The Wilderness Act
and Related Statutory Provisions

With Statutory Interpretation and
Notes on Legislative Intent of Key Provisions

GENERAL RULES OF STATUTORY CONSTRUCTION

In construing statutory language, judges apply rules set down in Supreme Court decisions.

- If the meaning of the wording of a statutory provision is clear, judges (and the rest of us) are not to inquire into the legislative history—the intent which lawmakers may have expressed in speeches, hearings, or debate. The leading Senate opponent noted later "that perhaps there is no other that was scanned, perused, and discussed as every sentence in the Wilderness Act.[1]
- There is an important distinction between statutory directives to the executive branch, which are stated with "shall'—these are mandatory—versus those expressed with "may"—which can confer a degree of administrative discretion when they are applied to duties delegated to an agency. The Wilderness Act was intended, first and foremost, to curtail the administrative discretion of the administrative agencies, particularly to set and alter the boundaries of wilderness areas.
- In interpreting a law, separate meaning must be given to every word; Congress cannot be presumed to be repeating itself.

All this said, we know a great deal about what Hoard Zahniser and the members of Congress who championed the Wilderness Act intended. This may never be needed in court (there have been very few cases involving the Act, as the wording was worked over so intensely that there is little ambiguity), but these clear intentions inform my advocacy and I believe should inform yours and the work of agency wilderness stewards.

Public Law 88-577 (16 U.S. C. 1131-1136)
88th Congress, Second Session
September 3, 1964

---

[1] Gordon Allott (R-CO), *Preservation Wilderness Areas: Hearings before the Committee on Interior and Insular Affairs on S. 2453 and Related Wilderness Bills*, Senate, 92d Cong., 2d sess., May 5, 1972, 1.

[2] This is the "U.S. Code version" of the text of the Wilderness Act, as codified in the

AN ACT[2]

To establish a National Wilderness Preservation System for the permanent good of the whole people, and for other purposes.[3]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SEC. 1. This Act may be cited as the "Wilderness Act".[4]

WILDERNESS SYSTEM ESTABLISHED
STATEMENT OF POLICY

SEC. 2. (a)[5] In order to assure that an increasing population, accompanied by expanding settlement and growing mechanization[6], does not occupy and modify all areas within the United States and its possessions, leaving no lands designated for preservation and protection in their natural condition, it is hereby declared to be the policy of the Congress to secure for the American people of present and future generations the benefits of an enduring resource of wilderness.[7] For this purpose

---

[2] This is the "U.S. Code version" of the text of the Wilderness Act, as codified in the U.S. Code after the law was enacted. In the U.S. Code version, the "date of enactment of this act" refers to the date the law was signed—September 3, 1964.

[3] This wording, the little-read "formal title" of the law, makes plain that Congress preserves wilderness areas "for the *Permanent* Good of the *Whole* People." [emphasis added].

[4] This is the "short title," commonly used with major statutes which have a longer formal title.

[5] In the opening section of this statement of the purpose of the Act, Howard Zahniser lays out in broad terms the major factors in modern society that create pressure that could destroy all wilderness-quality federal lands. His wording was largely unchanged from the first introduction of the legislation in 1956.

[6] Howard Zahniser carefully uses the broader term mechanization to embrace threats to wilderness that include not only motors but also any other form of mechanization, including bicycles [see note for subsection 4(c)].

[7] This wording states the *singular* purpose of the law. This contrasts with the "dual mandate" in the National Park Service organic act of 1916, which the agency has long used to justify zealously guarding their maximizing discretion to expand development within units of the park system, never setting any formal limit on future development. This was a major reason conservationists wanted the Wilderness Act to include units of the park system.

there is hereby established a National Wilderness Preservation System[8] to be composed of federally owned areas designated by Congress as "wilderness areas", and these shall be administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character,[9] and for the gathering and dissemination of information regarding their use and enjoyment as wilderness; and no Federal lands shall be designated as "wilderness areas" except as provided for in this Act or by a subsequent Act.[10]

(b) The inclusion of an area in the National Wilderness Preservation System notwithstanding, the area shall continue to be managed by the Department and agency having jurisdiction thereover immediately before its inclusion in the National Wilderness Preservation System unless otherwise provided by Act of Congress. No appropriation shall be available for the payment of expenses or salaries for the administration of the National Wilderness Preservation System as a separate unit nor shall any appropriations be available for additional personnel stated as being required solely for the purpose of managing or administering areas solely because they are included within the National Wilderness Preservation System.

DEFINITION OF WILDERNESS[11]

---

[8] The concept of a national *system* of wilderness areas, rather than simply a number of individual areas established over the years, may seem obvious now, but is vitally important for the future of wilderness.

[9] It is the goal of the Act to assure the preservation of the "wilderness character" of each wilderness area. This has important implications for how wilderness areas are administered.

[10] An act of Congress is required to designate a new wilderness area or to change the boundary with either an addition, which is common, or a deletion, which has only been done a few times in order to correct minor, unforeseen problems in a boundary location. Securing this protection-and-boundaries-only-by-statutory-law provision was the most important objective of the advocates in the determining of wilderness leaders to get a wilderness law, however long and difficult that effort would be. Senator Richard Neuberger, a cosponsor, said: "[The act would] function as a legislative shield" against development pressures on agency administrators. In an early brochure promoting the bill, conservationists explained: "Our rare, irreplaceable samples of wilderness can be diminished at the will of the administrator, without the sanction of Congress. Under the bill Congress would protect the wilderness interior as well as the boundaries of all dedicated wilderness. This would strengthen the hand of the good administrator and steady the hand of the weak one."

[11] The law contains two definitions of wilderness, this definition of *ideal* wilderness and, following it, a more *practical* definition of wilderness as used in the Act. This

(c) A wilderness, in contrast[12] with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammeled[13] by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this Act an area of undeveloped Federal land retaining its primeval character[14] and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions[15] and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's

---

distinction is very important. Senator Clinton Anderson offered this explanation which, as he was the chairman of the committee that produced the Wilderness Act, is the strongest kind of legislative history: "The first sentence is a definition of pure wilderness areas, where 'the earth and its community of life are untrammeled by man. . . .' It states the ideal. The second sentence defines the meaning or nature of an area of wilderness as used in the proposed act: A substantial area retaining its primeval character, without permanent improvements, which is to be protected and managed so man's works are 'substantially unnoticeable.' The second of these definitions of the term, giving the meaning used in the act, is somewhat less 'severe' or 'pure' than the first." [Statement of Senator Clinton P. Anderson, in Senate Committee on Interior and Insular Affairs, *Wilderness Act: Hearings before the Senate Committee on Interior and Insular Affairs on S. 174*, 87th Cong., 1st sess., February 27–28, 1961, 2.]

