



WILDERNESS WATCH

Keeping Wilderness Wild

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December 13, 2017

The Honorable Rob Bishop
Chairman
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Washington, DC 20515

The Honorable Tom McClintock
Chairman
Committee on Natural Resources
Subcommittee on Federal Lands
Washington, DC 20515

The Honorable Raúl Grijalva
Ranking Member
Committee on Natural Resources
Washington, DC 20515

The Honorable Colleen Hanabusa
Ranking Member
Committee on Natural Resources
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Washington, DC 20515

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Re: Supplemental Testimony in Opposition to H.R. 1349

Dear Chairmen Bishop and McClintock, and Ranking Members Grijalva and Hanabusa:

Wilderness Watch submits this supplemental testimony in strong opposition to H.R. 1349, the Mountain Bikes in Wilderness Bill.

Wilderness Watch is a national wilderness conservation organization headquartered in Missoula, Montana. With some 150,000 members and supporters around the nation, Wilderness Watch works to protect all of the Wildernesses found in the National Wilderness Preservation System.

We have attached to this testimony the letter signed by 133 conservation organizations around the county opposing H.R. 1349.

We also protest the rushed tactics employed by the Federal Lands Subcommittee in its hearing on Dec. 7th. Only one witness was allowed to testify (the mountain biking splinter group promoting the bill). No opponents were allowed to testify, none of the 133 organizations that signed the letter of opposition were allowed to testify. No wilderness experts were allowed to testify. And none of the four federal management agencies that administer Wilderness (National Park Service, Bureau of Land Management, U.S. Fish and Wildlife Service, U.S. Forest Service) were asked to testify. This bill is being rushed through the process with no input from experts, and based on a

number of falsehoods detailed below.

Four Falsehoods upon which HR 1349 Rests

1. Congressional Intent. Proponents of HR 1349 claim that Congress intended for bicycles to be allowed in designated Wilderness. This claim is false.

a. The language of the 1964 Wilderness clearly bans all forms of mechanical transport. The 1964 Wilderness Act (36 U.S.C. 1131-1136) banned all types of mechanized transport, including bicycles, in designated Wilderness. Section 4(c) of that act states, “[T]here shall be...no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, **no other form of mechanical transport**, and no structure or installation within any such area.”¹ (emphasis added)

The federal courts have determined that when trying to discern Congressional intent, there is no need to look further if the language of the statute is clear. This section of the law clearly bans all forms of mechanical transport.

Section 2(a) of the Wilderness Act further notes, in part, of Congress’s intent to keep Wilderness free from the mechanization of modern society:

In order to assure that an increasing population, accompanied by expanding settlement **and growing mechanization**, 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. (emphasis added)

Some supporters of HR 1349 claim that since Congress didn’t specifically mention bicycles in this section, then bicycles must be permitted. But Congress didn’t specifically mention many specific prohibited uses, including such things as snowmobiles, helicopter landings, all-terrain vehicles, etc., but these types of uses are still prohibited by the Wilderness Act without being specifically mentioned. Indeed, Section 4(c) of the Wilderness Act prohibits not only bicycles, but unicycles, tricycles, and four-wheeled bikes as well.

b. Nothing in the eight-year legislative history indicates Congress intended bikes in Wilderness. In 1956, Rep. John Saylor (R-PA) and Senator Hubert Humphrey (D-MN) first introduced what eventually became the Wilderness Act. It took eight long years for the bill to finally pass both chambers and be signed into law by President Lyndon Johnson on Sept. 3, 1964.

Nowhere in this lengthy legislative history is there any indication that Congress intended to

¹ 36 U.S.C 1131-1136; P.L. 88-577, sec. 4(c).

allow bicycles in designated Wilderness.

c. The founders of the modern wilderness movement opposed bikes in Wilderness. As early as 1897, Benton MacKaye, the father of the Appalachian Trail, wrote in his diary of leaving behind “bicycles and civilization” for the “true wilderness” of New Hampshire’s White Mountains. When in December of 1933 the director of the National Park Service proposed to develop and widen the Appalachian Trail in Shenandoah National Park “to be made wide and smooth enough that it could serve as a bicycle path,” MacKaye (himself an enthusiastic bicyclist) retorted that the Appalachian Trail was to be a “real wilderness footpath” and “that it is to be a footway and not a wheelway.”² Mr. MacKaye later founded the Wilderness Society with seven others in 1935.

Bob Marshall, who also co-founded the Wilderness Society and after whom a wilderness area in Montana is named, once wrote that wilderness was “a region which ... **possesses no possibility of conveyance by any mechanical means.**”³ (emphasis added)

And Howard Zahniser, who as executive secretary of the Wilderness Society wrote the Wilderness Act, wrote in 1949,

“It is not for the sake of any privileged few that we are thus working so strenuously for wilderness preservation, but rather for all Americans. We feel that the privilege of a wilderness experience is something to which every American is entitled, including those who are not yet born. There is no person that we should like to see excluded. We are indeed trying to keep out buildings, roads, airplane landing fields, **mechanical vehicles**, motorboats and all the things that make the wilderness not the wilderness. That often makes it look as though we are trying to keep out people because these ‘things’ would all bring people. But, as we see it, they would not bring them to the wilderness because the wilderness would no longer be there for anyone.”⁴ (emphasis added)

2. President Johnson quote. Proponents of HR 1349 claim that President Lyndon Johnson stated at the signing of the Wilderness Act that he wanted bikes in Wilderness. This claim is false.

