

Pictured Rocks National Lakeshore Concurrent Law Enforcement Jurisdiction

Background Information:

On October 15, 1966, Pictured Rocks National Lakeshore was established pursuant to Public Law 89-668. Subsequent to the establishment of the Lakeshore, Michigan Act 168 of 1967 authorized the state of Michigan administrative board to convey certain lands and to cede a certain water area in Alger County to the United States of America for use by the National Park Service; and to declare the effect thereof. Act 168 is codified in the Michigan Compiled Laws as MCL 3.451- 455. Section 1 of Act 168 authorized the state administrative board to convey "by quit claim deed or deeds such title to lands as is vested in the state of Michigan and under the jurisdiction of the department of conservation and to cede the off shore water area, without any monetary consideration, for and in behalf of the state of Michigan, to the United States of America, as lie within the boundaries of the shoreline zone of the Pictured Rocks national lakeshore as depicted on the map identified as "proposed Pictured Rocks National Lakeshore, United States Department of the Interior, National Park Service, boundary map NL-PR-7001A, July, 1966", to be used by the United States Department of the Interior." MCL 3.451.

Section 4 states that " The jurisdiction of such lands and water area is ceded to the United States of America upon the express condition that the state of Michigan shall retain concurrent jurisdiction, both civil and criminal, over persons on such lands and water area, so that all civil and criminal process issued by any court of competent jurisdiction or officer having authority of law to issue such process and all orders made by such court, or any judicial officer duly empowered to make such orders necessary to be served upon any person, may be executed upon such lands and water area in the same manner as if jurisdiction had not been so ceded." MCL 3.454

Act 168 does not cede jurisdiction over lands not previously owned by the state of Michigan under the jurisdiction of the department of conservation. Lands within the Lakeshore purchased from corporations, municipalities, and private land owners are currently managed as proprietary jurisdiction by the National Park Service. Still other areas within the Lakeshore formerly owned by the US Coast Guard are exclusive federal jurisdiction, meaning state and local agencies have limited enforcement authorities.

Furthermore, the Lakeshore's boundaries have been adjusted twice since Act 168 of 1967 was passed:

Public Law 104-333, November 12, 1996 110 Stat. 4093 Section 203 adjusted the legislative boundary to include the former Grand Marais Coast Guard Station as depicted on the map entitled "Area proposed for addition to Pictured Rocks National Lakeshore," numbered 625-80,043A, and dated July 1992.

Public Law 107-295, November 25, 2002 116 Stat. 2130 Section 437 adjusted the legislative boundary to include the Munising front and rear range lights (formerly owned by the US Coast Guard) as depicted on the map entitled "Proposed Addition to Pictured Rocks National Lakeshore", numbered 625/80048, and dated April 2002.

As a consequence of these actions, Pictured Rocks National Lakeshore contains a mosaic of exclusive, concurrent, and proprietary jurisdiction on lands owned and administered by the National Park Service. The difference in jurisdiction results largely from prior land ownership and parcels of varying jurisdictions not being contiguous. This causes confusion for land managers, area law enforcement officers, and the court systems presiding over incidents within the Lakeshore. It also creates a strain on the efficiency of state and local law enforcement entities since they are forced to duplicate the efforts of federal law enforcement officers who are limited in their authorities by areas of proprietary jurisdiction.

As a matter of national policy, the National Park Service seeks to obtain concurrent jurisdiction for every unit of the National Park system. To achieve this at Pictured Rocks the Service would like to retrocede concurrent legislative jurisdiction to the State of Michigan in those areas which are currently exclusive federal jurisdiction. The Service would also like to ask the State of Michigan to cede concurrent jurisdiction on lands owned and administered by the National Park Service which are currently under proprietary jurisdiction.

The Service has consulted with staff of the Environment, Natural Resources and Agriculture Division of the Michigan Department of Attorney General who are also separately discussing with the Service the proposed cession and retrocession of legislative jurisdiction over lands in the Sleeping Bear Dunes National Lakeshore pursuant to the Michigan enabling legislation for that Lakeshore, 1974 Public Act 359, MCL 3.901- .907. That statute specifically authorizes the Governor of Michigan to cede legislative jurisdiction over lands within the Sleeping Bear Dunes Lakeshore to the United States and to accept retrocession of federal jurisdiction over such lands.

Attorney General staff informally advised us that the enabling legislation for the Pictured Rocks National Lakeshore referenced above does not grant the Governor of Michigan the authority to cede concurrent jurisdiction over lands not previously "under the jurisdiction of the department of conservation." Representative Lindberg and Senator Casperson have been helping the Service seek a legislative solution which would provide the necessary authority for the Governor to cede jurisdiction over any lands held in fee simple by the federal government that lie within the authorized, legislative boundary of Pictured Rocks National Lakeshore; SB-617.