[12] *Contrast* is an essential element of the wilderness area—a wilderness area offers a strong contrast to those areas where "man and his own works dominate the landscape."

[13] In a letter to C. Edward Graves on April 25, 1959, Howard Zahniser stated that "The idea within the word "Untrammeled" of [wilderness areas] not being subjected to human controls and manipulations that hamper the free play of natural forces is the distinctive one that seems to make this word the most suitable one for its purpose within the Wilderness Bill.

[14] When he introduced the new revision of the Wilderness Bill In July 1960, Senator James Murray was the lead sponsor and the chairman of the committee handling the bill; his stated intent is definitive legislative history. He carefully explained to the Senate a key word change: "In the opening sentence of the bill change the word "environment" (line 9) to "character" . . . . Explanation: . . . The word "character" is substituted because "environment" might be taken to mean the surroundings of the wilderness rather than the wilderness entity. [S. 3809, 86th Congress. [*Congressional Record*, 86th Cong., 2d sess., July 2, 1960. Vol. 106, pt. 12: 15566.]

[15] This phrasing stresses the "primeval character and influence" of areas of wilderness. Note that the act does not use the word "pristine," which might be thought to carry an implication of an area never touched by human influences.

work substantially unnoticeable;[16] (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation;[17] (3) has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition[18]; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.[19, 20, 21]

---

[16] These modifiers soften the "purity" of the opening clause—a wilderness area "*generally appears* to have been affected *primarily* by the forces of nature, with the imprint of man's work *substantially unnoticeable*" [emphasize added].

[17] These qualities are in the eye of the beholder; they are not specific qualifications required for an area to be designated as wilderness.

[18] This modifier was one of the few changes made in the House-Senate conference committee that worked out the final text of the law in August 1964. It makes clear that areas smaller than 5,000 acres can be designated as wilderness—and many have been.

[19] The agencies criticized the lack of practical precision in the ideal definition in the original bill, saying it would not be practical for application in the field. In response, Zahniser adapted ideas submitted by the Forest Service and this language was added in 1960. The chairman of the Senate committee that approved the bill and its lead Senate sponsor that year, Senator James Murray, said: "The added detail in the definition of wilderness is in response to requests for additional and more concrete details in defining areas of wilderness." [*Congressional Record*, 86th Cong., 2d sess., July 2, 1960. Vol. 106, pt. 12: 15566.]

[20] The two definitions in the Wilderness Act serve a supremely important purpose. The Act embodies a kind of "non-degradation" principle. The ideal definition has an important function. It is not mere congressional poetry. The function of this sentence—with its careful use of the word *untrammeled*—is to define the "ideal" [Senator Anderson], the "essence" [Howard Zahniser] of the wilderness character that it is the duty of agency personnel to protect. It functions, in fact, as the definition of that pivotal phrase *wilderness character*, which is otherwise undefined in the Act. That is why this exercise in close reading of the two definitions is so important. There is a vital logic to this careful structure of the two definitions. Applying the practical criteria of the second sentence in subsection 2(c), the 1964 act itself designated numerous areas with a fading history of the "imprint of man's work." And many other such areas have been designated in subsequent acts of Congress. But however less-than-pure an area may have been when designated, once it is designated, the command of the Act is to preserve the "wilderness character" of the area, restraining man's influences in order that the earth and its community of life are untrammeled by man. *In other words, each wilderness area is administered to come closer and closer to the ideal of being the product of the forces of nature, its community of life untrammeled by man.* That is why Zahniser was so particularly to use the word "untrammeled," not the word "undisturbed".

NATIONAL WILDERNESS PRESERVATION SYSTEM—EXTENT OF SYSTEM[22]

SEC. 3. (a) All areas within the national forests classified at least 30 days before the effective date of this Act by the Secretary of Agriculture or the Chief of the Forest Service as "wilderness", "wild"[23], or "canoe" are hereby designated as wilderness areas.[24], [25] The Secretary of Agriculture shall—

---

[21] Howard Zahniser emphasized that the definition of wilderness was not disconnected from reality, but based on the real world examples of those areas established administratively as "wilderness" and "wild" areas by the Forest Service: "The bill deals with the reality of wilderness which can be administratively defined and inventoried, modeled upon type-specimens which exist and have been classified." [Howard Zahniser to Dr. James Gilligan, December 9, 1960, The Wilderness Society archives.] In botany and zoology, a "type-specimen" is the specimen, or each of a set of specimens, on which the description and name of a new species is based. Most of those areas had fading evidence of old human uses and developments.

[22] This section establishes both the "instant" wilderness areas which received statutory protection the moment the law was signed, and the study requirement procedures for certain categories of roadless lands in the National Park System and National Wildlife Refuge System.

[23] Under Department of Agriculture regulations issued in 1939, "Wild Areas" were those smaller than 100,000 acres. These included three areas in National Forests in the East. The fact that the agency itself had established these on its own administrative initiative proved to be very important as precedents helping wilderness advocates make the case for the correct interpretation of the Wilderness Act when Forest Service leaders argued that because of past development (whether visible or not), no areas in the East could qualify as suitable for wilderness.

[24] These were the fifty-four "wilderness areas" established by the Secretary of Agriculture or the Chief of the Service at least thirty days prior to the date of the Wilderness Act. Totaling some 9,140,000 acres, they became the initial units of statutory wilderness. Congress included the "at least 30 days" language to preclude inclusion of any areas that the executive branch might hurry to establish by administrative order in the final weeks as the legislative paperwork was moving through the procedures of the House and Senate to prepare it for the president's signature.

[25] Senator Church explained that in questions of what kinds of lands qualified as wilderness areas, we should look at the these "instant" statutory wilderness areas, for the reflect the concepts as Congress then interpreted them: "The 'additions [of new wilderness areas], together with the original areas included directly under the 1964 act, provide a wealth of guiding precedents to help us interpret and apply the act in a positive, constructive, flexible manner. The legislative history, too, provides guidance as to the intent of the Congress.'" [Frank Church, *Preservation of Wilderness*

(1) Within one year after the effective date of this Act, file a map and legal description of each wilderness area with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives, and such descriptions shall have the same force and effect as if included in this Act: [26] *Provided, however,* That correction of clerical and typographical errors in such legal descriptions and maps may be made.

