

The Wilderness Act and Subsequent Legislation - An Overview

Introduction

The Wilderness Act is a vision of a “wilderness forever future” protected by law. It is the result of a community of visionary conservationists including Aldo Leopold who penned the land ethic, Benton McKaye who envisioned the Appalachian Trail, Bob Marshall who established the Wilderness Society, and Howard Zahniser who was the primary author and advocate of the wilderness legislation. These people, and many others, contributed to the vision of a system of wild lands protected with the most permanent protection our country can give to its public lands. The National Park Service now has the responsibility to preserve their vision of wilderness for the future.

As part of its stewardship of wilderness, the National Park Service is responsible for interpreting wilderness. It is incumbent upon National Park Service employees to understand the Wilderness Act, along with subsequent wilderness legislation. The Wilderness Act gives meaning to a park’s designated wilderness and gives staff direction in interpreting and managing the wilderness. Knowledge of the Wilderness Act is necessary to successfully communicate to the public the meaning and significance of wilderness.

Familiarity with both the legislation designating a specific park wilderness will give NPS staff a strong base on which to develop wilderness education programs. For example, wilderness designated by the Alaska National Interest Lands Conservation Act (ANILCA) has distinct differences from other NPS-designated wilderness. Along with an understanding of the Wilderness Act, Alaska parks will need to apply the appropriate sections of ANILCA to their management and interpretation of wilderness.

The purpose of this overview is to give you a working familiarity with the Wilderness Act. This overview is divided into seven sections: **Introduction, History, Structure, Purpose, Primary Objectives, Conclusion, and Subsequent Legislation.**

History

The Wilderness Act resulted from society’s growing environmental consciousness, along with the strong voices, passion, and political understanding of a few dedicated individuals. Some of these voices are well known, some obscure—John Muir, Aldo Leopold, Bob Marshall, Mardy Murie, Harvey Broome, and David Brower. Long before the Wilderness Act was signed in 1964, pleas were made for the preservation of lands thought of as wilderness. Throughout the first half of the 20th century, there was a growing concern that the existing means of preserving wild lands were not enough to guarantee their future preservation as wilderness. As early as 1921, Aldo Leopold wrote about the need for a national policy to preserve wilderness areas. Bob Marshall echoed Leopold’s sentiment in 1934: *“In order to escape the whims of politics, . . . areas . . . should be set aside by Act of Congress. This would give them as close an approximation to permanence as could be realized in a world of shifting desires.”*

The late 1950s proved to be a pivotal time in the development of legislation to protect wilderness. The fight against Echo Park Dam in Dinosaur National Monument built the first national conservation coalition. Public awareness of wild lands grew as transportation and tourism expanded after World War II. Howard Zahniser, a leader in the Echo Park fight, fueled the momentum for legislatively protected wilderness and became the principle author and promoter of a Wilderness Act. Zahniser, known as “Zahnie,” put his vision of a “wilderness forever future” into legislation.

In 1955 Zahniser wrote the first draft of a Wilderness Bill, which was introduced in Congress in 1956. The bill was passed by the U.S. Senate twice; the second time in 1963. Finally, after 66 rewrites and 6,000 pages of testimony, the bill also passed in the House of Representatives in August 1964, with only one dissenting vote. The Wilderness Act was signed in a White House Rose Garden ceremony by President Lyndon Johnson on September 3, 1964.

Structure

The Wilderness Act is a standard piece of legislation. However, the author's passion for wilderness resulted in particularly poetic phrasing compared to most pieces of legislation. The vision of "a wilderness-forever future" is apparent in all seven sections of the Wilderness Act:

Preamble

Section 1 - Short Title

Section 2 - Statement of Policy

Section 3 - Extent of System

Section 4 - Use of Wilderness Areas

Section 5 - State and Private Lands

Section 6 - Gifts and Contributions

Section 7 - Annual Reports

The following two sections highlight the purpose and primary objectives of the Wilderness Act that are most relevant to our current work as wilderness stewards and educators.

