

Cultural Encounters of the Controversial Kind

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Abstract:

This text will look at the controversy surrounding Devils Tower National Monument. The three sides of the controversy will be addressed independently. First, Native American rights to worship at the Tower, free from such acts as rock climbing that inhibit their cultural rituals, will be examined in its full perspective. Also, The Name of the Tower will be discussed from this point of view, including efforts made to change it. Second, the National Park Service's attempts to compromise on the myriad of issues surrounding this monument will be surveyed, as well as a synopsis of the public responses that ensued. Finally, an overview will be produced dealing with the Non-Native American reactions to some of the elements brought up in the greater body of the text. A resolution to these issues will be proposed as a final conclusion to the text.

Introduction

Most people, when charged to think of Devils Tower, elicit images of alien crafts with brilliant lights hovering above a silhouette of the conical spire. Aside from the notoriety bestowed upon Devils Tower by Spielberg's film,¹ other groups view the place as a sacred Mecca for celestial-based ceremonies. Still others feel that it is a natural resource that provides economic and recreational gain. Between these conflicting groups stands the proprietor of this battle ground -- the National Park Service (NPS).

A host of issues surrounds this monument ranging from species protection to esthetic concerns, access rights to name changes. All major issues will be brought up in this text, however, the only issues to be fully addressed are those which concern the sacredness and cultural value that composes the major contention and as a consequence; the National Park Service's protempore compromise.

The June closure of the Tower and the proposed name change are the central foci of the debate. This closure became manifest after several other options were assessed by the NPS. As it currently stands, this is a voluntary closure, which would seem simple enough. However, this attempt by the NPS to facilitate the religious nature of the Tower, as viewed by over twenty Native American groups, has been met with great controversy, including a lawsuit by a Colorado-based rock-climbing outfit known, strangely enough, as Bear Lodge Multiple Use Association, head by one Andy Petefish, in conjunction with Mountain States Legal Foundation. As a result of this lawsuit, the conflict of views escalated and Andy Petefish and his associates soon found allies in vocal residents around

the Tower who were intent on stopping any proposed name changes to the Monument. From this point we will begin to look at these issues and how they have progressed since the proposed climbing restrictions of 1994.

Section I: "Mato Tipi"

Of course, Devil's Tower is a white man's name. We have no devil in our beliefs and got along well all these many centuries without him. You people invented the devil and, as far as I am concerned, you can keep him. But everybody these days knows that towering rock by this name, so Devil's Tower it is. No use telling you its Indian name. Most tribes call it Bear Rock. There is a reason for that--if you see it, you will notice on its sheer sides many, many streaks and gashes running straight up and down, like scratches made by giant claws.

On the fourth day the boys suddenly had a feeling that they were being followed. They looked around and in the distance saw Mato, the bear. This was no ordinary bear, but a giant grizzly so huge that the two boys would make only a small mouthful for him, but he had smelled the boys and wanted that mouthful. He kept coming close, and the earth trembled as he gathered speed.

The boys were old enough to have learned to pray, and they called upon Wakan Tanka, the Creator; "Tunkasila, Grandfather, have pity, save us."

All at once the earth shook and began to rise. The boys rose with it. Out of the earth came a cone of rock going up, up, up until it was more than a thousand feet high. And the boys were on top of it.

Mato the bear was disappointed to see his meal disappearing into the clouds. Have I said he was a giant bear? This grizzly was so huge that he could almost reach to the top of the rock when he stood on his hind legs. Almost, but not quite. His claws were as large as a tipi's lodge poles. Frantically Mato dug his claws into the side of the rock, trying to get up, trying to get those boys. As he did so, he made big scratches in the sides of the towering rock. But the stone was too slippery; Mato could not get up. He tried every spot, every side. He scratched up the rock all around, but it was no use. The boys watched him wearing himself out. Getting tired, giving up. They finally saw him going away, a huge, growling, grunting mountain of fur disappearing over the horizon.

The boys were saved. Or were they? How were they to get down? They were humans, not birds who could fly. Some ten years ago, mountain climbers tried to conquer Devil's Tower. They had ropes, and iron hooks called pitons to nail themselves to the rock face, and they managed to get up. But they couldn't get down. They were marooned on that giant basalt cone, and they had to be taken off in a helicopter.

In the long-ago days the Indians had no helicopters. So how did the two boys get down? The legend does not tell us, but we can be sure that the Great Spirit didn't save those boys only to let them perish of hunger and thirst on the top of the rock.

Well, Wanbli, the eagle, has always been a friend too our people. So it must have been the eagle that let the boys grab hold of him and carried them safely back to their village. Or do you know another way?

Told by Lame Deer in Winter, Rosebud Sioux Indian Reservation, South Dakota, 1969, and recorded by Richard Erdoes. (Erodes 212, 1984)

The Native American perspective of Devils Tower, and of the greater Black Hills, is a complex web of beliefs. The Tower is only one part of the cultural and religious

systems that make up each tribe. With traditions dating back far beyond the first white encroachment into the areas, independent beliefs of what the Tower means and how it is significant varies from people to people. In this text, we will try to look at only the smallest of samples of this kaleidoscopic perspective only as a method of determining the potential sacredness of the area. Needless to say, it will in no way begin to explain the depth of these beliefs.