The Service would also seek concurrent jurisdiction over any future land acquisitions within the legislative boundary of Pictured Rocks National Lakeshore. It is recognized that, within the State of Michigan, additional property may be purchased within the boundaries of existing units of the National Park Service or that boundaries of existing

units may be modified. In order to maintain consistent jurisdiction and enforcement authority over Federal lands in Michigan, the Service requests that any proposed legislation on this subject be drafted, if possible, to allow for the establishment of concurrent legislative jurisdiction over additional lands and waters hereafter acquired, leased or administratively controlled in National Park Service units.

Within the legislative boundaries of Pictured Rocks National Lakeshore there is an area identified as the Inland Buffer Zone (IBZ). Much of the land within the IBZ is not owned by the federal government; individual parcels are owned by private citizens, corporations, and the State of Michigan. In making this request, we should be clear; the Service is not seeking concurrent jurisdiction over any lands not owned by the federal government.

The Michigan State Police, City of Munising Police Department, and the Alger County Sheriff's Office, and the Alger County Prosecutor's office have all been briefed on the Service's request for concurrent jurisdiction and have offered their respective support in writing. The Michigan Department of Natural Resources provided a written statement in favor of the measure at the Senate committee hearing.

The effect of establishing concurrent legislative jurisdiction would be to vest the State of Michigan and the United States with all the rights accorded a sovereign with the broad qualifications that such authority is held concurrently over matters including criminal laws and police powers. It will be the parallel right of both the State of Michigan and the United States to legislate with respect to such land and persons present or residing thereon, subject only to the constitutional constraints on the United States and the State of Michigan.

Such constraints include, but are not limited to, the supremacy clause of the United States Constitution and the prohibition of taxation of the property of one sovereign by another. The vesting of concurrent legislative jurisdiction in the United States will also assist in the enforcement of State criminal laws by the United States under the Assimilative Crimes Act, 18 U.S.C. 13 (1988).

In summary, this action will allow for more efficient conduct of both State and Federal functions within Pictured Rocks National Lakeshore.

In closing, we would like to request that you advance SB-617 in the house for final consideration. Superintendent, Jim Northup and I would be more than happy to travel to Lansing and testify before any necessary House committee hearing. Thank you for your consideration of this request. If you need assistance or have any questions please call, Tim Colyer, Chief Ranger, Pictured Rocks National Lakeshore (906) 387-2607 ext 203.



National Park Service
Briefing Sheet
Conversion to Concurrent Legislative Jurisdiction
Pictured Rocks National Lakeshore
January 2011

Issue: Pictured Rocks National Lakeshore is seeking to establish concurrent legislative (law enforcement) jurisdiction on all federally owned lands within the National Lakeshore. By National Park Service policy, this is the preferred form of legal jurisdiction for all units of the national park system, and the form of jurisdiction that exists in most units of the system. At present the federally owned lands within the Lakeshore contain a mixture of federal exclusive, concurrent and proprietary jurisdiction, which can lead to confusion and officer safety concerns. Conversion of all federally owned lands to concurrent jurisdiction will eliminate this confusion and maximize the level of collaboration and effectiveness of federal, state and local law enforcement agencies. Under concurrent legislative jurisdiction, the federal and state government share equal authority and both federal and state laws apply.

Background: There are four recognized types of administrative and legal jurisdiction on lands owned by the federal government. These types of jurisdiction apply to national parks, wildlife refuges, military reservations, etc. The four types of federal jurisdiction are as follows:

Exclusive Federal Jurisdiction

Under this form of jurisdiction, the federal government possesses all the authority of the sovereign, subject only to the state's right to serve civil and criminal process for actions occurring outside the area of federal jurisdiction. Only federal criminal laws and regulations apply to acts committed on lands and waters within areas of federal exclusive jurisdiction. Law enforcement must be provided by the United States since State law may not be enforced by a state or local officer. Pictured Rocks National Lakeshore has several small areas of exclusive federal jurisdiction, including all of the former Coast Guard grounds and facilities at Au Sable, Grand Marias, and at the Range Light in downtown Munising.

Partial Exclusive Jurisdiction

This type of jurisdiction is very similar to exclusive jurisdiction, except that the state has reserved the right to exercise certain additional authorities (beyond the service of civil and criminal process), such as the right to tax the residents of federal reservations, or to sell state fishing licenses.

Concurrent Jurisdiction

Under this form of jurisdiction, the federal government and the state jointly hold and exercise all rights accorded to a sovereign. **Both federal and state laws apply; federal and state law enforcement officers have equal authority; and both federal and state courts have jurisdiction over offenses committed within that area.** In those rare cases in which federal and state law conflict, the federal law takes precedent, under the supremacy clause of the

constitution. All lands formally owned by and transferred from the State of Michigan to the National Park Service when the National Lakeshore was established are already areas of concurrent jurisdiction and require no further conversion.