Purpose

The purpose of the Wilderness Act is summarized in the Preamble: "*An Act to establish a National Wilderness Preservation System for the permanent good of the whole people, and for other purposes.*"

Section 2 of the Wilderness Act expands on the stated purpose: "*In order to assure that an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas of 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. For this purpose there is hereby established a National Wilderness Preservation System to be composed of federally owned areas designated by the Congress as "wilderness areas . . ."*"

What is meant by a "resource of wilderness"? The Wilderness Act implies that a wilderness resource consists not only of the physical aspects, the wildlife, plants, land, water, cultural resources, but also the emotional and spiritual components such as solitude, beauty, exploration, and adventure. Congress also seeks to secure the "benefits" of wilderness. What are the benefits of wilderness? Again, both physical and emotional benefits exist: habitat for endangered species, clean water sources, a sense of wildness and discovery, an escape from urban life, and just knowing that it is there (as author Wallace Stegner wrote: "part of the geography of hope"). Furthermore, Congress ensures that wilderness resources are preserved not just for the present but as "*an enduring resource*" for future generations. Zahniser referred to the purpose of the Wilderness Act as creating a "*wilderness-forever future.*"

What are the "*other purposes*" referred to in the Preamble? These purposes are listed later in the Wilderness Act, under "Use of Wilderness Areas." The act states: "*wilderness areas shall be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use.*"

In summary, the purpose of the Wilderness Act was to create a system of wilderness areas across the United States composed of federal lands preserving the tangible and intangible benefits of wilderness for present and future generations.

Primary Objectives

The Wilderness Act primarily accomplished four things. Specifically, it

- Created a National Wilderness Preservation System.
- Defined federal wilderness.
- Established a process for designating federal wilderness.
- Set guidelines for management of wilderness areas.

Creation of a National Wilderness Preservation System

The Wilderness Act did not establish a separate agency to manage wilderness areas, but instead established a system of wilderness areas comprised of preexisting public lands within existing federal agencies. This system is called *The National Wilderness Preservation System (NWPS)*. The original lands in the system were in Forest Service areas. The act stated: all “areas within the national forests classified at least 30 days before the effective date of the Wilderness Act by the Secretary of Agriculture or the Chief of the Forest Service as ‘wilderness,’ ‘wild,’ or ‘canoe’ are hereby designated as wilderness areas.” Two other agencies were identified to survey their lands for appropriateness as wilderness, both in the Department of Interior: the National Park Service and the U.S. Fish and Wildlife Service. In later legislation, the Bureau of Land Management was also mandated to survey lands for possible wilderness designation. These four agencies presently manage the more than 600 areas of the National Wilderness Preservation System. The National Park Service can take pride in the fact that it manages the largest amount of wilderness acreage (42 percent of the System as of 2003).

Definition of Federal Wilderness

Definitions of wilderness have varied throughout history—from “damp and dreary” to “sublime.” The Wilderness Act clarifies the definition of wilderness in a legal document. It is difficult to define a concept as abstract as wilderness, yet the Wilderness Act captures the tangible and intangible aspects of wilderness and sets them into words.

The definition of wilderness is found in Section 2 part (c) of the Wilderness Act, titled “Definition of Wilderness.” The definition is deliberately divided into two parts: an abstract definition of wilderness, and a practical definition of wilderness. The first sentence states the abstract: *“A wilderness, in contrast 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 by man, where man himself is a visitor who does not remain.”*

One word in this definition has caused a great deal of confusion and elicited much interpretation: *untrammeled*. This word is often read and defined as *untrampled*; yet, the two words have very different meanings. The dictionary defines the noun *trammel* as a net for catching birds or fish and a shackle for making a horse amble. The verb *trammel* is defined as “to catch or hold in or as if in a net; to prevent or impede the free play of.” Therefore, *untrammeled* means, in Zahniser’s words, “Not being subject to human controls and manipulations that hamper the free play of natural forces.”

The word *untrammeled* is not meant to be used to determine suitability of land for wilderness designation. Rather, it applies to the future possibility of an area as wilderness. *Untrammeled* is the essence of the abstract definition of wilderness as a description of quality. By looking at the placement of the word *untrammeled* in the definition, it is clear that the word refers to “the earth and its community of life” not to human experience within wilderness.¹

The practical, or working, definition of wilderness follows the abstract. The second sentence of Section 2 (c) states: *“An area of wilderness is further defined to mean in this Act an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man’s work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (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; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.”*

As detailed as the definition is, there are many ambiguous qualifiers that solicit interpretation. For example, qualifier (3) states the size of a wilderness area is stated to be “at least five thousand acres of land.” However, the first Department of Interior site to be designated as a wilderness area was the Great

¹ For further discussion of the word “untrammeled” in the Wilderness Act, see Doug Scott’s article “Untrammeled,” “Wilderness Character,” and the Challenges of Wilderness Preservation.