Devils Tower is a religious spot to potentially over twenty tribes including: the Assiniboine, Blackfeet, Blood, Crow, Cheyenne, Eastern Shoshone, Koonai, Salish, Lakota and Dakota tribes, Arapaho, Pigeon, Three Affiliated Tribes, Anishinabe, as well as other tribes, some of whose affiliations may not yet have been recognized. (NPS 1994, 1) It is clear that many tribes have a reverence for the Tower, however, its meaning differs from tribe to tribe. The Lakota, for instance, view the Tower in several different ways at once. This type of relation to land stretches between all tribal peoples who still practice their traditional ways. Simply claiming the Tower as sacred understates the value it has to a people religiously, culturally, and emotionally.

As with the Tower, the greater Black Hills area is valued as a highly religious area and in most cases, an inseparable religious element. All land is sacred to some extent, but these areas have a supra-religious essence that defines them as, in the Lakota language, truly *wakan*. This sentiment is shared with other tribes. As stated in an interview with a Shoshone Elder, Starr Weed, the Shoshone hold the Tower and other areas in great reverence. They visit them now as they have as far back as the tribal memory extends on the subject; to hold ceremonies and tribute.

To those Native peoples who hold the Tower as sacred, recreational activities pose a threat to the religious sanctity of the place. The sport of rock climbing is one such act that is in direct conflict with traditional religious practices. As stated by Starr Weed, "We've been interfered with quite a few times by White people. They want to go in and climb that place when the Indians are there to have ceremonies." Fred Underbaggage, Fifth Member of the Oglala Sioux Tribe, feels that; "This [Devils Tower] is one our very important sites as far as our spirituality and our religion. As far back as the Elders talk about, even before, people have a lot of respect for it...The whole Black Hills is what we hold very sacred because of these sites [Devils Tower, Bear Butte, et cetera]." He

goes on to state that the Reserve Rights Doctrine, an 1851 treaty, stipulates that the Lakota Nation has exclusive use of these sites "for as long as the grass grows and rivers flow," and points out that President Clinton established an Executive Order for the National Park Service ". . . to cooperate with Indian tribes, especially sites like this; of religious importance." The Final Climbing Management Plan was created by the National Park Service to protect the Tower's "cultural resources." When asked about its effectiveness, Fred Underbaggage says, "The current setup is okay, but we [Indian peoples] need a more lead role in it. So that we can tell the people that come there the true story." He states that this can currently be achieved by hiring interpreters "who know the culture and the history of our people," which would include non-Native Americans with an efficient background in the area, for example, ". . . college students on summer-break."

The biggest problem remains the presence of climbers at the Tower. Most of the rock climbers at Devils Tower during the month of June do not feel that Native American ceremonies are affected by their acts, or the rituals are just not important, to put it mildly. In contrast, Fred Underbaggage correlates the presence of rock climbers at the Tower to climbing a Catholic church. "We don't climb on top of a local church and defecate or relieve ourselves on top of the church..." and in turn, they ask for the same measure of respect.

This difference of opinion and the National Park Service's attempt to accommodate Native American beliefs have led to an indictment by Andy Petefish and the Bear Lodge Multiple Use Association, as well as others. Lakota elders say they cannot teach their children respect for their religion and the Tower if they see people "playing" on their shrine. The parallels made between climbing the Tower and climbing a church or altar during Eucharist all become relevant analogies when the importance of these areas becomes clear.

Lakota ceremonies can be conducted anywhere, however, Lakota religion cannot exist outside the Black Hills. This area is the source of the religion and its validity and is therefore an indispensable part of it. Many times in recent history, indigenous peoples have lost much of their sacred land to development. Most of the court battles have resulted in defeat due to non-Indian ability to understand Indian religious beliefs. The case of rock climbing at Devils Tower is much like the controversy that ensued around Mount Shasta. There the courts found that building a road through the

middle of a sacred site would not prevent them from worshipping at that site. Rock climbing at Devils Tower does not prevent ceremonies, just defames them. What the contention then boils down to is a matter of respect. Native Americans are asking for respect of their religion and religious freedom, the same respect and freedom that Anglos demand and assume to be inalienable. Lakota religion, as an example, cannot exist anywhere else. Taking away or restricting sacred areas is as absurd a notion as expecting them to worship somewhere else, as is often suggested by non-Indians against the June closure. As stated in a *Rocky Mountain News* article concerning the court hearing for the indictment against the National Park Service, "Non-Indian climbers should respect our sacred site," Arvol Looking Horse said in an affidavit submitted during a three-hour court hearing. "They should respect our traditional culture and spiritual ways as we respect non-Indians." The article goes on to point out not only the respect that Native Americans are looking for concerning sites that are sacred to them, but also to clarify the significance of the Tower to their cultural stability. Steven Emery, the Tribal attorney general for the Cheyenne River Sioux tribe, said his people intervened in the lawsuit to try to forge a better future. "We are appearing here to protect our traditions because we believe our traditions are the root to solve our ills"(1997).