(2) Maintain, available to the public, records pertaining to said wilderness areas, including maps and legal descriptions, copies of regulations governing them, copies of public notices of, and reports submitted to Congress regarding pending additions, eliminations, or modifications. Maps, legal descriptions, and regulations pertaining to wilderness areas within their respective jurisdictions also shall be available to the public in the offices of regional foresters, national forest supervisors, and forest rangers.

(b) The Secretary of Agriculture shall, within ten years after September 30, 1964, review, as to its suitability or nonsuitability for preservation as wilderness, each area in the national forests classified on September 3, 1964, by the Secretary of Agriculture or the Chief of the Forest Service as "primitive" and report his findings to the President.[27] The President shall advise the United States Senate and House of Representatives of his recommendations with respect to the designation as "wilderness" or other reclassification of each area on which review has been completed, together with maps and a definition of boundaries. Such advice shall be given with respect to not less than one-third of all the areas now classified as

---

Areas, Hearing before the Subcommittee on Public Lands, Committee on Interior and Insular Affairs, U.S. Senate, May 5, 1972, 62.]

[26] This is the official boundary map for each wilderness area. By effect of this language, the boundary line is itself made part of the statute. That means that just as only Congress can designate a wilderness area, only Congress can alter its boundaries once set by Congress. This is very important. Having rebelled to throw off the tyranny of the Crown and parliament, in Article III of the Constitution, the Founders designed our legislative system to discourage passage of laws. Therefore, the burden of proof is entirely on those wishing to pass a new law or amend an existing one. In terms of wilderness, this means it is very hard to get an area designated—but once an area has been, the burden of proof is deliberately shifted to anyone who may *ever* advocate that a wilderness boundary be altered, no matter by how small an extent. It is very easy to block legislation (as the history of the Wilderness Bill illustrates), so if a boundary alternation is ever proposed that wilderness advocates oppose, they will have little difficulty blocking it.

[27] These were the 34 “primitive areas” that the Forest Service established before 1940 by administrative order and which had not yet gone through the restudy process and been reclassified as “wilderness” before the Act was signed.

"primitive" within three years after September 3, 1964, not less than two-thirds within seven years after September 3, 1964, and the remaining areas within ten years after September 3, 1964. Each recommendation of the President for designation as "wilderness" shall become effective only if so provided by an Act of Congress. Areas classified as "primitive" on September 3, 1964, shall continue to be administered under the rules and regulations affecting such areas on September 3, 1964, until Congress has determined otherwise.[28] Any such area may be increased in size by the President at the time he submits his recommendation to the Congress by not more than five thousand acres with no more than one thousand two hundred and eighty acres of such increase in any one compact unit; if it is proposed to increase the size of any such area by more than five thousand acres or by more than one thousand two hundred and eighty acres in any one compact unit the increase in size shall not become effective until acted upon by Congress. Nothing herein contained shall limit the President in proposing, as part of his recommendations to Congress, the alteration of existing boundaries of primitive areas or recommending the addition of any contiguous area of national forest lands predominantly of wilderness value.[29] Not withstanding any other provisions of this Act, the Secretary of Agriculture may complete his review and delete such area as may be necessary, but not to exceed seven thousand acres, from the southern tip of the Gore Range-Eagles Nest Primitive Area, Colorado, if the Secretary determines that such action is in the public interest.[30]

---

[28] This sentence assures that lands within each primitive area will be preserved *as wilderness* until Congress either designates them or removes them from the "primitive area." This is *perpetual* protection until Congress acts one way or the other. The studies were completed and the presidential recommendations sent to Congress by the ten year deadline, and Congress has acted on all of the recommendations, designating new wilderness areas or additions to exiting areas—except for the 173,762-acre Arizona portion of the Blue Range Primitive Area in northeastern Arizona, which was not designated wilderness when the New Mexico portion was designated as the Aldo Leopold Wilderness in 1976, and thus remains the Blue Range Primitive Area. Because it already has full statutory protection, getting it retitled wilderness has not been a priority for action by Arizona wilderness advocates. As a result of a federal appeals court decision and Forest Service policy, all contiguous federal lands that are roadless have the same protection!

[29] Under this authority, the president commonly recommended significant increases in the size of areas proposed for designation and, upon his recommendation they gained interim protection until Congress acted. Under an a federal appeals court decision, the contiguous roadless lands are also protected.

[30] This involved alternatives then under consideration for routing Interstate 70 near Vail, Colorado. Ultimately, the Secretary of Agriculture chose the other route, which is closer to Vail itself, and the alternative that would have invaded the

(c) Within ten years after September 3, 1964, the Secretary of the Interior shall review every roadless area of five thousand contiguous acres or more in the national parks, monuments and other units of the national park system and every such area of, and every roadless island[31] within, the national wildlife refuges and game ranges, under his jurisdiction on September 3, 1964, and shall report to the President his recommendation as to the suitability or nonsuitability of each such area or island for preservation as wilderness. The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendation with respect to the designation as wilderness of each such area or island on which review has been completed, together with a map thereof and a definition of its boundaries. Such advice shall be given with respect to not less than one-third of the areas and islands to be reviewed under this subsection within three years after September 3, 1964, not less than two-thirds within seven years of September 3, 1964, and the remainder within ten years of September 3, 1964. A recommendation of the President for designation as wilderness shall become effective only if so provided by an Act of Congress. Nothing contained herein shall, by implication or otherwise, be construed to lessen the present statutory authority of the Secretary of the Interior with respect to the maintenance of roadless areas within units of the national park system.

(d)

> (1) The Secretary of Agriculture and the Secretary of the Interior shall, prior to submitting any recommendations to the President with respect to the suitability of any area for preservation as wilderness --

---

primitive area was not necessary. The area involved is now part of the 133,471-acre Eagles Nest Wilderness designated in 1976.