Swamp National Wildlife Refuge in New Jersey (in 1968) at a size of 3,660 acres. The smallest wilderness area is five acres—Pelican Island National Wildlife Refuge in Florida. These areas, though small, have been determined to be “of sufficient size” to be managed as wilderness. The determination of size is to be “practicable” (meaning feasible, though not tested) for preservation as wilderness, not necessarily “practical” (tested and proven to be able to be put into practice).

Neither Congress nor Zahniser ever intended wilderness areas to be completely free from all human impacts. The words *untouched* and *pristine* are intentionally absent from the definition of wilderness in the Wilderness Act. Many areas in the eastern United States that had been utilized by humans and still had clear signs of use were listed in the first 1955 draft of the Wilderness Bill to be considered for wilderness designation. Several of these areas, such as Shenandoah National Park, are now designated as wilderness. As qualifier (4) states, wilderness areas may contain “features of scientific, educational, scenic, or historical value.”

In summary, The Wilderness Act defined wilderness in both the physical and the abstract. As Howard Zahniser noted, “We describe an area as wilderness because of a character it has—not because of a particular use that it serves.”

Establishing a Process for Designating Federal Wilderness

How does an area receive designation as a wilderness? The answer is detailed in Section 3 of the Wilderness Act. The Wilderness Act established the first 9.1 million acres of the National Wilderness Preservation System from Forest Service lands by declaring them to be designated wilderness upon the President signing the Wilderness Act. Other areas in the four agencies can be proposed and designated as per the process outlined in Section 3: the agencies study suitable areas and propose what areas should be designated, the Secretaries of Interior and Agriculture make recommendations to the President, and the President makes recommendations to Congress.

The Wilderness Act clearly states that wilderness areas will only be designated by an Act of Congress. This was actually a major last-minute compromise between opponents and proponents of the Wilderness Act. In the original Wilderness Bill, an area would automatically become a designated wilderness area by proposal from the Secretary to the President. Congress could then revoke status through congressional veto within a certain period. However, soon after the Wilderness Act passed with the compromise as written, proponents realized that they actually had won a significant victory because the process gave an increased voice to the American people to speak for additions to the NWPS, and designation would be less subject to political sway. In the end, an Act of Congress provides for the most permanent protection to wilderness areas that the country can provide.

Setting Guidelines for Management of Wilderness Areas

How are wilderness areas to be managed? How does one manage an area that is supposed to be untrammeled? Since we (as an agency) cannot disconnect an area from the influences outside of the park boundary, the question becomes, how do we manage an area to keep it untrammeled? There is still much discussion and debate, between and within agencies, about how to achieve this. Although it is very useful to refer back to Section 2 for general guidelines, much of our guidance can be found in Section 4—the section of exceptions. In exploring the provisions for management of wilderness areas, we need to identify “who” will manage as well as “how,” or for what purposes they will be managed.

Who is to manage a wilderness area? Section 2 states, “. . . *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.*” Section 4 is more specific: “*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 wildlife refuge systems are established and administered . . . the designation of . . . any . . . unit of the national park system as a wilderness area . . . shall in no manner lower the standards evolved for the use and preservation of such park.*” This provision asserts that the Forest Service, National Park Service, Fish and Wildlife Service, and later the Bureau of Land Management, are to manage the areas designated as wilderness on their lands, and to recognize the purposes of wilderness management as a part of the purpose for which all these areas were

established and administered. If the National Park Service had a higher preservation standard, the Wilderness Act would not lower that protection.

The beginning of Section 4 brings up a question of priority—which takes precedent, agency mandate or wilderness mandate? An answer is given in Section 4 (b): “. . . 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.” In other words, neither agency nor wilderness mandates supersede each other, but all the purposes defined by law must be addressed in managing these areas. Wilderness designation is intended to strengthen preservation of the areas.

The preceding section helps to set the framework for “how” wilderness areas should be managed. The Wilderness Act continues to indicate that, in general, wilderness areas should be managed within the ideal definition of wilderness: “. . . 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, and for the gathering and dissemination of information regarding their use and enjoyment as wilderness.” The Wilderness Act clarifies these are to be used by the American people, but used in a way that also keeps them available to future generations as wilderness.