Proprietary Jurisdiction

Under Proprietary jurisdiction, the federal government has no legislative jurisdiction or authority to enforce, investigate violations of or prosecute violations of the federal criminal statutes, or to assimilate appropriate state laws for crimes against people or property. The authority of the National Park Service law enforcement rangers working in areas of proprietary jurisdiction is limited to essentially the rights of any property owner, which involves primarily the enforcement of violations of National Park Service regulations pertaining to visitor use, such as the requirement to keep dogs on leashes, or certain camping regulations. More serious violations (such as assault, murder, maiming, rape, robbery, theft, arson, etc. committed on federal property) may not be investigated by federal officers or prosecuted through the federal court system, leaving this burden to state or local authorities by default. Pictured Rocks National Lakeshore currently contains significant areas of federally owned property with only proprietary jurisdiction. Proprietary jurisdiction is particularly inefficient since all commissioned law enforcement rangers of the National Park Service are graduates of the Federal Law Enforcement Training Center, and possess all of the training and experience necessary and required to enforce and investigate violations of these federal criminal statutes, but are unable to do so in areas of proprietary jurisdiction.

Current Status: Pictured Rocks National Lakeshore consists of 73,235 acres managed in two zones; the Shoreline Zone and the Inland Buffer Zone.

The Shoreline Zone (33,929 acres) is all federally owned land with the exception of one small, ten acre in holding.

The Inland Buffer Zone (39,306 acres) is an area of mixed ownership. Within the Inland Buffer Zone (IBZ) the National Park Service owns only small tracts of land. The vast majority of the land within the IBZ remains in private ownership or is owned by the State of Michigan. Under this proposal, there would be no change or increase in Federal authority on any privately owned lands within the IBZ.

As mentioned above, there is currently a confusing mixture of federal exclusive, concurrent and proprietary jurisdiction on federally owned lands within the National Lakeshore. This proposal would convert all federally owned land to concurrent jurisdiction. To achieve this requires two separate actions: 1) a letter from the Director of the National Park Service, accepted by the Governor, ceding concurrent jurisdiction on those lands currently in federal exclusive jurisdiction, and 2) the Governor of Michigan ceding concurrent jurisdiction to the federal government on those federally owned lands currently under proprietary jurisdiction. As the Governor of Michigan currently lacks the statutory authority to cede this jurisdiction, obtaining the authority to do so will require legislation at the state level.

Effects on State, County, and Local Law Enforcement Agencies as a Result of NPS Attaining Concurrent Jurisdiction on Federally Owned Lands within Park Boundaries

The National Park Service has a long history of working cooperatively with the local law enforcement and emergency service agencies. The Alger County Sheriff's Department, Michigan State Police, City of Munising, and Michigan Department of Natural Resources (DNR) have all done an outstanding job of providing services to the Lakeshore and visitors of the park. However, the National Park Service has the primary responsibility to manage the park. Under the current form of jurisdiction the National Park Service staff is not being effectively or fully utilized and an unfair burden is subsequently falling to state and local agencies. With visitation to the Lakeshore expected to increase with the improvement of park facilities and the paving of County Road H-58, it is necessary and appropriate to convert all federally owned lands within the National Lakeshore to concurrent jurisdiction.

With concurrent jurisdiction on federally owned lands with the Lakeshore:

1. NPS law enforcement rangers could enforce and investigate violations of the federal criminal statutes and assimilate Michigan State law when necessary. (State laws can only be assimilated by federal officers in areas of either exclusive or concurrent jurisdiction)
2. County/State officers would need to respond to fewer incidents in the Lakeshore, since NPS law enforcement rangers would be able to handle more incidents involving violations of both federal and state law, alleviating some current and growing burdens on County/State officers.
3. Violations of state law handled by NPS law enforcement rangers would be handled in United States Court, alleviating burdens and costs from local courts for those cases.
4. The cooperative working relationship already existing between the NPS and county and state, and local agencies would continue and be strengthened.
5. State, county, and local law enforcement agencies would gain additional authority on those small tracts currently under exclusive federal jurisdiction and maintain the same level of authority on all other remaining federally owned lands within the Lakeshore.

Conclusion: The National Park Service will be working with the appropriate US Congressional representatives to convert the areas of exclusive jurisdiction to concurrent, and with the Governor of Michigan's Office to request cession of concurrent jurisdiction for those areas currently in proprietary jurisdiction.

Prepared by: Tim Colyer, Chief Ranger

Pictured Rocks National Lakeshore
Box 40
Munising, Michigan 49862

Telephone: (906) 387-2607 x203
E-mail: Tim_Colyer@nps.gov

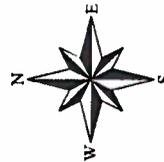




PIRO Jurisdiction January 2010

Legend

- Park Boundary
- IBZ Boundary
- Major Roads
- Concurrent
- Exclusive
- Proprietary



Map Produced: 7 Jan 2010
 Data Location: Pictured Rocks NL
 Science Center
 Created By: Bruce Leutscher



**Grand Marais
 Coast Guard Point**



**Munising
 Front and Rear Range Lights**