[31] Inclusion of these two words resulted in the study and designation of many islands within the National Wildlife Refuge System as wilderness. As a result of the formal statutory interpretation in the Department of the Interior's regulations adopted to implement this provision, "roadless island" was defined as: "a roadless area that is surrounded by permanent waters or that is markedly distinguished from surrounding lands by topographical or ecological features such as precipices, canyons, thickets, or swamps." [43 CFR §19.2(f)]. This interpretation was the work of the Solicitor of the Department, Frank Barry, a close friend of Secretary of the Interior Stewart Udall. This definition extended the reach of the study requirement to many areas, including the Great Swamp National Wildlife Refuge, which became the first Interior Department area designated as wilderness. That interpretation was then applied when this study language was applied to roadless lands administered by the Bureau of Land Management in 1976: "As used in this subpart, the term . . . Wilderness Study Area means a roadless area of 5,000 acres or more or roadless islands which have been found through the Bureau of Land Management wilderness inventory process to have wilderness characteristics (thus having the potential of being included in the National Wilderness Preservation System) . . . . [43. CFR § 3802.0-5(c)]

(A) give such public notice of the proposed action as they deem appropriate, including publication in the Federal Register and in a newspaper having general circulation in the area or areas in the vicinity of the affected land;

(B) hold a public hearing or hearings at a location or locations convenient to the area affected. The hearings shall be announced through such means as the respective Secretaries involved deem appropriate, including notices in the Federal Register and in newspapers of general circulation in the area: *Provided*, That if the lands involved are located in more than one State, at least one hearing shall be held in each State in which a portion of the land lies;[32]

(C) at least thirty days before the date of a hearing advise the Governor of each State and the governing board of each county, or in Alaska the borough, in which the lands are located, and Federal departments and agencies concerned, and invite such officials and Federal agencies to submit their views on the proposed action at the hearing or by not later than thirty days following the date of the hearing.

(2) Any views submitted to the appropriate Secretary under the provisions of (1) of this subsection with respect to any area shall be included with any recommendations to the President and to Congress with respect to such area.

(e) Any modification or adjustment of boundaries of any wilderness area shall be recommended by the appropriate Secretary after public notice of such proposal and public hearing or hearings as provided on subsection (d) of this section. The proposed modification or adjustment shall then be recommended with map and description thereof to the President. The President shall advise the United States Senate and the House of Representatives of his recommendations with respect to such modification or adjustment and such recommendations shall become effective only on the same manner as provided for in subsections (b) and (c) of this section.[33]

---

[32] This is the first time any public hearings were required in decisions being considered by federal land management agencies, six years before the National Environmental Policy Act of 1970 adopted strong public participation requirements for decisions on all major federal, including consideration of proposed wilderness areas.

[33] This wording implements the policy that only Congress can change the boundary of a statutorily designated wilderness area.

USE OF WILDERNESS AREAS[34]

Sec. 4. (a) The purposes of this Act are hereby declared to be within and supplemental to the purposes for which national forests and units of the national park and national wildlife refuge systems are established and administered and—[35]

(1) Nothing in this Act shall be deemed to be in interference with the purpose for which national forests are established as set forth in the Act of June 4, 1897 (30 Stat. 11), and the Multiple Use Sustained-Yield Act of June 12, 1960 (74 Stat. 215).

(2) Nothing in this Act shall modify the restrictions and provisions of the Shipstead-Nolan Act (Public Law 539, Seventy-first Congress, July 10, 1930; 46 Stat. 1020), the Thye-Blatnik Act (Public Law 733, Eightieth Congress, June 22, 1948; 62 Stat. 568), and the Humphrey-Thye-Blatnik-Andersen Act (Public Law 607, Eighty-fourth Congress, June 22, 1965; 70 Stat. 326), as applying to the Superior National Forest or the regulations of the Secretary of Agriculture.[36]

(3) Nothing in this Act shall modify the statutory authority under which units of the national park system are created. *Further*, the designation of any area of any park, monument, or other unit of the national park system as a wilderness area pursuant to this Act shall in no manner lower the standards evolved for the use and preservation of such park, monument, or other unit of the national park system in accordance with the Act of August 25, 1916, the statutory authority under which the area was created, or any other Act of Congress which might pertain to or affect such area, including, but not limited to, the Act of June 8, 1906 (34 Stat. 225; 16 U.S.C. 432 et seq.); section 3(2) of the Federal Power Act (16 U.S.C. 796 (2)); and the Act of August 21,1935 (49 Stat. 666; 16 U.S.C. 461 et seq.).[37]

---

[34] This section sets out the requirements by which the federal land management agencies are to administer wilderness areas and the rules for what public uses are permitted.

[35] These are "savings clauses" to assure interested parties, such as the agency involved or local governments, that nothing in this law alters earlier laws establishing their units of federal conservation land.

[36] This savings clause kept in place earlier laws that had protected portions of the Boundary Waters Canoe Area along the northern Minnesota border, including allowance of motorboats on some lakes within the area.

[37] This wording responds to concern of the National Park Service about diminishment of the standards for protection of the portions of units of that system that are not designated as wilderness. This argument had been part of the

(b)[38] Except as otherwise provided in this Act, each agency administering any area designated as wilderness shall be responsible for preserving the wilderness character of the area and shall so administer such area for such other purposes for which it may have been established as also to preserve its wilderness character.[39] Except as otherwise provided in this Act, wilderness areas shall be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use.

PROHIBITION OF CERTAIN USES[40]

(c) Except as specifically provided for in this Act, and subject to existing private rights, there shall be no commercial enterprise and no permanent road within any wilderness area designated by this Act[41] and, except as necessary to meet minimum requirements for the administration of the area for the purpose[42] of this Act (including measures required in emergencies involving the health and safety of persons within the area)[43], there shall be no temporary road, no use of motor

---

smokescreen raised by National Park Service leaders in the second half of the 1950s as they sought to block the Wilderness Bill.

[38] This is the master provision governing uses of wilderness areas, both by the public and the administering agency.

[39] This refers back to the wording in section 2(b) which, in effect, defines the phrase "wilderness character." While it does not say so in so many words, I believe—and ample precedents now confirm—that if an area is less than "primeval" when it is designated, which is often the case, the agency is required to manage it to become *wilder*, relying on natural forces rather than human attempts at ecological manipulation.

[40] This subsection applies to uses not allowed by visitors in wilderness areas, but which may be used by agency personnel under carefully limited conditions.

[41] These two named uses are flatly prohibited in wilderness areas, to the pubic and agency personnel.

[42] Again, note that the Act has only one purpose—to preserve an enduring resource of wilderness.

