

APPENDIX

Finding of No Significant Impact- Non-impairment Determination Ozark Trail Association - Current River Trail Environmental Assessment

The Prohibition on Impairment of Park Resources and Values

The National Park Service's (NPS) *Management Policies 2006*, Section 1.4.4, explains the prohibition on impairment of park resources and values:

While Congress has given the Service the management discretion to allow impacts within parks, that discretion is limited by the statutory requirement (generally enforceable by the federal courts) that the Park Service must leave park resources and values unimpaired unless a particular law directly and specifically provides otherwise. This, the cornerstone of the Organic Act, establishes the primary responsibility of the National Park Service. It ensures that park resources and values will continue to exist in a condition that will allow the American people to have present and future opportunities for enjoyment of them.

What is Impairment?

Section 1.4.5 and Section 1.4.6 of *Management Policies 2006* explain what is meant by impairment: "...impairment...is an impact that, in the professional judgment of the responsible NPS manager, would harm the integrity of park resources or values, including the opportunities that otherwise would be present for the enjoyment of those resources or values."

Section 1.4.5 of *Management Policies 2006* states:

"An impact to any park resource or value may, but does not necessarily, constitute impairment. An impact would be more likely to constitute impairment to the extent that it affects a resource or value whose conservation is

- necessary to fulfill specific purposes identified in the establishing legislation or proclamation of the park, or
- key to the natural or cultural integrity of the park or to opportunities for enjoyment of the park, or
- identified in the park's general management plan or other relevant NPS planning documents as being of significance.

An impact would be less likely to constitute an impairment if it is an unavoidable result of an action necessary to preserve or restore the integrity of park resources or values and it cannot be further mitigated."

Section 1.4.6 of *Management Policies 2006* states that park resources and values that may be impaired include:

- the park's scenery, natural and historic objects, and wildlife, and the processes and condition that sustain them, including, to the extent present in the park: the ecological, biological, and physical processes that created the park and continue to act upon it; scenic features; natural visibility, both in daytime and at night; natural landscapes; natural soundscapes and smells; water and air resources; soils; geological resources; paleontological resources; archeological resources; cultural landscapes; ethnographic resources; historic and prehistoric sites, structures, and objects; museum collections; and native plants and animals;

- appropriate opportunities to experience enjoyment of the above resources, to the extent that can be done without impairing them;
- the park's role in contributing to the national dignity, the high public value and integrity, and the superlative environmental quality of the national park system, and the benefit and inspiration provided to the American people by the national park system; and
- any additional attributes encompassed by the specific values and purposes for which the park was established.

Impairment may result from NPS activities in managing the park, visitor activities, or activities undertaken by concessionaires, contractors, and others operating in the park. Impairment may also result from sources or activities outside the park, but this would not be a violation of the *Organic Act* unless the NPS was in some way responsible for the action.

How is an Impairment Determination Made?

Section 1.4.7 of *Management Policies 2006* states:

In making a determination of whether there would be an impairment, an NPS decision-maker must use his or her professional judgment. This means that the decision-maker must consider any environmental assessments or environmental impact statements required by the National Environmental Policy Act of 1969 (NEPA); consultations required under section 106 of the National Historic Preservation Act (NHPA), relevant scientific and scholarly studies; advice or insights offered by subject matter experts and others who have relevant knowledge or experience; and the results of civic engagement and public involvement activities relating to the decision.

Management Policies 2006 (Glossary, p. 159) further defines "professional judgment" as "a decision or opinion that is shaped by study and analysis and full consideration of all the relevant facts, and that takes into account the decision-maker's education, training, and experience; advice or insights offered by subject matter experts and others who have relevant knowledge and experience; good science and scholarship; and, whenever appropriate, the results of civic engagement and public involvement activities relating to the decision."

Non-impairment Determination for the Selected Alternative

This determination on impairment is based upon Alternative B as described in Chapter 2 of the environmental assessment. A determination on impairment is made for all resource impact topics analyzed for alternative B.

The NPS has determined that the implementation of the Alternative B would not constitute impairment to the resources or values of the Ozark National Scenic Riverways (park). This conclusion is based on consideration of the analysis of the environmental impacts described in the environmental assessment, relevant studies, and judgments from other natural resource professionals.

Findings for Impairment for the Selected Alternative

The selected alternative would result in minor adverse to negligible impacts on some of the resources including soils, water quality, federally threatened and endangered species, visitor use and experience, and cultural resources (archeology).

