recently in a study conducted by Allen (1979), “Recreationists tend to depend upon the agency whenever conditions are unfavorable, when the recreationists know the agency will pay for evacuation. Recreationists with this dependence enter the backcountry with less mental, physical, and material preparation.”

**Infringement on the Right to Risk**

A technocratic society already has taken away many chances for adventure and challenge. Willi Unsoeld (1979), a noted mountaineer and philosopher who recently lost his life on a wilderness outing, stated that many recreationists look for uncertainty of outcome and a reduced margin of safety. Using mountaineers as an example, he described how some try to maintain uncertainty through the employment of chocks wedged into cracks on rock faces instead of using safer metal pitons and bolts. Others have maintained uncertainty by climbing on ice, in winter, or solo.

Uncertainty of the outcome, then, creates enthusiasm for the wilderness experience. Reducing that uncertainty through increased agency controls may culminate eventually in the computer-programmed and monitored user depicted by Leitch (1978) as the wilderness recreationist of the next century, or it may result simply in a corresponding decline in enthusiasm for wilderness itself. Neither prospect is appealing.

**Establishment of a “No-Rescue” Policy**

A solution to these problems would be the establishment of a “no-rescue” policy in selected wilderness areas across the United States. Such areas would be characterized, as present wilderness areas are, by minimal development, opportunities for solitude, and primitive and unconfined types of recreation. The proposed areas would differ from existing units of the NWPS, however, in that recreationists would retain total responsibility for their own safety—that is, would assume the full risk of participation.

Since only a minority of users would seek full-risk areas, there is no need to convert all existing wilderness into no-rescue areas, or to acquire more land. But the numbers of users are growing (Meier 1978, Dunn and Gubis 1976) and the opportunity should be made available if only to expand the range of choices open to them. The U.S. government is committed to protecting the rights of the few (Evans 1976). The recognition of a small number of no-rescue wilderness areas encompassing forest, mountain, desert, sea, and tundra environments would continue that tradition of respect.

In no-rescue areas, nature would be the certifier of a person’s outdoor skill (Wagar 1940), not a managing agency. The agency would be responsible for providing basic information describing the area, informing users of the principal risks in the proposed outing, and informing them further that under no circumstances would outside assistance be available to anyone while in the area. The users would then make the decision regarding their preparedness. Controls necessary to protect the resource would be tempered by a policy recognizing that the value of freedom in the wilderness must not be negated by management practices (Hendee et al. 1978).

**Management Implications**

Critics of the proposed no-rescue policy may point out certain legal and humanitarian concerns that would make its adoption “politically impossible.” They may note, for example, that it would be unrealistic to expect agencies to be free from legal liability if assistance were unavailable to a recreationist in distress. Furthermore, they may suggest it to be ethically, if not legally, irresponsible to deny aid in the first place. Such criticism would be unfounded on both counts.

In a recent review of the law as it relates to high risk or adventure programs, Rankin (1978) concludes that “the probability of an agency being found liable due to negligence is generally less with more venturous activities than with more traditional recreation programming.” In a supporting paper, Frakt (1978) adds, “it is a fact that when man has created unnatural hazards, or intensified natural ones, there is much greater likelihood of liability than exists for injuries arising in wilderness, backcountry, or even unimproved park lands.” Rankin attributes this state of the law both to legal precedent and the attitudes of judges and jury members who administer the law. She points out that an individual who voluntarily engages in an activity with an appreciation of its inherent risks waives any legal right to recovery for losses. Furthermore, the legal concepts of contributory negligence and assumption of risk have generally proven to be valid defenses. In that regard, judges and juries have tended to adopt the attitude that participants in high-risk activities “deserve whatever fate
Comment on

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J. Alan Wagar

In proposing that agencies establish "no-rescue" zones where wilderness users can be completely on their own, McAvoy and Dustin highlight the conflict between government regulations and responsibility and the personal freedom and self-reliance that are rooted deeply in American history and tradition. They argue convincingly that agency concern for safety reduces opportunities for those few wilderness users who want the challenge of being totally on their own.

It seems eminently reasonable to provide for the desires of such users—however few—if doing so will impose no great burdens on the rest of society. Zoning, however, may not be the best way to guarantee opportunities for self-reliance. No-rescue zones would have to come from existing wilderness and could disrupt usual patterns of travel and use by others. Further, unsavory people might be attracted to zones where agency intervention was prohibited. The recent rash of "trailside murders" in California at Point Reyes National Seashore and Mount Tamalpais suggests that no-rescue zones could become sporting grounds for deranged people seeking thrills at the expense of others and perhaps for knife fighters, guerilla bands, or others seeking some sort of life-or-death challenge. Such people might well deserve each other and might do society a favor by slitting each others' throats. But their activities would not be in keeping with our wilderness tradition or the intent of the National Wilderness Preservation System.

Literature Cited