[43] The classic argument some make for building roads into wilderness is to deal with *emergencies involving health and safety of persons in the wilderness*. But this language in the Wilderness Act expressly allows for1212emergency access. When Northern Minnesota was hit by an extraordinary windstorm over the 4th of July weekend of 1999, winds topped 120 miles per hour, damaging 375,800 acres within the Boundary Waters Canoe Area Wilderness. The Forest Service knew there were many people in the wilderness, but they had no idea where they were when the storm hit. Emergency response began immediately under this Wilderness Act

vehicles, motorized equipment[44] or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.[45]

SPECIAL PROVISIONS[46]

(d) The following special provisions are hereby made:

(1) Within wilderness areas designated by this Act the use of aircraft or motorboats, where these uses have already become established, may be

---

provision. On July 14 the regional forester signed an order lifting restrictions on chainsaws for two years to get the system of trails and portages reopened. Incredibly, no one was killed. [See Jim Cordes, *Our Wounded Wilderness: The Great Boundary Waters Canoe Area Wilderness Storm* (Forest Lake and North Branch: Menne Printing & Graphics, Inc., 2nd edition, 2001), i, 18.] The book reprints the regional forester's approval memo, 18.] This exception also allowed use of a helicopter to remove a dead body, a precedent established when the Forest Service refused to allow a helicopter to remove the body of a young man who died in the Three Sisters Wilderness—with his distraught parents waiting at the nearest road—until a senator quickly straightened the Forest Service out.

[44] At one time it was alleged that any agency use mechanical equipment such as chainsaws or bulldozers to fight fire required approval of the regional forester and that this caused unreasonable delays that could endangered human life, perhaps when the regional forester could not be reached. That is untrue; regional foresters and forest supervisors *always* delegate their authorities to an acting official when they are unreachable. In testimony before Congress, a retired State of California fire battalion chief debunked this as well: "I was able to set some minds at rest about another myth—that somehow preserving wilderness areas and protecting communities from wildfire are clashing goals. As a State of California wildland fire boss, I led fast action to stop fires, including in wilderness areas, and we had every tool available to use, from air tanker drops to bulldozers to chainsaws."

[45] These uses are prohibited to be the public. This wording is the basis for the "minimum tool" process by which the agencies determine whether a proposed action they wish to take or a structure or installation they wish to install or maintain is the *minimum necessary*. At a 1972 hearing, Senator Frank Church explained: "We intend to permit the managing agencies a reasonable and necessary latitude in such activities within wilderness where the purpose is protect wilderness, its resources, and the public visitors within the area—all of which are consistent with "the purpose of the Act. The issue is not whether necessary management facilities and activities are prohibited, they are not—the test is whether they are in fact necessary." [*Preservation of Wilderness Areas*, Hearing before the Subcommittee on Public Lands, Committee on Interior and Insular affairs, U. S. Senate, May 5, 1972, 61-62.]

[46] Beyond the general rules, there are special circumstances and issues, which are addressed by the following paragraphs.

permitted to continue subject to such restrictions as the Secretary of Agriculture deems desirable.[47] In addition, such measures may be taken as may be necessary in the control of fire, insects, and diseases, subject to such conditions as the Secretary deems desirable.[48]

(2) Nothing in this Act shall prevent within national forest wilderness areas any activity, including prospecting, for the purpose of gathering information about mineral or other resources, if such activity is carried on in a manner compatible with the preservation of the wilderness environment. Furthermore, in accordance with such program as the Secretary of the Interior shall develop and conduct in consultation with the Secretary of Agriculture, such areas shall be surveyed on a planned, recurring basis consistent with the concept of wilderness preservation by the Geological Survey and the Bureau of Mines to determine the mineral values, if any, that may be present; and the results of such surveys shall be made available to the public and submitted to the President and Congress.

(3) Not withstanding any other provisions of this Act, until midnight December 31, 1983, the United States mining laws and all laws pertaining to mineral leasing shall, to the extent as applicable prior to September 3, 1964, extend to those national forest lands designated by this Act as "wilderness areas"; subject, however, to such reasonable regulations governing ingress and egress as may be prescribed by the Secretary of Agriculture consistent with the use of the land for mineral location and development and exploration, drilling, and production, and use of land for transmission lines, waterlines, telephone lines, or facilities necessary in exploring, drilling, producing, mining, and processing operations, including where essential the use of mechanized ground or air equipment and restoration as near as practicable of the surface of the land disturbed in performing prospecting, location, and , in oil and gas leasing, discovery work, exploration, drilling, and

---

[47] Considerable discretion is given to the administrators of wilderness areas to a adopt restrictions on public landing of aircraft and use of motor vehicles within a wilderness area if that motorized use had been established before the area was designated as wilderness. Because land owners, including the wilderness management agencies, haveno jurisdiction over airspace above their lands, aircraft flights over wilderness areas are unaffected—except in the case of the 100,000-acre core of the Boundary Waters Canoe Area Wilderness where President Truman established a 4,000-foot ceiling below which planes may not fly, including floatplanes. The FAA does show recommended minimum altitudes on its air navigation charts used by private pilots.

[48] This language allows the agencies to control plant and animal disease, and wild fire. *There is no restriction of fighting wildfire in wilderness areas*, though fire bosses are trained to attempt to minimize the impact of the fire fighting if those efforts do not endanger life or property, including the danger of fire getting beyond the wilderness area boundary.

production, as soon as they have served their purpose. Mining locations lying within the boundaries of said wilderness areas shall be held and used solely for mining or processing operations and uses reasonably incident thereto; and hereafter, subject to valid existing rights, all patents issued under the mining laws of the United States affecting national forest lands designated by this Act as wilderness areas shall convey title to the mineral deposits within the claim, together with the right to cut and use so much of the mature timber therefrom as may be needed in the extraction, removal, and beneficiation of the mineral deposits, if needed timber is not otherwise reasonably available, and if the timber is cut under sound principles of forest management as defined by the national forest rules and regulations, but each such patent shall reserve to the United States all title in or to the surface of the lands and products thereof, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining or prospecting shall be allowed except as otherwise expressly provided in this Act: *Provided, That*, unless hereafter specifically authorized, no patent within wilderness areas designated by this Act shall issue after December 31, 1983, except for the valid claims existing on or before December 31, 1983. Mining claims located after September 3, 1964, within the boundaries of wilderness areas designated by this Act shall create no rights in excess of those rights which may be patented under the provisions of this subsection. Mineral leases, permits, and licenses covering lands within national forest wilderness areas designated by this Act shall contain such reasonable stipulations as may be prescribed by the Secretary of Agriculture for the protection of the wilderness character of the land consistent with the use of the land for the purposes for which they are leased, permitted, or licensed. Subject to valid rights then existing, effective January 1, 1984, the minerals in lands designated by this Act as wilderness areas are withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.[49]