Soils

The trail tread would compact about 2.7 acres of soil and remove it from vegetative productivity. With a maximum corridor width of 6 feet, approximately up to 2 feet on either side of the trail could be cleared of vegetation; making 8 acres the maximum area for potential disturbance. The likelihood of soil disturbance resulting from complete vegetation removal would be minimal as only vegetation in the trail tread would be removed. Additionally, the rolling contour trail design layout will help allow water to sheet across the trail, creating little damage from erosion. In areas where mechanized assistance from a small skid steer is necessary, the potential for further compaction and soil disturbance will occur.

In the project area, the potential adverse impacts to soils from trail construction and use would include compaction, erosion and displacement. Once the trail is constructed and hiking traffic occurs, compacted soils would resist erosion and soil displacement and provide durable treads that support traffic. From this perspective, soil compaction is considered beneficial.

Soil particles displaced from the trail prism would be intercepted by vegetation, organic material on the soil surface, or other surface roughness. Vegetation and soil impacts would occur predominantly during the first year of use, with minor changes thereafter. The soil loss resulting from this project should be negligible, minimal and localized with little consequences.

Water Quality

Tread construction would incorporate standard techniques to appropriately manage water drainage including water bars, steps, and minimizing grade percentage. Mechanical assistance during construction from a small skid steer in certain areas may occur.

Use of the trail may result in compaction and increase of runoff within discrete tread reaches. Periodic inspection and maintenance will be important to correct any maintenance concerns early. Tread armoring using natural or manufactured materials, such as geotextiles, will be utilized to create a stable surface and minimize maintenance. Foot crossings of tributaries will utilize strategic stepping stones to cross streams causing minimal disturbance to streambed. Alternative B would result in minor, short-term effects during construction, and minor, long-term effects during operation.

Threatened and Endangered Species

Proposed trail corridor alignments are located primarily on side-slope and valley ridges, away from the Current River channel habitat and the majority of the floodplain. Use of trail may result in compaction and increase of runoff within discrete tread reaches, though foot pad pressure is generally low. Proposed trail corridor location and placement would help provide a filtering mechanism from the buffer of soils and vegetation between the trail and Current River. Periodic inspection and maintenance will be important to correct any maintenance concerns early. Tread armoring using natural or manufactured materials, such as geotextiles, may be appropriate in some locations to create a stable surface and minimize maintenance. Foot crossings of tributaries will utilize strategic stepping stones to cross streams causing minimal disturbance to streambed.

Within this river section, the proposed hiking trail would add a novel trail pathway and additional hiking use, as no formal hiking trail currently exists within NPS lands on the east side of Current River within this reach. Trail construction will tie this area into adjacent public-welcome trails, including a connection to the existing Ozark Trail leading to other NPS lands.

Gray bats, Indiana bats and northern long eared bats are known to occur in three high priority caves located within 1 mile of the proposed project area. Indiana, gray and northern long-eared bats have been

documented near the project area, but no adverse effects are anticipated given the project will not impact caves and is not visible from any nearby Threatened and Endangered bat occupied caves. Any tree three inches or less in diameter at breast height containing suitable roosting habitat for northern long eared bats will not be removed during the pup season of June 1–July 31 (USFWS, Northern Long-eared Bat Interim 4(d) Rule). Any trees containing suitable roosting habitat for Indiana bats will be removed between November 1 and March 31 to avoid impacts to roosting bats (USFWS, Species Take Avoidance Measures). Emergence surveys should be conducted to determine valid roosts trees if removal during this time frame is required. Alternative B would result in may affect/not likely to adversely affect threatened, endangered and species of conservation concern.

On July 22, 2013, a letter regarding the intended action was sent to the U.S. Fish and Wildlife Service (USFWS) Field Supervisor in Columbia, Missouri, to obtain information on Threatened and Endangered species within the vicinity of Proposed Current River Trail project area. A response to this request was received on December 20, 2013. In it the USFWS noted potential federally-listed threatened or endangered species or critical habitat within the areas for the proposed project. Additional mitigation measures were also recommended.

A copy of the *Ozark Trail Association – Current River Trail Environmental Assessment* was sent to the USFWS Field Officer on April 18, 2016, with a request for any additional comments. A response was received by the park on May 2, 2016, stating that the action is not likely to adversely impact any priority fish and wildlife resources.

This project would not impair the threatened and endangered species of the park.

Cultural Resources (Archeology)

An archeological survey of the proposed route only located three isolated artifacts. Construction of the new trail would not adversely impact any previously unknown archeological sites. Research into cultural resource and historic databases has determined that the proposed route of the trail would not impact any cultural landscapes, historic structures, or ethnographies. Regional experts have confirmed this assessment. Alternative B would result in minor adverse impacts.