The Black Hills and Devils Tower are sacred sites to many tribes. The Lakota show the Tower's independent and collective sacredness. To them, there is a web of sacredness that makes the Tower sacred independently, in relation to other exalted sites, and as part of the greater Black Hills. One example of this is the Heart of the Hills, a layer of red soil that extends around the Black Hills that is in the shape of a heart, including the appropriate arteries. Within this revered area are a host of sites that are sacred in and of themselves and as part of the Black Hills.

As with the Heart of the Hills, Devils Tower is an independent sacred area, part of a threefold collective, and part of the Black Hills. The Tower is often referred to as "*Mato Tipila*" or Bear Lodge by the Lakota, making it a sacred place independently. Another name for the area is *Grey Horn Butte*, which refers to two other sites; *Inyan Kara*, or Black Horn Butte, to the south, and Bear Butte to the east. These three sites in relation to each other form the shape of a buffalo's head (Fig.1). This moves the sacredness of Devils Tower from the independent to the tri-part collective level, that is to say, sacred in correlation to other sites.

This leads us then to the last level, which is the area's religious value in relation to its membership in the greater Black Hills.

The other major issue to look at is the proposed name change from Devils Tower to another less insulting title. This issue is the earliest of the two controversies and has also become one of the most volatile. From the Native American perspective, most people would like to see the name changed; however, a suitable title has not yet been established. As the Tower is a sacred area to a host of tribes; it has an equal number of meanings to different peoples. With this, what it should be called will be debated for a long time. To most Native Americans, time is not as important as the integrity of their beliefs and the protection of these beliefs for future generations. As stated by Johnson Holy Rock, an Elder from Pine Ridge, "From the time I was very young my father used to talk about it...But he didn't talk about Devils Tower. He talked about the Great Spirit" (Sierra 1996, 27).

From this look at an intricate religion, we see that the Tower's value to Native peoples extends well beyond the superficial. Restriction of Devils Tower, as well as other areas, disrupts religious sanctity, on the collective as well as independent level. Diana Mitchell from Wind River Reservation pointed out in a letter to the Casper Star Tribune, "Bear Lodge was put there by the Creator for a special reason because it was different from other rocks." She discusses reasons why places like Devils Tower are not over-run by Native Americans:

- C Because of prosecution against Indian culture and beliefs. Our people were forbidden to go to these places and from doing ceremonial activities at these ancient sites, where our ancestors came to for thousands of years.
- C Assimilation into society. The old ways were forgotten along with the knowledge of our sacred sites, the ceremonies and the true meaning of some of these places.
- C Native American people were not even citizens until 1921, long after Devils Tower was created a national monument (1997e).

The sacredness of Devils Tower to Indian peoples is without question. The fact that the religion is

dependent on the land is the point that is most often overlooked by non-Native Americans. As referred to by the former Superintendent of Devils Tower, Deb Liggett, "Land and religion . . . are inseparable in Native life--unlike the U.S. separation of church and state" (Sierra 1996, 28).

A dark mist lay over the Black Hills, and the land was like iron. At the top of a ridge I caught sight of Devil's Tower upthrust against the gray sky as if in the birth of time the core of the earth had broken through its crust and the motion of the world was begun. There are things in nature that engender an awful quiet in the heart of man; Devil's Tower is one of them. Two centuries ago because they could not do otherwise, the Kiowas made a legend at the base of the rock. My grandmother said:

Eight children were there at play, seven sisters and their brother. Suddenly the boy was struck dumb; he trembled and began to run upon his hands and feet. His fingers became claws, and his body was covered with fur. Directly there was a bear where the boy had been. The sisters were terrified; they ran, and the bear after them. They came to the stump of a great tree, and the tree spoke to them. It bade them climb upon it, and as they did so it began to rise into the air. The bear came to kill them, but they were just beyond its reach. It reared against the tree and scored the bark all around with its claws. The seven sisters were borne into the sky, and they became the stars of the Big Dipper.

From that moment, and so long as the legend lives, the Kiowas have kinsmen in the night sky. Whatever they were in the mountains, they could be no more. However tenuous their well-being, however much they had suffered and would suffer again, they had found a way out of the wilderness.

Momaday (1969, 8)

In the Middle of a Controversy

As a brief history, Devils Tower has traditionally gone under several names. The name "Devil's Tower" was bestowed upon the rock by Colonel Richard J. Dodge in his book published in 1876 entitled *The Black*