(4) Within wilderness areas in the national forests designated by this Act, (1) the President may, within a specific area and in accordance with such regulations as he may deem desirable, authorize prospecting for water resources, the establishment and maintenance of reservoirs, water-conservation works, power projects, transmission lines, and other facilities needed in the public interest, including the road construction and maintenance essential to development and use thereof, upon his

---

[49] These provisions allow continue prospecting for minerals and oil and gas leasing and provide that if the owner of a *valid claim* wishes to mine, he may do so. This was thought to be the biggest defeat for conservationists in the final decisions on the Wilderness Act. To the contrary, I know of no place where any new mining has occurred within a designated wilderness. This is not true, however, for oil and gas leasing, which is common in national forest and Bureau of Land Management wilderness areas.

determination that such use or uses in the specific area will better serve the interests of the United States and the people thereof than will its denial[50]; and (2) the grazing of livestock, where established prior to September 3, 1964, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture.[51]

(5) Other provisions of this Act to the contrary notwithstanding, the management of the Boundary Waters Canoe Area, formerly designated as the Superior, Little Indian Sioux, and Caribou Roadless Areas, in the Superior National Forest, Minnesota, shall be in accordance with the general purpose of maintaining, without unnecessary restrictions on other uses, including that of timber, the primitive character of the area, particularly in the vicinity of lakes, streams, and portages: *Provided*, That nothing in this Act shall preclude the continuance within the area of any already established use of motorboats.[52]

---

[50] This language permits development of dams and related facilities within national forest wilderness areas. None have been established. Realistically, those large dams that were going to be built in the West have been built; modern environmental laws and opposition from groups favoring free-flowing rivers would certainly preclude any new ones—not that western water groups and politicians don't keep trying to "bring home the bacon" with less dramatic water projects.

[51] Grazing by domestic livestock is widespread on federal lands in the West, including within wilderness areas administered by the Forest Service and the Bureau of Land Management and is heavily subsidized by the taxpayers. Ranchers view this as their *right*, but it is not—grazing on public lands is only a *privilege* to use these lands. However, the value of a grazing permit, which can be considerable, does figure in the valuation of ranches in western real estate deals, so there is a legitimate issue of economic loss if the grazing associated that a ranch were to be terminated (which is not politically feasible in any case). Continued concern by ranchers who opposed new wilderness designations led Congress to write the "Congressional Grazing Guidelines" setting out more detail of grazing management issues—assuring use of motorized vehicles by ranchers to deliver emergency winter feed, for example. Congress required that these guidelines be added to the agencies manuals, which have the force of regulation. Nonetheless, many ranchers stubbornly refuse to understand that they have these special privileges and reflexively oppose wilderness, when their privilege is more strongly protected within wilderness areas, rather than on non-wilderness public lands.

[52] This provision continued logging via access over frozen lakes and motorboat use on certain lakes within the Boundary Waters Canoe Area as it existed when the Wilderness Act was signed. This provision was replaced by new language in the 1978 Boundary Waters Canoe Area Wilderness Act, terminating the logging and removed motors from many additional lakes.

(6) Commercial services may be performed within the wilderness areas designated by this Act to the extent necessary for activities which are proper for realizing the recreational or other wilderness purposes of the areas.[53]

(7) Nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.[54]

(8) Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish in the national forests.[55]

STATE AND PRIVATE LANDS WITHIN WILDERNESS AREAS

Sec. 5. (a) In any case where State-owned or privately owned land is completely surrounded by national forest lands within areas designated by this Act as wilderness, such State or private owner shall be given such rights as may be necessary to assure adequate access to such State-owned or privately owned land by such State or private owner and their successors in interest, or the State-owned land or privately owned land shall be exchanged for federally owned land in the same State of approximately equal value under authorities available to the Secretary of Agriculture: *Provided, however*, That the United States shall not transfer to a state or private owner any mineral interests unless the State or private owner relinquishes or causes to be relinquished to the United States the mineral interest in the surrounded land.

(b) In any case where valid mining claims or other valid occupancies are wholly within a designated national forest wilderness area, the Secretary of Agriculture shall, by reasonable regulations consistent with the preservation of the area as wilderness, permit ingress and egress to such surrounded areas by means which have been or are being customarily enjoyed with respect to other such areas similarly situated.[56]

---

[53] "Commercial services" (such as the services of guides and outfitters headquartered outside the boundaries) are distinct from "commercial enterprises" (such as logging) which are flatly prohibited by subsection 4(c). This includes logging.

[54] The Wilderness Act is neutral regarding questions of water law, which is a highly contentious issue in the West and zealously guarded by the States.

[55] The states are fiercely jealous of their exclusive jurisdiction over wildlife, including on federal lands. This language assures that the law is neutral on this topic.

[56] These two subsections assure owners of "inholdings" entirely surrounded by wilderness reasonable access. This need not be a road unless there is existing road access. Where there is not, only whatever form of access has been customary is allowed. The Wilderness Land Trust works with owners to acquire such inholdings

(c) Subject to the appropriation of funds by Congress, the Secretary of Agriculture is authorized to acquire privately owned land within the perimeter of any area designated by this Act as wilderness if (1) the owner concurs in such acquisition or (2) the acquisition is specifically authorized by Congress.

GIFTS, BEQUESTS, AND CONTRIBUTIONS

Sec. 6. (a) The Secretary of Agriculture may accept gifts or bequests of land within wilderness areas designated by this Act for preservation as wilderness. The Secretary of Agriculture may also accept gifts or bequests of land adjacent to wilderness areas designated by this Act for preservation as wilderness if he has given sixty days advance notice thereof to the President of the Senate and the Speaker of the House of Representatives. Land accepted by the Secretary of Agriculture under this section shall become part of the wilderness area involved. Regulations with regard to any such land may be in accordance with such agreements, consistent with the policy of this Act, as are made at the time of such gift, or such conditions, consistent with such policy, as may be included in, and accepted with, such bequest.[57]

(b) The Secretary of Agriculture or the Secretary of the Interior is authorized to accept private contributions and gifts to be used to further the purpose of this Act.[58]

ANNUAL REPORTS

Sec. 7. At the opening of each session of Congress, the Secretaries of Agriculture and Interior shall jointly report to the President for transmission to Congress on the status of the wilderness system, including a list and descriptions of the areas in the system, regulations in effect, and other pertinent information, together with any recommendations they may care to make.[59]

- - - - -

---

on a well-seller basis for transfer to federal ownership, which means they are automatically protected just as is the surrounding wilderness.

