

Briefing Statement

Bureau: National Park Service

Issue: Upcoming Meeting on NTS Corporation Violation of the Park Service Resource Protection Act (19jj)

Park Site: Fredericksburg and Spotsylvania National Military Park

Date: September 21, 2005

Background: In 1989, the National Park Service executed a land swap with the NTS Corporation to both facilitate NTS development of the Fawn Lake subdivision and preserve additional lands then along the park boundary on the Wilderness Battlefield. As part of this land swap, the NPS retained a protective easement over three tracts that now comprise the main entrance into Fawn Lake. That easement predominantly protects a line of Civil War trenches that run the length of the parcel conveyed in fee to NTS Corporation.

In July 1999, NTS Corporation violated the easement and destroyed a 100-foot-long of earthworks—an area of protected landscape totaling about .74 acre. By authority of the Park Service Resource Protection Act (PSRPA--104 Stat. 379, 16 U.S.C. 19jj), the NPS pursued recovery of damages totaling \$96,000. NTS Corporation agreed to an out-of-court settlement of \$60,000.

In June 2001, NTS Corporation employees again entered the protected area and damaged historic resources in violation of the easement. Again, the NPS has sought recovery of damages under the PSRPA. In 2004, the NPS submitted a claim totaling [REDACTED] to the NTS Corporation. NTS did not respond. [REDACTED]

The Incident: As in the previous case, NTS Corporation has chosen to seek a political remedy through the office of Senator Mitch McConnell of Kentucky (where NTS is based.) A meeting is being set up for September 29th in the NPS Washington Office.

Current Status: According to Marcia Gittes of the Solicitor's Office in Boston, the meeting is being set up by Assistant Director Jeff Taylor for September 29th. Among those invited to attend thus far are Deputy Director Don Murphy, a lawyer for the NTS Corporation, a staff member from Senator McConnell's office, and Jeff Taylor. Marcia Gittes, or a representative from her office will take part either by phone or in person. Marcia has suggested to Mr. Taylor that the park superintendent and a Damage Assessment Case Officer also be invited.

Position of Interested Parties: The facts and allegations of the case have not been made public. While NTS Corporation has not officially responded, their attorney has let it be known that they believe they are being unfairly "fined" to finance NPS projects. The

National Park Service considers the case as a clear violation of the Park Service Resource Protection Act, subject to the recovery of damages, as stipulated by that law.

Department/Bureau Prospective: Solicitors of the National Park Service are seeking recovery of damages, calculated in accordance with methods approved by the courts in prior PSRPA cases.

Funding Requirements: None

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