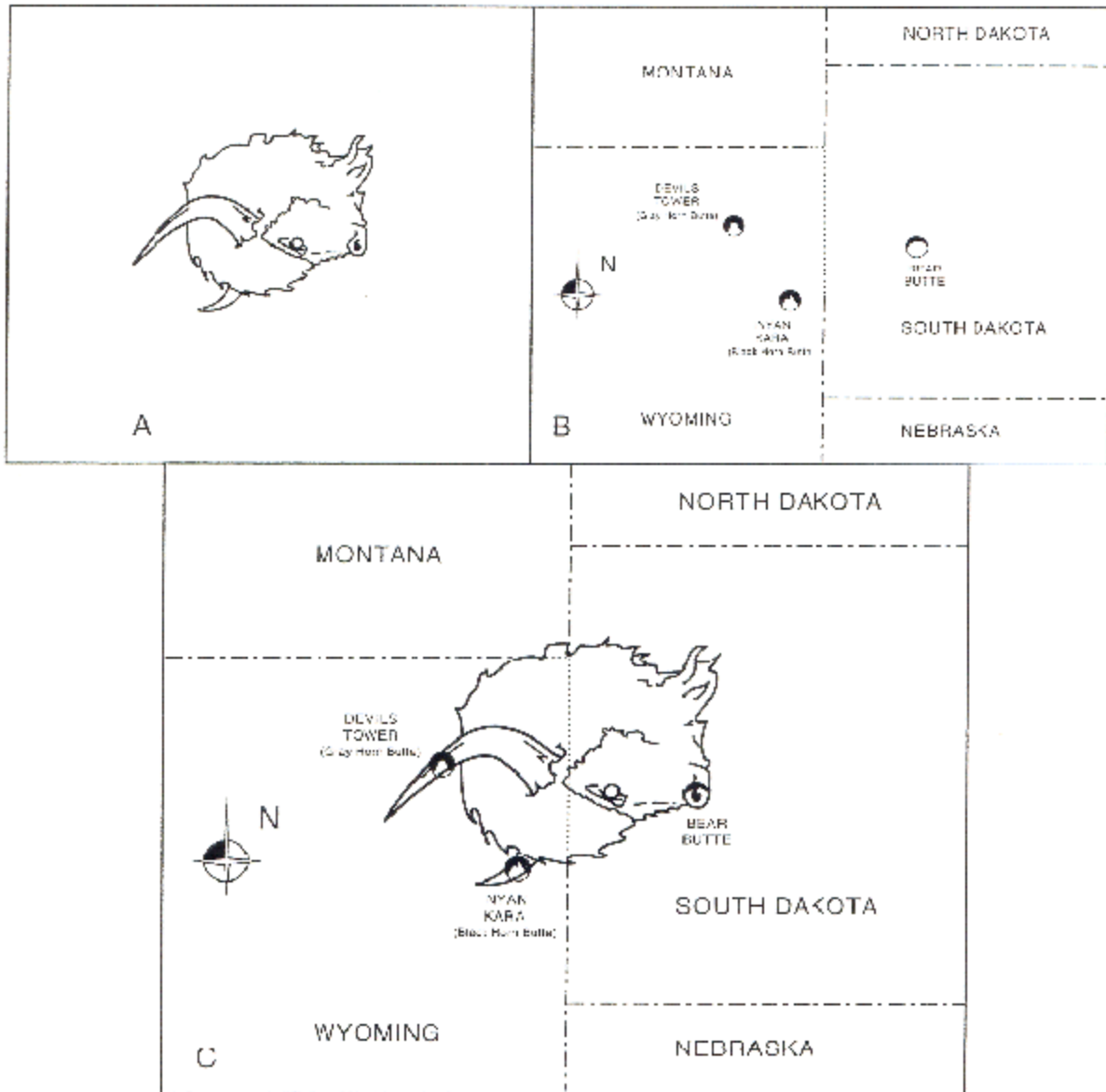


Figure 1. Map of the Devils Tower area. These sites, in relation to each other, form the shape of a buffalo's head. Figure 1.A shows the buffalo's head shape. Figure 1.B details the sites in the three states' borders. Figure 1.C overlays the buffalo's head on the three peaks' locations.

Hills. Geologically, it was formed by a lava flow 60 million years ago with the greater Black Hills upheaval. Theodore Roosevelt declared it the first National Monument on September 24, 1906. It was not until the 1930s that it became a major tourist attraction. Currently, the Tower is eligible for inclusion on the National Register of Historic Places as a traditional cultural property (NPS 1996; NPS [FCMP] 1995).

In recent years, Devils Tower has become a small scale, mainly verbal, battle ground. Peoples from all backgrounds have started to direct their attention at this, one of the world's most unique natural features. The National Park Service, in an attempt to deal with some of these issues, drafted a plan that looked at a host of ways in which they, as a Government Office, could better address the concerns of the people.

The Final Climbing Management Plan, or FCMP, as written by the NPS, mainly concerns itself with five of the most important issues surrounding the Tower. The NPS took into account several alternatives to solve the problem of what to do with the Tower.

Devil's Tower, as a name, was the first of the controversies to come together. The name, as stated earlier, is viewed as insulting to Native Americans. With this, the NPS decided to look at alternatives to its current title. This of course did not please some of the local non-Indians in the area. No plans have been made by the National Park Service to change the name from Devils Tower. Currently they have contracted out ethnographic work to find out what tribes have a link to, and a name for, the monument. The NPS is also looking for consensus by the tribes on a name they feel is suitable. Because the name change is important, not when it will occur, the name Devil's Tower is destined to remain for some time.

At present, the established voluntary closure of Devils Tower during the month of June has posed the most contention of all the issues concerning this place. It was established in 1995 as the most optimal choice of proposed outcomes (to be discussed later in this section). It was put in place in hopes to better facilitate the needs of Native Americans during the important ritual time of the summer solstice. As we have seen thus far, even a voluntary closure has struck a disharmonious cord in some.