[57] If the owner of an inholding *donates* his property to the federal government, it can be accepted by the government if notice is given to the House and Senate and neither objects by formal resolution within sixty days. This has occurred a few times. In this case, the land becomes wilderness automatically.

[58] Individuals and corporate owners may make gifts in furtherance of the purpose of the Wilderness Act and these are tax–deductible in accordance with law.

[59] This provision was one of a long list of annual report requirements repealed by the Federal Reports Elimination and Sunset Act of 1995 [109 Stat. 707].

Eastern Wilderness Areas Act

EASTERN WILDERNESS AREAS ACT OF 1975[60]

Public Law 93-622

January 3, 1975

AN ACT

To further the purposes of the Wilderness Act by designating certain acquired lands for inclusion in the National Wilderness Preservation System, to provide for study of certain additional lands for such inclusion, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled,

STATEMENT OF FINDINGS AND POLICY

Sec. 2[61]. (a) The Congress finds that—

(1) in the more populous eastern half of the United States there is an urgent need to identify, study, designate, and preserve areas for addition to the National Wilderness Preservation System;

(2) in recognition of this urgent need, certain areas in the national forest system in the eastern half of the United States were designated by Congress as wilderness in the Wilderness Act (78 Stat. 890); certain areas of the national wildlife refuge system in the eastern half of the United States have been designated by the Congress as wilderness or recommended by the President for such designation, and certain areas in the national park system in the

---

[60] The title of the law emphasizes the word "Areas" to make clear that it is not "Eastern Wilderness Act," which would have implied that areas in the East would not qualify as suitable for wilderness under the Wilderness Act—which was the whole point of the struggle between the Forest Service in wilderness advocates in the early 1970s.

[61] The text of the bill begins with "Sec. 2," which is not as it should be. There *was* a Sec. 1 in the bill as it passed the Senate, and in the bill as it was approved by the House committee and sent to the House floor—and that was declared the name to be the "Eastern Wilderness Areas Act." The bill came to the House floor for debate in the hectic final hours of that Congress, along with many other bills—in an era when "cut and paste" literally meant that a clerk cut-out and pasted any changes. In a clear error, the short title fell to the cutting room floor. And so, despite the clear intent, the bill was enacted without this error being noticed and corrected, as evidenced by the fact that the law still begins with "Sec. 2." Given the documentation of the congressional intent, the title Eastern Wilderness *Areas* Act is the appropriate and correct short title and is used in official sources, notably wilderness.net.

eastern half of the United States have been recommended by the President for designation as wilderness;[62] and

(3) additional areas of wilderness in the more populous eastern half of the United States are increasingly threatened by the pressures of a growing and more mobile population, large-scale industry and economic growth, and development and uses inconsistent with the protection, maintenance, and enhancement of the areas' wilderness character.[63]

(b) Therefore, the Congress finds and declares that it is in the national interest that these and similar areas in the eastern half of the United States by promptly designated as wilderness[64] within the National Wilderness Preservation System, in order to preserve such areas an enduring resource of wilderness which shall be managed to promote and perpetuate the wilderness character of the land and its specific values of solitude, physical and mental challenge, scientific study, inspiration, and primitive recreation for the benefit of all the American people of present and future generations.[65]

- - - - -

FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976[66]

Public Law 94-579
(94the Congress, 2nd session)
October 21, 1976

[Section 603 is codified as 43 U.S.C. 1782]

---

[62] As a matter of legislative strategy, this provision recites the consistent record by which areas in the lands of all four federal conservation areas in the East had previously been designated as wilderness by Congress.

[63] This language goes beyond the wording of the Wilderness Act to specify additional kinds of threats and pressures making it urgent that Congress protect more wilderness areas in the East.

[64] The law designated 207,000 acres in fifteen new wilderness areas in thirteen states, as well as seventeen wilderness study areas.

[65] This provision clarifies that there are additional areas that are equally suitable for designation as wilderness. According to judicial decisions, language of these kinds of congressional findings do not have the force of law, but they are a powerful signal to the agencies of how Congress expects them to interpret the Wilderness Act in its application to judging the suitability of lands in the East.

[66] Even before the Wilderness Act became law, it was apparent that leaving out the vast public domain lands administered by the Bureau of Land Management was a serious gap in the basic architecture of the National Wilderness Preservation System.

Sec. 603. (a) Within fifteen years after the date of approval of this Act [October 21, 1976], the Secretary shall review those roadless areas of five thousand acres or more and roadless islands of the public lands, identified during the inventory required by section 201(a) of this Act as having wilderness characteristics described in the Wilderness Act of September 3, 1964 (78 Stat. 890; 16 U.S.C. 1131 et seq.) and shall from time to time report to the President his recommendation as to the suitability or nonsuitability of each such area or island for preservation as wilderness: *Provided,* That prior to any recommendations for the designation of an area as wilderness the Secretary shall cause mineral surveys to be conducted by the United States Geological Survey and the United States Bureau of Mines to determine the mineral values, if any, that may be present in such areas: *Provided further,* That the Secretary shall report to the President by July 1, 1980, his recommendations on those areas which the Secretary has prior to November 1, 1975, formally identified as natural or primitive areas. The review required by this subsection shall be conducted in accordance with the procedure specified in section 3(d) of the Wilderness Act.

(b) The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations with respect to designation as wilderness of each such area, together with a map thereof and a definition of its boundaries. Such advice by the President shall be given within two years of the receipt of each report from the Secretary. A recommendation of the President for designation as wilderness shall become effective only if so provided by an Act of Congress.