Section 4 (c), “Prohibition of certain uses” gives further specific direction for management by defining prohibited uses and exceptions. The exceptions are subdivided into two groups, hinged on a pivotal word, “and.” The first part is direct, with little room for interpretation. The Wilderness Act states, “*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 . . .*” The second part, after the “and,” states that there will be “. . . no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no form of mechanical transport, and no structure or installation within any such area” except, “. . . as necessary to meet minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergencies involving the health and safety of persons within the area) . . .” This section states that wilderness character is defined in part by the absence of certain uses, yet it intends that the agencies retain some flexibility in the event that some of these uses are essential to the management and administration of the area as wilderness.

It is essential to define the term “minimum requirements” and how the term is applied in the field. Management agencies view “Minimum requirements” as a two-step thought process for guiding decision-making when exceptions to prohibited uses are thought to be needed to administer the areas as wilderness. First, is the action appropriate in a wilderness area? Second, if action is appropriate, how can the action be performed with the least impact on the wilderness and the wilderness experience?

For example, what are the minimum requirements for managing downed trees on a popular trail in a wilderness area? In the first step, questions to consider include: Is it important to provide this access route into wilderness? How does this access relate to the purposes for which the area was established? Is there a safety risk to hikers climbing over trees? Is there a threat to the wilderness or the wilderness character as hikers make paths around the trees? What impact on the wilderness would removing the downed trees have?

If a decision is made to take action to remove the trees, the second step in the minimum requirement thought process is to ask: what action will have the least impact on the wilderness and the wilderness experience? What method or action is the minimum necessary to administer the area as wilderness? What is the minimum tool needed? A crosscut saw? A chain saw? Horse pack? Helicopter? Can education be the minimum tool?²

² For more discussion of minimum requirement decision-making, refer to the Arthur Carhart National Wilderness Training Center’s *Minimum Requirement Decision Guide*.

The determination of minimum requirements is a mindset and a thought process where the process may be more important than the outcome. As with all management decisions in wilderness, the process must rest on the Wilderness Act, the meaning of wilderness, and the purposes of wilderness defined in the Wilderness Act. Section 4 emphasizes this point. Before taking action in a wilderness area, an individual or a manager needs to ask: what management action will preserve the benefits of the enduring resource of wilderness?

Conclusion

Over time, the National Wilderness Preservation System has grown from 9.1 million acres of U.S. Forest Service land in 1964 to more than 105 million acres on the land of four agencies in 2003. How many acres are in the National Wilderness Preservation System today? Is this enough or too much? The answer for us is moot, for we are mandated to protect the resource of wilderness regardless of the size of the system.

Congress and citizens continue to debate the merits of wilderness designation in additional areas around the country. The National Wilderness Preservation System has grown into a remarkably diverse system, held together by one common thread—the Wilderness Act. It is incumbent upon us to read, decipher, interpret, discuss, uphold, and follow the Wilderness Act. It is our challenge and responsibility to “preserve for future generations the benefits of an enduring resource of wilderness.” Because the debate between Congress and its citizens over wilderness continues, we must not forget that part of our stewardship responsibilities is to provide visitors with education and information on wilderness.

The principle author and proponent of the Wilderness Act, Howard Zahniser, did not witness the signing of the act on September 3, 1964. He had died four months earlier, soon after speaking at the last congressional testimony for the Wilderness Bill. Yet, in his work to preserve a vision of wilderness through an Act of Congress, Zahniser exemplified his own words: “It is a bold thing for a human being who lives on the earth but a few score years at the most to presume upon the Eternal . . . Yet we who concern ourselves with wilderness preservation are compelled to assume this boldness . . .”

Subsequent Legislation

Further clarification of intent and guidance for management can be obtained from several sources:

1. Enabling Legislation
2. Agency Policy
3. Subsequent Congressional Acts

1. Enabling Legislation

What legislation designated wilderness in your park? Are there any special considerations or exceptions written into that specific legislation? What is the enabling legislation for your park? It is important to be familiar with all legislation regarding a specific wilderness area. As Section 4 of the Wilderness Act states, the agency “*shall so administer such area for such other purposes for which it may have been established as also to preserve its wilderness character.*”

2. Agency Wilderness Management Policies

National Park Service Management Policies devote an entire chapter, Chapter 6, to wilderness preservation and management. Section 6.4.2 gives direction for NPS wilderness interpretation and education. *Director’s Order #41* further elaborates on these policies, including interpretation and education. Consult *Reference Manual #41* and the *NPS Wilderness Education and Partnership Plan* as you develop wilderness education programs.