The Natural Resources Committee press release after the Dec. 7th subcommittee hearing stated, “At the time he signed the Wilderness Act, President Lyndon B. Johnson noted, ‘[For cyclists and others] we must have trails as well as highways.’” **This quote is falsely attributed to the President’s statement in signing the Wilderness Act.** Obviously, highways are not allowed in Wilderness, and this quote is out of context. The President

² Journal quoted in Larry Anderson, 2002, *Benton MacKaye: Conservationist, Planner and Creator of the Appalachian Trail* (Baltimore: John Hopkins University Press), 34–35.

³ Robert Marshall, 1930, “The Problem of the Wilderness,” *The Scientific Monthly* 30: 2 (February): 141.

⁴ Howard Zahniser, “A Statement on Wilderness Preservation,” in Frank Keyser, *The Preservation of Wilderness Areas*, Legislative Reference Service, Library of Congress, 1949.

may well have made this statement at another time and in another context, but it was not at the signing of the Wilderness Act. The American Presidency Project referenced in this footnote provides the full, true statement of President Johnson when he signed the Wilderness Act.⁵

The allegation by the proponents of HR 1349 is demonstrably false.

3. Rattlesnake Wilderness. Proponents of HR 1349 claim that Congress allowed mountain bikes in the Rattlesnake Wilderness in Montana. This claim is false.

Congress designated the Rattlesnake National Recreation Area and the Rattlesnake Wilderness in 1980 via Public Law 96-476. In the general findings language of P.L. 96-476, the following language is found:

SECTION 1. (a) The Congress finds that—

(1) certain lands on the Lolo National Forest in Montana have high value for watershed, water storage, wildlife habitat, primitive recreation, historical, scientific, ecological, and educational purposes. This national forest area has long been used as a wilderness by Montanans and by people throughout the Nation who value it as a source of solitude, wildlife, clean, free-flowing waters stored and used for municipal purposes for over a century, and primitive recreation, to include such activities as hiking, camping, backpacking, hunting, fishing, horse riding, and **bicycling**;⁶

(emphasis added)

Thus Congress recognized that bicycling had occurred in certain parts of the Lolo National Forest. And indeed, bicycling has continued within the Rattlesnake National Recreation Area. But bicycling remains a prohibited use within the Rattlesnake Wilderness. Later in P.L. 96-476, Congress determined that

(b) Subject to valid existing rights, the Rattlesnake Wilderness as designated by this Act **shall be administered by the Secretary of Agriculture, hereafter referred to as the Secretary, in accordance with the provisions of the Wilderness Act** governing areas designated by that Act as wilderness: *Provided*, That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.⁷

(emphasis added)

The U.S. Forest Service administers the Rattlesnake Wilderness today as Congress intended under both the 1964 Wilderness Act and the 1980 Rattlesnake National Recreation Area and Wilderness Act: bicycles are prohibited.

⁵ <http://www.presidency.ucsb.edu/ws/?pid=26481>

⁶ P.L. 96-476, sec. 1(a)(1).

⁷ P.L. 96-476, sec. 2(b).

The proponents of HR 1349 have this one word (“bicycling”) from the general findings section to inaccurately construe that word as authorizing mountain bikes in the Rattlesnake Wilderness. Their attempt is demonstrably false.

4. Frank Church Quote. Proponents of HR 1349 claim that U.S. Senator Frank Church admonished the Forest Service in 1977 for being too strict in banning bicycles from Wilderness. This claim is false.

The speech from which the Senator Church quote came had nothing to do with bicycles in Wilderness whatsoever.⁸

The quotes utilized by supporters of HR 1349 came from Senator Church primarily regarding the so-called “purity” argument for determining which areas were eligible for wilderness designation. The Forest Service at one point believed that only “pure,” untouched areas should be eligible for wilderness designation. But both Senator Church (and Representative Morris Udall) correctly pointed out in the 1970s that this determination of eligibility for wilderness designation was too strict, and that Congress had designated and continues to designate Wildernesses that have had some impacts from people and modern civilization.

In his speech, Senator Church also did talk about the Forest Service’s “purist doctrine” in managing wilderness. He mentioned “requirements which make outfitter operations difficult” and “it was *not* the intent of Congress that wilderness be administered in so pure a fashion as to needlessly restrict its customary public use and enjoyment.” But he did not suggest that illegal uses (such as bicycles) be allowed in Wilderness, nor were mountain bikes a “customary public use and enjoyment” in Wilderness in 1977.

And this speech had nothing at all to do with bicycles in Wilderness. Bicycles were not once mentioned in that speech. The proponents of HR 1349 have taken the quote completely out of context to try to justify this unwarranted legislation. Their allegation that Senator Church said this about the Forest Service banning bikes in Wilderness is false.

HR 1349 must not advance when based on such falsehoods as detailed above. Please oppose HR 1349.

Sincerely,



Kevin Proescholdt
Conservation Director

⁸ Frank Church, “Wilderness in a Balanced Land Use Framework,” Wilderness Resources Distinguished Lectureship, University of Idaho Wilderness Research Center, Mar. 21, 1977.