Other elements looked at in the FCMP addressed

lesser known worries, namely the environmental integrity of the monument. Rock climbing also threatened the existence of raptors that nest upon the Tower's walls. This concern was settled by closing off falcon areas to climbing during their nesting season. Environmental protection also extended to trail areas and restriction of off-trail hiking, and the use of destructive climbing gear such as bolts and metal pitons that are hammered into the cracks in the rocks as well as other tools that cause unnatural erosion. These materials are highly destructive, and their use in conjunction to the disruption rock climbing imposes to other park goers has made permanent year-round closure of the Tower more than a possibility. Permanent closure of areas to rock climbing as a result of its destructive nature has occurred in the past. The Lake Tahoe Basin Management Unit, for example, banned rock climbing at Cave Rock because:

. . . technical rock climbing poses an adverse effect to the property. . . . The installation of climbing hardware has damaged and altered the property. The continued presence of climbers and their paraphernalia introduces visual elements out of character with the property and may affect the ability of Washoe religious practitioners to use Cave Rock (Baldrice 1996).

The June closure of the Tower was established to preserve its cultural history and to give climbers a chance at self-regulation. It was timed during the highly religious month of June to facilitate ceremonies such as Sundances, lodges, and vision quests. Currently, the NPS views the Tower as a natural and cultural resource. Compliance with the self-regulation policy was an attempt by the National Park Service to allow the climbers to exhibit their ability to show respect for other views of the value of the park and would serve as an example that would open up other areas to rock climbing and/or loosen restrictions.

Voluntary closure was one of six options laid out for the NPS, and in its first year showed an 85 percent compliance rate that has remained about the same every year since. The remaining 15 percent is attributed to climbers who did not know about the closure and climbed the Tower all the same; people who did not care about Native Americans and their ceremonial tie to the area; and Andy Petefish and associates who comprise one-third of the climbing on the Tower during June. As noted by Jim Schlinkman of

the Devils Tower National Park Service, this rate is skewed because:

The main plaintiff in our lawsuit, Andy Petefish, has made a concerted effort to recruit business during June. We know he attempts to inflate climbing statistics by registering every day and sometimes registering more than once in a day; encouraging his friends to do the same . . . to make a political statement that he will do anything he can to make the numbers stay up . . . a large percentage of climbing in June is directly related to Mr. Petefish, his friends, and his clients (Schlinkmann 1998).

As a result of the National Parks System's establishments of Voluntary closures to climbing during the month of June; Andy Petefish in coordination with Mountain States Legal Foundation filed a lawsuit against the Park System at Devils Tower for violating his First Amendment Rights. In their minds, the NPS' decision to ask rock climbers to avoid the Tower during June was an attempt to coerce people into following Native American Religions. The NPS states that "Recreation activities in parks are privileges not rights. Devils Tower is in public ownership for all Americans. No law guarantees a right to climb on Devils Tower" (NPS 1995, 66). To further confuse the subject, prior to the launching of Petefish's court case, President Clinton created an Executive Order that states that the NPS should accommodate Native Americans in the use of National Parks for cultural/religious purposes. As a result of this, many people concerned with the issue found themselves dumbfounded. As felt in a letter to the editor of Indian Country Today, Judge William F. Downes who was presiding over Petefish's case, stated that the NPS decision was ". . . impermissible government entanglement with religion . . ." Further clarified in the letter, "[this] sends confusing signals to you and me. The same article [New York Times: July 1 1996] states that President Clinton in May signed an executive order stating that the federal land managers should accommodate sacred sites wherever possible" (1997).

The National Park Service solicited responses as to the FCMP, and addressed all concerns that the people had. Though many of the comments concerned rock climbing, no comments were made that were not already considered during the plans drafting. It is not worthy that climbers make up only 1.3 percent of the park visitors in any given month (NPS 1995, 69).

The Final Climbing Management Plan was drafted "to protect the natural and cultural resources of Devils Tower and to provide for visitor enjoyment and appreciation of this unique feature" (NPS [FCMP]1995, 1). Its objectives were: to protect the park for future generations, manage climbing activity; and educate visitors about Native American beliefs and traditional cultural practices at the Tower. Several alternatives were established to fulfill these goals. All of the plans included: long-term monitoring of visitor education and resource protection; the establishment of a cross-cultural education program; a reinstatement of a climber education policy, promotion of better climbing practices; creation of research on the cultural significance of the Tower; and incorporation of the National Park Services, "service-wide climbing regulations" (NPS [FCMP] 1995, 3).

In the Final Climbing Management Plan, six alternatives were written to address the above goals. The accepted choice, Alternative D, entails: voluntary June closure beginning in 1995 and mandatory 30 day closure if proved unsuccessful based on a 3-5 year evaluation; no new climbing hardware such as bolts or pitons; trail rehabilitation; use of only camouflaged climbing gear; and a 50 meter parameter closure of climbing routs around falcon nesting area starting March 15 and extending through the duration of the nesting period. Alternative A would have established: unregulated climbing; unregulated use of climbing gear; end of mandatory climber registration; closure of routs only after climbers reported find falcon nests; and over-night camping on top of the Tower. Alternative B posed no change to the current regulations. Alternative C was the same as Alternative D except for a voluntary closure of one week in 1995, two weeks in 1996, and one month in 1997. Alternative E would have established: a mandatory closure of the Tower during June; no new climbing hardware; regulation of climbing gear; complete closure of the Tower during March and April to allow NPS employees to locate falcon nests; and 100 meter rout closer of surrounding located nests. Had Alternative F been chosen, it would have resulted in permanent closure of the Tower starting in 1995, removal of all climbing hardware, and trail rehabilitation (NPS[FCMP] 1995, 2-3).