3. Subsequent Congressional Acts

Complete texts of subsequent legislation are located on the Internet at www.wilderness.net and www.wilderness.nps.gov. Following are summaries of some acts that have influenced the National Wilderness Preservation System and wilderness management policy:

- **PL 93-622, popularly known as the “Eastern Wilderness Areas Act,” 1975, and Endangered American Wilderness Act, 1978.** Both of these acts designated wilderness areas within the U.S. Forest Service and encouraged the U.S. Forest Service to let go of the “purity doctrine” that had developed in proposing areas to be designated as wilderness. These acts reinforced the congressional intent in the

Wilderness Act that lands need not be pure, pristine, or untouched by the sights and sounds of humans past or present in order to be designated as a wilderness area. The acts also confirmed *untrammelled* as an ideal for the future of a wilderness area, not a condition of current or past use.

- **Redwood National Park Act, 1978.** This act established a “non-degradation policy” in the National Park Service, meaning that there will be no degradation of the values and purposes for which the areas have been established. This act has repercussions in interpreting minimum requirements decision-making.
- **Alaska National Interest Lands Conservation Act (ANILCA), 1980.** This monumental act nearly tripled the size of the National Wilderness Preservation System. Approximately 33 million acres of National Park Service land in Alaska were designated as wilderness, resulting in the NPS managing the largest amount of wilderness among the four wilderness land management agencies. In total, more than 57 million acres of Alaska’s public lands became part of the National Wilderness Preservation System. The Alaska National Interest Lands Conservation Act defines the many exceptions for managing wilderness in Alaska to accommodate lifestyles and the vastness of the landscapes. For example, the designated wilderness areas include the homelands for many Native Alaskans and are critical for their continuing subsistence and cultural uses. Motorized access for traditional uses is provided for and temporary facilities for the taking of fish and wildlife are allowed. New cabins can be allowed for public health and safety. There are additional considerations unique to ANILCA wilderness that need to be used in concert with the Wilderness Act when making management decisions.
- **Arizona Wilderness Act of 1984 and the Arizona Desert Wilderness Act of 1990.** More than three million acres of new wilderness lands were designated with the passage of these two acts of legislation. Some of these wilderness areas include certain lands in the Prescott, Coronado, Apache-Sitgreaves, Coconino, and Tonto National Forests; Paiute and Paria Canyon-Vermillion Cliffs; Redfield Canyon; Arrastra Mountain and White Canyon; and the Rawhide Mountains and Eagle Tail Mountains. In the 1984 legislation, Congress found that (1) the Aravaipa Canyon, situated in the in the Sonoran desert region of southern Arizona, is a primitive place of great natural beauty that, due to the rare presence of a perennial stream, supports an extraordinary abundance and diversity of native plant, fish, and wildlife, making it a resource of national significance; and (2) the Aravaipa Canyon should, together with certain adjoining public lands, be incorporated within the National Wilderness Preservation System in order to provide for the preservation and protection of this relatively undisturbed but fragile complex of desert, riparian and aquatic ecosystems, and the native plant, and wildlife communities dependent on it, as well as to protect and preserve the area’s great scenic, geologic, and historical values, to a greater degree than would be possible in the absence of wilderness designation.
- **California Desert Protection Act of 1994.** This act established Death Valley and Joshua Tree National Parks and the Mojave National Preserve in the California desert. Congress found: the federally owned desert lands of southern California constitute a public wildland resource of extraordinary and inestimable value for current and future generations; the California desert public land resources are threatened by adverse pressures which impair their public and natural values; and the California desert is a cohesive unit posing difficult resource protection and management challenges. Congress declared as its policy that appropriate public lands in the California desert must be included within the National Park System and the National Wilderness Preservation System to: preserve the unrivaled scenic, geologic and wildlife values of these lands; perpetuate their significant and diverse ecosystems; protect and preserve their historical and cultural values; provide opportunities for compatible outdoor public recreation, protect and interpret ecological and geological features, maintain wilderness resource values, and promote public understanding and appreciation; and retain and enhance opportunities for scientific research in undisturbed ecosystems.

The California Desert Protection Act requires the Secretary to ensure that American Indians have access to the lands designated under the act for traditional cultural and religious purposes, in recognition of their prior use of these lands for these purposes. Upon the request of an Indian tribe or religious community, the Secretary must temporarily close specific portions to the general public to protect the privacy of traditional cultural and religious activities.