(c) During the period of review of such areas and until Congress has determined otherwise, the Secretary shall continue to manage such lands according to his authority under this Act and other applicable law in a manner so as not to impair the suitability of such areas for preservation as wilderness, subject, however, to the continuation of existing mining and grazing uses and mineral leasing in the manner and degree in which the same was being conducted on the date of approval of this Act [October 21, 1976]: *Provided,* That, in managing the public lands the Secretary shall by regulation or otherwise take any action required to prevent unnecessary or undue degradation of the lands and their resources or to afford environmental protection. Unless previously withdrawn from appropriation under the mining laws, such lands shall continue to be subject to such appropriation during the period of review unless withdrawn by the Secretary under the procedures of section 204 this Act for reasons other than preservation of their wilderness character. Once an area has been designated for preservation as wilderness, the provisions of the Wilderness Act which apply to national forest wilderness areas shall apply with respect to the administration and use of such designated area, including mineral surveys required by section 4(d)(2) of the Wilderness Act, and mineral

development, access, exchange of lands, and ingress and egress for mining claimants and occupants.[67]

- - - - -

AMERICANS WITH DISABILITIES ACT of 1990

This version is from the

Americans with Disabilities Act Amendments Act of 2008

P.L. 110-325

Effective on January 1, 2009

[Section 507 is codified as 42 U.S.C. 12207][68]

Sec. 507. Federal wilderness areas

(a) Study

The National Council on Disability shall conduct a study and report on the effect that wilderness designations and wilderness land management practices have on the ability of individuals with disabilities to use and enjoy the National Wilderness Preservation System as established under the Wilderness Act (16 U.S.C. 1131 et seq.).

(b) Submission of report

Not later than 1 year after July 26, 1990, the National Council on Disability shall submit the report required under subsection (a) of this section to Congress.

(c) Specific wilderness access

(1) In general

Congress reaffirms that nothing in the Wilderness Act (16 U.S.C. 1131 et seq.) is to be construed as prohibiting the use of a wheelchair in a wilderness area by an individual whose disability requires use of a wheelchair, and consistent with the Wilderness Act no agency is required to provide any form of special treatment or accommodation, or to construct any facilities or modify any conditions of lands within a wilderness area in order to facilitate such use.

(2) "Wheelchair" defined

---

[67] This is even more explicit interim protection for BLM lands established as "wilderness study areas" than the Wilderness Act provided for national forest "primitive areas"—that is, the wilderness suitability of these areas is protected by law for however long it may take for Congress to act, conceivably even forever.

[68] The 2009 amendments involved other features of the 1990 law and did not effect the wording of the wilderness section.

For purposes of paragraph (1), the term "wheelchair" means a device designed solely for use by a mobility-impaired person for locomotion, that is suitable for use in an indoor pedestrian area.

NOTE ON INTERPRETING AND APPLYING THE WILDERNESS ACT

Allowing Certain Uses That Do Not Conform to the Wilderness Ideal Are Allowed

[In his most important wilderness article, Bob Marshall noted "certain infringements on the concept of an unsullied wilderness will be unavoidable in almost all instances. . . . but . . . the basic primitive quality still exists: dependence on personal effort for survival." In 1949 Howard Zahniser expanded on this point, explaining the philosophy with which he later approached drafting the Wilderness Bill.

Where considerations of expediency or recognition of existing practices have permitted inconsistent wilderness use—such, for example, as domestic stock grazing within designated wilderness areas in the national forest system—such uses should be recognized as non-conforming and looked upon as subject to termination as soon as this can be done and done equitably for those immediately concerned. Such non-conforming uses should be permitted only when their temporary sufferance appears to be a means of insuring future values of the area."[69]

Use of Wilderness Areas by Handicapped Individuals

Individuals with handicaps are welcome to use wilderness areas. A number of nonprofit organizations plan trips designed to facilitate this opportunity for disabled visitors. In 1990 Congress included a provision in the Americans with Disabilities Act interpreting the Wilderness Act to assure that this use is welcome, including certain kinds of wheelchairs, notwithstanding the general prohibition of any form of transport with wheels. See Appendix II for the wording of this provision. Like the National Park Service official quotes in this article, the other agencies administering wilderness areas have handicapped user specialists.

The New York Times - 1988

SOMEWHERE on the Colorado River, slipping fast as quicksilver over the roiling, muddy rapids in the barren depths of the world's deepest canyon,

---

[69] Howard Zahniser, "A Statement on Wilderness Preservation in Reply to a Questionnaire" [submitted to the Legislative Reference Service, Library of Congress], March 1, 1949, reprinted in National Wilderness Preservation Act, Hearings before the Committee on Interior and Insular Affairs, U.S. Senate (85th Congress, 1st session), June 19-20, 1957: 192.

Stephen E. Stone experienced an epiphany given to relatively few disabled people but one that John Muir might have appreciated.

''You feel removed from the trials and tribulations of humanity,'' said Mr. Stone, a quadriplegic and a National Park Service naturalist. ''The concrete, asphalt, day-to-day hustle of the civilized world is far removed.''

The rafting trip in 1980 was part of Mr. Stone's job as handicapped consultant with the park service. Paralyzed from the chest down in a car accident in San Francisco when he was 18, Mr. Stone, an insect biologist, was hired in 1979 by the service as part of an incipient push to open the country's 348 parks to those who do not have the use of all their limbs and senses.

* * *

But the service's most vocal fans acknowledge that it will be years before all buildings and trails are modified. Smaller parks are generally far behind larger ones, and more has been done to remove barriers to wheelchairs than to help the deaf and blind.

* * *

Officials say that under present policy the wilderness remains inaccessible to all but the hardiest disabled people, and park officials say they must balance the rights of the handicapped against preserving the wild.

''You have a mandate for making things accessible and another mandate to protect the wilderness,'' said David Park, chief of the Special Population Division of the park service. ''You're restricted as to what you can do in wilderness areas. We're not going to go into virgin wilderness and put in hard surfaces just for the sake of accessibility.''

* * *

At Rocky Mountain National Park and Everglades National Park, there are accessible campsites deep in backcountry wilderness that five years ago would have been unreachable for people in wheelchairs.

''Five years ago the awareness just wasn't there,'' said Shirley Beccue, a paraplegic who is in charge of accessibility in Everglades National Park. ''More and more disabled people are not only expecting to find facilities but questioning why they aren't there.''[70]

---

[70] James C. McKinley, “Easing Access for Disabled Visitors,” *The New York Times*, April 17, 1988, http://www.nytimes.com/1988/04/17/travel/easing-access-for-disabled-visitors.html?pagewanted=all&src=pm (October 2013).