As stated by the National Park Service in their Final Climbing Management Plan, the goals they hoped to fulfill by this plan were to:

. . . improve the monument staff's knowledge of visitors, natural and cultural resources, and impacts to those resources; reduce physical impacts to the tower rock; improve the opportunity for prairie falcons to successfully nest on the tower; reduce soil erosion; reduce impacts to vegetation; reduce noise and visual impacts on the tower; increase climber awareness of their resource impacts; encourage climber participation in mitigating resource impacts caused by climbing activities; *and improve the level of cultural awareness and sensitivity among all monument visitors while reducing the potential for conflict by instilling mutual respect for different cultural for different cultural perspectives* [emphasis added] (NPS[FCMP] 1995, 4).

“Indians do not worship in the Black Hills. They are afraid of evil monsters in the hills.”

The sacredness of Devils Tower to Native Americans is not of concern to everyone. As I researched the subject, I became more, and more aware of the fact that most of the arguments against the June closure of Devils Tower are not always strong or reasonable. The majority of Anglo arguments stem from people who just don't like “Indians.” Although no one I spoke with came right out and said it, racism plays a large role in these sentiments. The “evidence” used by Petefish and like minded others is riddled with the classic cliches and generalizations of bigotry. This is demonstrated by this section's title; taken from a list of comments received by the National Park Service at Devils Tower concerning the Final Climbing Management Plan. I had hoped to give every side of the controversy unbiased coverage, but the Anglos against the name change and June closure do not have a valid case. This section will look at the Anglo arguments with openness to their statements, but I can not offer any support of their arguments, nor condone their beliefs.

The two major issues that surround the Tower are the voluntary June closure and its potential name change. Although these issues are not related, the proponents have banded together to some extent to fight their causes. Andy Petefish is a rock climber who lives in Colorado and has been the most vocal opponent to the closure. His boldest act against the National Park service has been the lawsuit that claimed his First Amendment Rights were being violated.

Petefish's suit was brought before United States District Judge William F. Downes who, at the outset of the trial, stated his opposition to the FCMP and decided against the plaintiff, Andy Petefish, on April 2, 1998. Petefish made several claims against the Park Service at Devils Tower, contending they: coerced children in the area, as well as others, to convert to Native American Beliefs; that the National Park Service was unlawfully entangled in religion, coercing rock climbers not to climb in June with threats of permanent closure; and similar arguments.

At the time the FCMP was set into motion, commercial rock climbing licenses were banned during the month of June. In response to Petefish's suit this ban was lifted; however, Petefish pursued his case all the same. Judge Downes in his court decision spells out several reasons why Petefish's claims were unfounded. Petefish claimed that the NPS's interpretive program, established to educate the public on the significance of the Tower, violated the First Amendment. In one way, he claims the education program “. . . proselytizes school children who visit the Monument under the guise of educating children about the heritage surrounding the Memorial” (Court Doc. 1998, 8). In response to these charges, the Judge ruled that “The only injury alleged by Plaintiffs relating to the interpretive program is that children are being indoctrinated in the religious beliefs of Native Americans. . . . Although the plaintiffs may feel that this ultimate conclusion is a logical inference, there are no facts in the record supporting *such a leap in logic*” [emphasis added] (Court Doc. 1998, 10).

Petefish and the other plaintiffs claimed that they, as well as children in the surrounding area, were being coerced by the NPS to support and participate in Native American religion. This was done, they say, by signs around the Tower asking park visitors to stay on the trails. Plaintiffs claiming to be members of the Bear Lodge Multiple Use Association state that these ‘Please stay on the Trail’ signs coerced their children; therefore, these signs were, in turn, coercing children from the town of Hulett who take field-trips to the Tower. Again Judge Downes ruled that these alleged ‘injuries’ suffered by the Plaintiffs “have no standing” (Court Doc 1998, 11).

The voluntary climbing ban was the strongest of the issues contested by Andy Petefish and his associates. They contended that the voluntary closure favored and proselytized Native American religion, thereby

violating the First Amendment Establishment clause that states “Congress shall make no law respecting an establishment of religion” as well as the National Park Service own *Native American Relationships Management Policy*, which proclaims that no area under their jurisdiction can be closed to others for the use of a specific religious activity. In regard to the latter proclamation, the National Park Service had updated this policy to allow for temporary lawful closures for traditional activities.

With respect to the Establishment clause, the court cited the case of *Lemon v. Kurtzman* (403 U.S. 602 (1971) states that government actions in regards to religion do not violate this said clause if it is secular in nature, if they do not in any way advance or inhibit religion, and do not produce any “excessive entanglement with religion” (Court Doc. 1998, 12). The court also found that “. . . the government may (and sometimes must) accommodate religious practices . . .” and that the Constitution itself “mandates accommodation, not merely tolerance, of all religions, and forbids hostility towards any” (Court Doc. 1998, 13). Judge Downes concluded that, “The government is merely enabling Native Americans to worship in a more peaceful setting. In doing so, the Park Service has no involvement in the manner of worship that takes place, but only provides an atmosphere more conducive to worship” (Court Doc. 1998, 18).

It was also ruled that the possibility of the current voluntary ban becoming mandatory was not coercion on the part of the National Park Service. In total, none of the claims made by Petefish and his associates were found to hold any standing and the National Park Service was not in violation of any current statutes or laws. Petefish appealed this decision four days later.

To understand Andy Petefish and his associates’ opposition to the June closure it is relevant to look at the view they have of the situation. Andy Petefish is the most vocal of all rock climbers on this side of the controversy. In a letter to the National Park Service at Devils Tower, which was addressed to “Land Based Religious Practitioners” (his term for Native Americans), he spells out his view. He writes:

Your obvious lack of understanding as to where the “Bill of Rights” came from proves that you are no judge of what “humanity” is. If you don’t appreciate and cherish being a citizen of the United States, . . . then you should move to

another country or even the Sioux Nation where you would have no protection for equal right as either a man or woman, or freedom of religion or speech, and on and on. . . . We hope you renounce your U.S. citizenship today and move to another country or the Sioux Nation where individual rights are practically non-existent (Petefish 1997, 1).

He goes on to say that the Tower “does not belong to the [I]ndians.” and that because of this it is “not their alter.” He clarifies the sacredness of the monument by claiming that they “climb Devils Tower and have spiritual experiences,” thereby deeming it “every bit [their] alter”(Petefish 1997, 1). The letter follows by stating, “This is something you and your type don’t understand because you are too pretentious, egotistical, arrogant, selfish, insecure, judgmental, and truly disrespectful. We are not in any way advocating that the [I]ndians don’t beat their drums and make other annoying disturbances while we are climbing or accessing Devils Tower, but yet this is their arrogant position.” Mainly this section is in reference to the National Park Service and Native Americans whom he believes are conspiring against him (Petefish 1997, 1).

He follows by saying that the NPS does not know the “real” history of Native Americans and informs them of their deviant past and present acts which are indicative of their nature, that is to say that “They still lie, steal, cheat their fellow human beings.” Later he asserts his hostilities strictly on Native Americans. He says, “Most likely you [Native Americans] are looking for another handout. History also shows you could never share!” he goes on to say; “Why don’t you people quit your whining and just do your thing, and let us do ours. That would just be to simple for you trouble makers though. We are winning in the courts, and we will continue to do so. . . . What’s up with that???? Dah!” (Petefish 1997, 1).

He carries on in this hostile tone for quite some time and makes further ‘corrections’ of Plains Indian History, claiming that his inaccurate revisions of history are founded in ethnographic accounts, citing years but no authors. Unfortunately, he has gained the support of Professor of Anthropology, Jeffrey R. Hanson from the University of Texas-Arlington, who concludes in a letter to former Superintendent Deborah O. Liggett, (posted on Andy Petefish’s web-site), that some of the information in the Final Climbing Management Plan is false. Although the plan makes no

assertion that his survey was a source of information for the plan, he claims that the information was not provided by him, and therefore is invalid. Whatever information Hanson gathered, it does not represent every tribe and every tribal member. Nevertheless, any clarification that he may have been trying to address has resulted in support for Andy Petefish, who concludes that no evidence supports the NPS's claims that Native Americans ever occupied Devils Tower for any extended period of time "and history indicates that i[t] was an evil place to them" (Petefish 1997, 2; 1998, 1-4).

Andy Petefish has posed as an antagonist to the National Park Service for sometime. In some cases he has been involved in heated confrontation with Park Service employees and has sent them a copy of the first three chapters of Genesis for them to start a collection of world creation epics. This, he claims, will save them from another lawsuit concerning First Amendment Rights.

He has also pursued actions against Ouray Park and its board members in Colorado. His concern here is a park rule that visitors who are not rock climbers cannot walk on the edge of ice covered cliffs that lead to hundred-foot or better drops. Petefish states that this is a violation of the Constitution, and that freedom is more important than safety. Park Board member Gary Wild states that "It's a big power trip for him. . . . Andy Petefish causes trouble wherever he goes. The climbing community is very sad that he's in Ouray now." Wild states that telling Petefish to "shut up" during a debate has resulted in a restraining order against him. This prevents him from going to board meetings when Petefish is in attendance. This would seem to be an advantage for Petefish and his cause (*Denver Post* 1998, 6B).

Like the climbing issue, the name change from Devils Tower to a less derogatory title has raised intense opposition. The people in the direct proximity of the area have little interest in the climbing issue. As pointed out by the Park's chief ranger Jim Schlinkmann, "Most people don't really care [about the name change]; however, there is a vocal minority that tries to speak for the majority." He says that this is "based on the belief that Devils Tower belongs to them. That somehow a national monument and natural resource does not belong to the United States and its citizens, it belongs to Crook county. So there is a small minority of people who have a militant opinion of what should

and shouldn't be happening at Devils Tower." He goes on to say that these people feel that the National Park Service is "overstepping its authority by unilaterally handing over *their* land to the Indians. [emphasis added] We, of course, recognize that as an inaccurate view of reality." This controversy has led to its own set of charged debates. Schlinkmann notes that the NPS employees at the Tower have received some threats from people in the area and that these threats "were all directed at Deb Liggett. At that point it had become a personal attack; it wasn't just policies." Most often these attacks were not done in an organized fashion, he goes on to point out that "there were these kinds of veiled threats in bars primarily, where people get a lot of courage from alcohol." Deborah Liggett addresses these threats by pointing out that "anyone in public life is a target for comments, professionally and personally" and states that "there are folks out there who, as my mother would say, 'have bad manners.'" Liggett, a strong proponent of education, feels the issue will be solved "when people understand the facts" about Devils Tower and its history, and that then "they may have a different view" (Schlinkmann 1998; Liggett 1998).

Currently, however, this is not the case. The vocal minority of locals around the Tower do not believe that Native Americans hold the Tower in a sacred light, at least to the extent that is publicized. As stated by the Mayor of Hulett, Winifred Bush "My dad came here in 1913 in a covered wagon, I've been here ever since I was a little girl, and I never saw any Indians around here until two years ago" (*Times* 1997, A8). Deb Liggett points out that the statement made by the Mayor of Hulett is "unfortunate, especially when a Public Official makes a culturally biased comment and it's unfortunate when the media prints these comments" (Liggett 1998).

These two issues are unrelated; however, a link has been established. When the FCMP was first produced, it drew little response. After the lawsuit, it gathered more public attention and the name issue started to gain momentum. These two causes then became entangled when the community surrounding Devils Tower became influenced by Petefish's views, or as Schlinkmann puts it, "when he successfully misinformed the people around here." Others were upset by the NPS's stance against a proposed airport in Hulett. The National Park Service is against any more air traffic over Devils Tower. Those who were hostile because of this issue and/or the name change

found a convenient alliance with opponents of the climbing ban. According to Jim Schlinkmann, “They don’t care about climbing in their heart-of-hearts, they may not even care about him [Petefish], but in reality what happens is, ‘an enemy of my enemy is my friend’” (Schlinkmann 1998).

Opponents to the FCMP, the National Park Service, and Native Americans soon started making claims that “There is no theological or ethnographic evidence that closing Devils Tower to climbing is important to Indians.” They claim that “Climbing does not desecrate sacred ground” because “There is nothing sacred about Devils Tower.” They feel that rock climbing at Devils Tower outdates the ceremonial use of the area by Native Americans and that “There is no archeological evidence that the tower was a sacred site in historic times. The sacred nature of the tower is of modern origin” (NPS 1995, 60-61).

The antagonists to the NPS and the Native Americans also started to destroy prayer bundles and other items left by Native Americans. In one instance a rock climber ripped down these ceremonial items and boasted about it in the media. There were other cases where people “cleaned up” prayer bundles because “they don’t think [Native Americans] have any legitimate claims and their culture is unimportant and what they do in the park is unacceptable, because it’s trash” (Schlinkmann 1998).

Some non-Native American opinions expressed about the situation at Devils Tower are less vindictive. As stated by one person, “If Devils Tower National Monument cannot be renamed Bear Lodge as you report some Native American groups would like. . . I recommend changing the name to Devil’s Tower. Granting the devil outright possession of the monument might satisfy both the rules of grammar and the spirit world” (Coffino 1997).

Conclusion

The controversy at Devils Tower is not the most volatile nor the most publicized, but it is indicative of the greater cultural contention found at every site about which Native Americans and Anglos hold differing views. What makes this situation unique is the National Park Service’s attempt to accommodate ritual use of federal land by Native Americans, and the court’s decision in favor of it. Although the Park Service has taken the middle road approach to facilitate

both Native American and non-Native American concerns, neither side feels that the situation is as it should be. During my interviews with National Park Service employees and Native Americans involved with the Tower, I elicited their opinion about the effect that co-custodianship and full custodianship, such as the one established with the Aborigines at *Kakadu* National Park in Australia, would have on the situation. All were open to this type of approach; however, Deb Liggett points out she does not “see Congress” willing to remove management of any park unit away from the National Park Service.” Jim Schlinkmann states that this type of situation has been discussed and elements of it can be found in the American Indian Self-Determination Act. In one respect, the Department of the Interior can allow Native Americans to convince the National Park Service to give up one or more of their roles “and offer it to appropriately trained tribal officials.” He points out that the tribes around Devils Tower are not currently set up for this kind of role, but it is written in law as a possibility. He also states that it has begun to take hold to a small degree in some parks in the United States, such as Olympic National Park, but nevertheless, several jobs will always remain in the hands of the Government, ie; Superintendency. That is, unless Congress changes the law (Liggett 1998; Schlinkmann 1998).

This kind of inclusion may or may not come to fruition, but it offers up a chance to validate the importance of Native American beliefs in the eyes of the Government. Change in life is inevitable, and although there are those who fear and dislike Native Americans, equality among all groups, regardless of the construct of ‘race,’ will come to pass in a greater capacity than what we have currently.

Notes

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